

**CDBG-DR SUBRECIPIENT AGREEMENT**

*The following information is provided pursuant to 2 CFR 200.332(a)(1)*

|                                                                                   |                                                                     |
|-----------------------------------------------------------------------------------|---------------------------------------------------------------------|
| <b>Federal Award Identification Number (FAIN)/<br/>HUD CDBG-DR Grant No.:</b>     | B-23-UN-12-0002                                                     |
| <b>Assistance Listing Number (formerly CFDA #):</b>                               | 14.218 Community Development Block<br>Grants/Entitlement Grants     |
| <b>Federal Register Notice &amp; Public Law:</b>                                  | FR-6393-N-01: PL-117-328                                            |
| <b>Federal Award (HUD Grant Agreement) Date:</b>                                  | 11/20/2023                                                          |
| <b>Agreement No.:</b>                                                             | DR10680                                                             |
| <b>Responsible Entity (RE):</b>                                                   | Lee County                                                          |
| <b>Lead and Responsible Department:</b>                                           | Office of Strategic Resources and Government Affairs                |
| <b>CDBG-DR Funding Source/Program:</b>                                            | US Department of Housing and Urban Development                      |
| <b>Subrecipient Name:</b>                                                         | City of Sanibel                                                     |
| <b>Subrecipient ID (Unique Entity Identifier via<br/>SAM.gov):</b>                | LQTEM84ENKQ5                                                        |
| <b>Subrecipient Period of Performance (Start Date):</b>                           | 9/16/2025                                                           |
| <b>Subrecipient Period of Performance (End Date):</b>                             | 6/30/2029                                                           |
| <b>Total Amount Obligated via Agreement:</b>                                      | \$15,040,689.00                                                     |
| <b>Project/Activity ID(s):</b>                                                    | DR10680                                                             |
| <b>Federal Award Program/Project/Activity<br/>Description:</b>                    | CDBG-DR/Public Facilities Infrastructure/Sanibel<br>Police Station  |
| <b>Does the Federal award include an Indirect Cost<br/>Rate for Subrecipient?</b> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
|                                                                                   | <input type="checkbox"/> Federally Negotiated Rate %                |
| <b>If Yes, is the Indirect Cost Rate a:</b>                                       | <input type="checkbox"/> De Minimis Rate 15%                        |

**Official County Contact for Award:** CDBG-DR Program Manager, Strategic Resources and Government Affairs; 2115 Second St., Fort Myers, FL 33901; Phone: (239) 533-2315; Email: [drnotices@leegov.com](mailto:drnotices@leegov.com)

**SUBRECIPIENT AGREEMENT BETWEEN  
THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AND  
CITY OF SANIBEL**

This **AGREEMENT** between Lee County, a political subdivision and charter county of the State of Florida, hereinafter referred to as “**COUNTY**,” and City of Sanibel, a local government/municipality registered under the laws of Florida Statute, Chapters 165 and 166, hereinafter referred to as “**SUBRECIPIENT**” will become effective upon the date (“Effective Date”) signed by the Board of County Commissioners (BOCC).

**SECTION I: RECITALS**

**WHEREAS**, pursuant to Public Law (P.L.) 117-328, the “Department of Housing and Urban Development Appropriations Act, 2023” (hereinafter referred to as the “Appropriation Act”), and the “Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice,” 88 Federal Register (FR) 32046 (May 18, 2023); (hereinafter referred to as the “Federal Register Guidance”), the U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) has awarded \$1,107,881,000 (a \$963,375,000 allocation for unmet disaster recovery needs with an additional \$144,506,000 mitigation set aside) of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the **COUNTY** 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 *Lee County Action Plan for CDBG-DR Funds* (hereinafter referred to as the “Action Plan”) for the Consolidated Appropriation Act (P.L. 117-328). The **COUNTY** is also hereinafter referred to from time to time as “Grantee.”

**WHEREAS**, the **COUNTY** believes it is in the public interest to serve as a pass-through entity by awarding and/or providing CDBG-DR funding for certain activities to **SUBRECIPIENTS** for the benefit of Lee County residents. CDBG-DR funding made available for use by the **SUBRECIPIENT** under this Agreement constitutes a subaward of the Grantee’s Federal award, for which the use of the subaward funds must conform to the **COUNTY’S** intent as stated in the applicable Notice of Funding Availability (NOFA) Application, and attachments, and/or exhibits, and all other terms and conditions as specified.

**WHEREAS**, the **COUNTY** has legal authority to disburse funds as a subaward under the Federal award and to enter into this Agreement with the **SUBRECIPIENT**, who by signing this Agreement, represents and warrants to the **COUNTY** that it will comply with all the requirements of the subaward described herein.

**WHEREAS**, the Action Plan has been developed to give the maximum feasible priority to activities that will benefit low- and moderate-income families and the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, therefore the **COUNTY** and the **SUBRECIPIENT** agree as follows:

**SECTION II: SCOPE OF WORK AND ACTIVITIES**

The **COUNTY** provides the **SUBRECIPIENT** the award under this Agreement to perform project activities under the **COUNTY’S** CDBG-DR Public Facilities Infrastructure Program. Any proposal, application, or exhibit associated with this CDBG-DR funding award are binding and incorporated herein as a part of this **AGREEMENT**.

The **SUBRECIPIENT** shall submit to the **COUNTY** the required information and documentation to complete Exhibits A (Scope of Work and Activities – Program/Project Activity Overview) & B (Scope of Work and Activities – Project Activity Scope of Work Description). If there is a disagreement between the **COUNTY** and **SUBRECIPIENT**, with respect to the formatting and content requirements of the Exhibit, the **COUNTY'S** has sole and absolute discretion; the **COUNTY'S** decisions shall prevail.

The **SUBRECIPIENT** must provide a statement of work, in accordance with 24 CFR 570.503 detailing the work to be performed, a schedule for completing the work, and a budget. The statement of work as prescribed by the **COUNTY** under Exhibits A and B must provide sufficient data and detail to provide a sound basis for the **COUNTY** to monitor performance.

The **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, 2 CFR 200, the Federal Register Guidance, and the **COUNTY'S** Action Plan. This includes core CDBG-DR tenets and requirements as stated below:

**SUBSECTION II.A. – MID REQUIREMENT:** The **SUBRECIPIENT** must conduct all activities and expend all CDBG-DR award funds granted by the **COUNTY** in the “most impacted and distressed” (MID) areas resulting from the qualifying major disaster in 2022, which is in response to Hurricane Ian (Federal Emergency Management Agency (FEMA) Disaster No. 4673 – DR). As noted in the Federal Register Guidance (88 FR 32046), the HUD-identified MID area for this disaster allocation is all of Lee County.

**SUBSECTION II.B. – ELIGIBLE ACTIVITIES:** CDBG-DR funds are provided for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 United States Code (U.S.C.) 5301 et seq.), related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation of related risk. The **SUBRECIPIENT** must utilize CDBG-DR funds, as prescribed under 24 CFR 570 Subpart C – Eligible Activities, and for alternative requirements and waivers as prescribed within the Federal Register Guidance. Furthermore, the **SUBRECIPIENT** shall conduct its project to align with the approved eligible activity(ies) found under the most-recent approved Action Plan for the **COUNTY'S** CDBG-DR Public Facilities Infrastructure Program.

**SUBSECTION II.C. – NATIONAL OBJECTIVE:** The **SUBRECIPIENT** must meet the criteria for one of the CDBG-DR program's national objectives. For this scope of work, the **SUBRECIPIENT** must adhere to the following national objective type, as defined at 24 CFR 570.208 and alternative requirements under the Federal Register Guidance, and as reflected as an approved national objective type for this CDBG-DR program within the Action Plan:

☒ Activities designed to meet community development needs having a particular urgency (“Urgent Needs”); or

**SUBSECTION II.D. – CDBG-DR MITIGATION SET-ASIDE AND STORM “TIE-BACK”:** The **COUNTY** is responsible for informing the **SUBRECIPIENT** of whether CDBG-DR funding is awarded for an activity(ies) to address an unmet recovery need, a mitigation and resilience measure, or both. Depending on the recovery or mitigation designation by the **COUNTY**, the **SUBRECIPIENT** is responsible for documenting proof of the designation. For recovery activities, the **SUBRECIPIENT** must demonstrate that their activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated. For mitigation set-aside activities, the **SUBRECIPIENT** must document how its activity(ies) (1) meet the definition of mitigation activities; (2) address the current and future risks as identified in the **COUNTY'S** mitigation needs assessment in the MID areas under its Action Plan; (3) is a CDBG-DR eligible activity under title I of the HCDA (or otherwise eligible pursuant to a waiver or alternative requirement); and (4) still meets a national objective. In some cases, the **COUNTY** may require the **SUBRECIPIENT** to provide evidence of the activity meeting both the CDBG-DR “tie-back” and mitigation measures justification. The **COUNTY** will spell out specific requirements for

the **SUBRECIPIENT**, its project, and the project's eligible activity under Exhibit A – Scope of Work and Activities – Program/Project Activity Overview and Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description.

### **SECTION III:**            **TERM OF AGREEMENT**

This Agreement shall begin on 9/16/2025 (“the Effective Date”) and end on 6/30/2029, unless suspended or terminated as specified in SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION.

The **COUNTY** and the **SUBRECIPIENT** agree that this Agreement shall be electronically signed, and that any electronic signatures appearing on this Agreement shall have the same force and effect as a written signature for the purposes of validity, enforceability, and admissibility. The **COUNTY** and **SUBRECIPIENT** shall maintain this Agreement, including any amendments, in its files.

The **COUNTY** shall not grant any extension of the Agreement unless the **SUBRECIPIENT** provides written justification that is satisfactory to the **COUNTY**, in its sole discretion, and the **COUNTY'S** authorized organizational representative approves such extension in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS of this Agreement.

### **SECTION IV:**            **AGREEMENT MODIFICATIONS AND AMENDMENTS**

**SUBRECIPIENT** must submit a written request, via the County's approved method for submitting such request, for an Agreement amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all Agreement amendments on the basis that such approval or denial is in the **COUNTY'S** best interest. An approved amendment shall be documented on the Agreement amendment form and signed by both parties.

The Assistant County Manager over the **COUNTY'S** Office of Strategic Resources and Government Affairs (SRGA), the BoCC, or their designee may approve amendments to the Agreement, in accordance with the **COUNTY'S** *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*. As noted within the Manual, the **COUNTY** reserves the right to review the request from the **SUBRECIPIENT** and determine whether an amendment is required or whether County Manager or BOCC approval is needed.

The **COUNTY** also affirms that it may unilaterally modify or amend any Manuals referenced throughout this Agreement without prior notification or agreement by the **SUBRECIPIENT**. Additionally, the **COUNTY** affirms that while it will seek agreement with the **SUBRECIPIENT** on proposed amendments to any Exhibits which are referenced throughout this Agreement, the **COUNTY** may unilaterally modify or amend any such Exhibits **COUNTY**, in its sole discretion, deems necessary to comply with federal policies or regulations.

As noted in the **COUNTY'S** Action Plan, substantial amendments to the Action Plan are defined as (1) a change in program benefit or eligibility criteria; (2) the addition or deletion of an activity(ies); (3) the allocation or reallocation of funds which exceeds or is expected to exceed 5 percent of the current total approved budget; (4) a material change occurs which impacts information and analysis on which the Action Plan was based on to fund certain priority activities (e.g., impact on anticipated beneficiaries, project or activity scope, significant demographic changes, or new significant contributing factors on unmet needs in the jurisdiction); and/or upon HUD's written notification specifying a material change that requires the revision. The **SUBRECIPIENT** understands that requests for Agreement amendments of the nature described herein, and which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activity or beneficiaries must first receive HUD approval before consideration by the **COUNTY** to amend the Agreement.

**SECTION V:**                    **COMPENSATION AND ALLOWABLE PAYMENTS**

**SUBSECTION V.A. – AGREEMENT PAYMENT:** The **SUBRECIPIENT** agrees to accept as full compensation the total amount not to exceed \$15,040,689.00. The **COUNTY’S** standard method of payment to the **SUBRECIPIENT** is on a reimbursement basis. Payments under this method will be authorized only for work completed and/or services delivered during the term of the Agreement as stated in SECTION III: TERM OF AGREEMENT and prior to the payment request date. The **COUNTY** reserves the right to consider a written request from the **SUBRECIPIENT** for projects that require advanced payments in accordance with 2 CFR 200.305 and 24 CFR 570.502.

The **SUBRECIPIENT** will provide supporting documentation of eligible expenses as stated within this SUBSECTION and the applicable exhibits, forms, and attachments contained with this Agreement. Payment is subject to the provisions of SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION. Funding is contingent upon the availability of CDBG-DR funds and the obligation of said CDBG-DR funds through the **COUNTY’S** annual fiscal year (FY) budget appropriation process.

The **COUNTY** has agreed to reimburse the **SUBRECIPIENT** for approved budget line items listed for the project and its activities under the **COUNTY’S** CDBG-DR Public Facilities Infrastructure Program. The **SUBRECIPIENT** shall expend the allocation as follows:

|                                       | Most Impacted and Distressed (MID) |
|---------------------------------------|------------------------------------|
| Activity Funds (Direct Project Costs) | \$14,999,909.00                    |
| Activity Delivery Funds               | \$40,780.00                        |
| TOTAL                                 | \$15,040,689.00                    |

Furthermore, “not to exceed” line items and activity budgets under this Agreement shall be identified within the approved budget under the *Project Budget and Expense (Sources and Uses) Worksheet*.

After the **COUNTY** has approved funding and the Office of Strategic Resources and Government Affairs (SRGA) has issued an Agreement related to the funded project, the **SUBRECIPIENT** should sign and return the Agreement within 30 days for execution. In addition, the **SUBRECIPIENT** should begin to draw down funds as agreed upon within the project milestones set out under the *Project Schedule and Milestones* reporting deliverable unless additional time is authorized by the **COUNTY**. Failure to return the signed Agreement or begin spending funds within the agreed upon time frame may result in reduction or forfeiture of funds.

By execution of this Agreement, the **SUBRECIPIENT** attests that necessary written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG-DR program for which the **SUBRECIPIENT** received funds from the **COUNTY**. These written administrative procedures, processes, and fiscal controls must, at a minimum, comply with applicable state and Federal law, rules, and regulations, Federal Register Guidance, and the terms of this Agreement. The **SUBRECIPIENT** agrees to remedy any deficiencies in its written administrative procedures, processes, and fiscal controls identified by the **COUNTY** or duly authorized CDBG-DR authorities.

The **SUBRECIPIENT** shall request all funds in the manner prescribed by the **COUNTY**, utilizing the Payment Request Form(s) as outlined under SUBSECTION VI.A. REPORTING AND AGREEMENT DELIVERABLES. Except as set forth herein, or unless otherwise authorized in writing by the **COUNTY**, costs incurred for eligible activities or allowable costs prior to the Effective Date of this Agreement are ineligible for funding with CDBG-DR funds.

If funds are not available to fully execute the project associated with this Agreement because of actions

by the United States Congress, the Federal Office of Management and Budget, the **COUNTY** or the provision of SECTION XIII. ASSURANCE, CERTIFICATIONS, AND COMPLIANCE, all obligations on the part of the **COUNTY** to make any further payment of funds will terminate and the **SUBRECIPIENT** shall submit its administrative closeout report within thirty (30) calendar days from the receipt of notice from the **COUNTY**.

**SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS):** The **SUBRECIPIENT** shall expend CDBG-DR funds only for allowable costs and eligible activities which are incurred during the Agreement period, in accordance with federal cost principles at 2 CFR 200 Subpart E and 24 CFR 570 Subpart C, respectively. The **SUBRECIPIENT** shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from the obligations incurred during the Agreement period as specified under SECTION III. TERM OF AGREEMENT.

The **SUBRECIPIENT** shall refund to the **COUNTY** 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.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds received for an activity if the activity does not meet an approved National Objective in accordance with 24 CFR 570.208 and the terms of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds not spent in accordance with the conditions of this Agreement or applicable law. For the scenarios detailed above, such reimbursement shall be sent to the **COUNTY**, by the **SUBRECIPIENT**, within thirty (30) calendar days from the **SUBRECIPIENT'S** receipt of notification of such noncompliance.

The **COUNTY** may also defer payment to and/or require repayment from the **SUBRECIPIENT** for noncompliance with Agreement deliverables, program performance requirements, or sufficient documentation to meet regulatory and statutory requirements, including cross-cutting requirements. Funds expended for activities that do not meet a HUD national objective will be required to be repaid by the **SUBRECIPIENT** to the **COUNTY**. If, as a result of monitoring or audit, the **COUNTY** determines that submitted costs are not documented, a payment may be deferred. If costs are found to be unallowable and payment has been made, no future payments will be made until the full amount of overpayment is remitted to the **COUNTY** or a repayment agreement is established by the **COUNTY**. If the monitoring or audit occurs after the term of this Agreement, the **SUBRECIPIENT** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **SUBRECIPIENT** agrees to return to the **COUNTY** any overpayments due to disallowed cost, pursuant to the terms of this Agreement and/or Federal requirements. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **SUBRECIPIENT** will be required to reimburse the **COUNTY** for disallowed costs or fines resulting from acts of noncompliance.

The **COUNTY'S** determination that an expenditure is eligible does not relieve the **SUBRECIPIENT** of its duty to repay the **COUNTY** in full for any expenditures that are later determined by the **COUNTY** or the Federal Government, in each of its sole discretion, to be an ineligible expenditure or a Duplication of Benefits.

If requested by the **COUNTY**, all refunds, return of improper payments, or repayments due to the **COUNTY** under this Agreement are to be made payable to Lee County and mailed directly to the **COUNTY**, pursuant to SECTION XIX. NOTICES and this Agreement.

The **SUBRECIPIENT** has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The **COUNTY'S** provision of training, technical assistance, quality assurance and quality control reviews are in no way intended to alleviate the **SUBRECIPIENT** of the responsibility to administer activities in accordance with all federal, state, and local requirements, including the requirements outlined within this Agreement. The **SUBRECIPIENT** acknowledges full responsibility to return funds to the **COUNTY** in the event that HUD or other auditing agency determines that activities or costs are disallowed.

The **SUBRECIPIENT** will report all suspected or verified fraud to the **COUNTY**, regardless of whether the suspected or verified fraud is associated with disallowed cost or other perceived harm to the **SUBRECIPIENT** or the **COUNTY**.

**Mandatory Disclosure of Violations:** In accordance with the revised 2 CFR 200.113 and the requirements set forth in FAR 73 FR 67064, the **SUBRECIPIENT** must promptly disclose, in writing, to the **COUNTY**, the federal awarding agency, and the Office of Inspector General, any credible evidence of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations, including violations under the False Claims Act. This obligation extends to the **SUBRECIPIENT** and any subgrantees or contractors associated with the federal award. Failure to disclose such violations may result in remedies for non-compliance, including suspension or termination of the award, as outlined in 2 CFR 200.338 and 2 CFR 200.339.

## **SECTION VI: REPORTS AND EXHIBITS**

**SUBSECTION VI.A – REPORTING AND AGREEMENT DELIVERABLES:** The **SUBRECIPIENT** shall provide the **COUNTY** with all reports and information set forth in the **COUNTY'S** approved system, including quarterly performance reports and documentation outlined in all applicable exhibits to enable the Grantee to submit the required reporting to HUD within the Disaster Recovery Grant Reporting (DRGR) system.

The **SUBRECIPIENT'S** quarterly reports, include administrative activity, financial activity, and program activity, must include sufficiently detailed summaries of the current status, progress, and completed work. The **SUBRECIPIENT** is responsible for all reporting of work of all contractors, subcontractors, and other entities under contract or agreement related to this Agreement.

At a minimum the following information will be required to be submitted in the system of record by the **SUBRECIPIENT**. Upon request from the **COUNTY**, the **SUBRECIPIENT** shall provide additional program or activity updates and information. If all required reports and copies are not sent to the **COUNTY** within the agreed-upon submission schedule or are otherwise not completed in a manner acceptable to the **COUNTY**, payments may be withheld in accordance with SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) until the reports are completed. If the **COUNTY** withholds such payments, it shall notify the **SUBRECIPIENT** in writing of its decision, reasons for withholding payment, and the remedy for corrective action the **SUBRECIPIENT** must follow. The **COUNTY** may also take other action as stated within this Agreement or allowable by law.

The **SUBRECIPIENT'S** reporting deliverables include, but are not limited to, the following information:

1. **Project Schedule and Milestones:** A table or description of the work task, project start and end dates, other significant milestones (e.g., 50% complete), and timelines for the **SUBRECIPIENT** to submit outputs or deliverables to the **COUNTY**.
2. **Project Budget and Expense (Sources and Uses) Worksheet:** The **SUBRECIPIENT** must provide budget narratives and tables to describe all funding sources and the potential uses of those funding sources for the purposes of completing the project. This narrative will include, but may not be limited to, (a) a description and justification of the proposed costs, (b) a description of project implementation

support with **SUBRECIPIENT** or vendor staff, (c) sources of leveraged funds committed by the **SUBRECIPIENT** to the project, and (d) timelines for the projected expenditure of CDBG-DR funds.

3. **Payment Request Form:** The means by which the **COUNTY** and the **SUBRECIPIENT** document project and activity expenses and requests for payment. The **SUBRECIPIENT** shall utilize this form when submitting or requesting any costs for payment and the form must be accompanied by legible supporting documentation to indicate the reasonableness, allowability, and appropriate procurement of the expense(s).

As noted under SECTION III. TERM OF AGREEMENT and SECTION V. COMPENSATION AND ALLOWABLE PAYMENTS, all payments are reimbursements for eligible expenses or services defined as uncompensated expenses rendered during the Agreement term and paid prior to the final payment request due date. Copies of supporting documentation are required as part of the Payment Request for review of grant compliance and before payment will be authorized by the **COUNTY** to the **SUBRECIPIENT**. Reimbursement for eligible expenses will be made after review and authorization of a correct and complete Payment Request Form and required back up documentation. In accordance with the Federal Register Guidance, the **COUNTY** must be payor of last resort, meaning that if services are eligible to be billed to any other entity or funding source, including but not limited to, Medicaid, third party insurance or any other entity or funding source, the **COUNTY** will not pay for that service.

Appropriate back-up/supporting documentation may include cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the **SUBRECIPIENT'S** check issued with authorized signature. For construction contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request.

The **SUBRECIPIENT** must submit the *Payment Request Form* with an authorized signature. Cancelled checks, paystubs, payroll reports, bank statements, and/or other documentation from vendors that expenses have been paid or services provided may be verified.

As applicable, processing of payment requests is also subject to the requirements and conditions as set forth within the **COUNTY'S Hurricane Ian CDBG-DR Subrecipient Manual**.

4. **Quarterly Activity Report:** The **SUBRECIPIENT** must identify information for this report that ties actual, real-time project and expenditure status to the approved activity budget, scope of work, and projected outcomes. Narratives on budget activity, project progress or delays, and performance measures are included within this report.
5. **Demographics and Beneficiary Report:** The **SUBRECIPIENT** must report on data and include documentation, such as maps detailing service areas, number of individual persons benefitting from the project, and other demographic information on households, where applicable, to indicate the public benefit of the project and activity.
6. **Project Amendment Request:** As referenced under SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS, the **SUBRECIPIENT** must notify the County and provide information on any project or activity changes within a project amendment request for the **COUNTY** to determine whether the request rises to the level of an amendment to the Agreement.
7. **Single Audit Certification Form:** The **SUBRECIPIENT**, if a nonprofit or governmental organization, must complete a form to certify whether it has expended \$1,000,000 in federal and/or state funding within the **SUBRECIPIENT'S** given Fiscal Year.
8. **Davis-Bacon and Related Acts (DBRA) Labor Standards Reports (as applicable):** When an activity triggers DBRA requirements, the **SUBRECIPIENT** must report and submit information on



assigned labor compliance staff, labor compliance review processes and outcomes, bid and contract requirements documentation, work classification and minimum prevailing wage rates, written clearance of labor compliance issue resolutions, file maintenance plans, and payroll review plans.

9. **Section 3 Reports (as applicable):** When an activity triggers Section 3 requirements, the **SUBRECIPIENT** is required to submit data and information on Targeted Section 3 worker labor hours, Section 3 worker labor hours, total worker labor hours, and other qualitative efforts which the **SUBRECIPIENT** and their vendors took in an attempt to reach or achieve Section 3 goals.
10. **Closeout Report:** The **SUBRECIPIENT** must report project completion data and provide documentation of closeout processes in relation to this project and activity(ies).

The **SUBRECIPIENT'S Agreement deliverables (as identified within "Exhibits")**, which the **SUBRECIPIENT** must follow, include, but are not limited to, the following information:

11. **Exhibit A: Scope of Work and Activities – Program/Project Activity Overview:** Brief description on the identified and agreed-upon CDBG-DR Program eligible activity, National Objective to be achieved for the activity and measures, as applicable, the number of individuals benefitting as a result of the project and its activities, and the appropriate CDBG-DR storm tie-back or resilience need being met, in accordance with SECTION II. SCOPE OF WORK AND ACTIVITIES.
12. **Exhibit B: Scope of Work and Activities – Project Activity Scope of Work Description:** Detailed scope of work defining the plan, design, and approach for the activity.
13. **Exhibit C: Financial/Grant Management System Budget Worksheet:** The high level, official budget for the project as approved under SECTION V.A. AGREEMENT PAYMENT. Any adjustments to this budget will require an amendment in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS.
14. **Exhibit D: Indirect Cost Rate Allocation Plan (as applicable):** Pursuant to 2 CFR 200.414, the **SUBRECIPIENT** is entitled to apply the 15% de minimis indirect cost rate without requiring further approval from the COUNTY. Alternatively, if the **SUBRECIPIENT** has a federally negotiated indirect cost rate, they may elect to use that rate, which shall be accepted by the COUNTY without additional negotiation or approval. The terms of this Agreement shall reflect the applicable indirect cost rate as established under this Exhibit..
15. **Exhibit E: Projected Performance Measures and Outcomes Form:** The **COUNTY** will utilize the **SUBRECIPIENT'S** detailed scope of work to establish and project out specific performance metrics which the **SUBRECIPIENT** is required to meet to as a condition of project completion and closeout. The **COUNTY** will select the performance measure based on the eligible activity and proposed scope of work approved within the Notice of Funding Availability (NOFA) Application for the **Public Facilities Infrastructure Program**.
16. **Exhibit F: Application:** The **SUBRECIPIENT'S** approved application is attached to this Agreement for identification and understanding of **SUBRECIPIENT'S** responses to critical project components.
17. **Exhibit G: Certificate(s) of Insurance:** In accordance with SECTION X.B. INSURANCE REQUIREMENTS, the **SUBRECIPIENT** must supply insurance coverage for the implementation of the project. This Exhibit will contain those required insurance coverages of the **SUBRECIPIENT**.
18. **Exhibit H: Certification of CDBG-DR Compliance Provisions:** This Exhibit outlines the compliance provisions which the **SUBRECIPIENT** must follow as a requirement of the federal CDBG-DR funding award. The **SUBRECIPIENT** must certify adherence with these conditions.
19. **Exhibit I: CDBG-DR Special Terms and Conditions:** The **COUNTY** may identify specific

conditions, including but not limited to, training, technical assistance, capacity building, and policy development, which the **SUBRECIPIENT** must complete as a condition of receiving the CDBG-DR funding award.

20. **Exhibit J: Subrecipient Staff Organization:** In addition to annual certifications of continued operations, the **SUBRECIPIENT** is required to provide evidence of staff who will be responsible for conducting certain actions during project implementation. This Exhibit contains the contact information of those individual staff members.
21. **Exhibit K: CDBG-DR Program Subrogation Agreement:** As noted under SUBSECTION XIII.E. DUPLICATION OF BENEFITS and the Federal Register Guidance, the **SUBRECIPIENT**, as a recipient of federal assistance, must sign a Subrogation Agreement before the **COUNTY** can disburse CDBG-DR assistance to the **SUBRECIPIENT**.

An electronic signature or a scanned copy of the report with signature is acceptable for all reports or exhibits included above for which signatures are required. The **COUNTY** will instruct the **SUBRECIPIENT** on the approved System of Record under which the **SUBRECIPIENT** is expected to provide this data and information.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

The **COUNTY** notes in the *Subrecipient Agreement Document Checklist*, the required forms and reports the **SUBRECIPIENT** must submit. These reports and forms include, but are not limited to, activity performance reports, payment request forms, program information forms, budget analysis reports, closeout reports, and periodic certifications as described above.

The **SUBRECIPIENT** should submit all reports and forms electronically in a computer-readable format using the approved System of Record submission method specified by the **COUNTY**. When required, reports or exhibits must be certified by signature. An electronic signature is acceptable for all reports, forms, and attachments within the *Subrecipient Agreement Checklist*.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

**SUBSECTION VI.B. – EXTERNAL REPORTING AND ORGANIZATIONAL DOCUMENT REQUIREMENTS:** The **COUNTY** or its agents may also require the **SUBRECIPIENT** to submit additional non-project related reports, documentation, and information which are beneficial to determine the **SUBRECIPIENT'S** capacity, compliance, and performance related to this Federal award compliance. The **COUNTY** may request external reports, including but not limited to, prior and current fiscal year audits, other agency monitoring reports or reviews under other funding sources, organizational documents, and prior grant closeout reports. The **SUBRECIPIENT** agrees to provide such reports, documentation, and information requested by the County or its agents.

## **SECTION VII:            AUDITS, MONITORING, AND RECORDS**

**SUBSECTION VII.A. – AUDITS AND INSPECTIONS:** In accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508, the **SUBRECIPIENT** will allow the **COUNTY**, Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives right of access to any documents, papers, or other records which 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** non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

The Clerk of Courts Internal Audit Division, Lee County employees, HUD, or any of their duly authorized representatives have the right of timely and reasonable access to any books, documents, papers, or other records, including electronic storage media, of the **SUBRECIPIENT** or Certified Public Accountant (CPA) that are pertinent to the Agreement, in order to make audits, examinations, excerpts, transcripts and copies of such documents in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508.

If noncompliance with this Agreement or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to the **SUBRECIPIENT'S** personnel for the purpose of interview and discussion related to such documents.

**SUBSECTION VII.B. – INDEPENDENT AUDIT REQUIREMENTS:** Under the Single Audit Act and in accordance with the provisions of 2 CFR 200.501, the **SUBRECIPIENT** must conduct a single or program-specific audit if it expends \$1,000,000 or more in Federal awards from all sources during its fiscal year.

The **SUBRECIPIENT** shall also comply with the Federal Audit Clearinghouse (FAC) rules and directives, including but not limited to the pertinent report submission provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

For **SUBRECIPIENTS** who are Nonprofit Corporations and do not trigger the Single Audit Act requirements or provisions under 2 CFR 200.501, the **SUBRECIPIENT** must submit an independent certified, audited financial statement of the most recent or immediate prior fiscal year, including the management letter and written response. The **COUNTY** may consider exceptions on an individual basis, to include other supporting audit documents, such as a current CPA's peer review letter or monthly financial statements within the last 60 days, to meet this requirement.

In accordance with 2 CFR 200.514, a complete, independent financial audit of the **SUBRECIPIENT'S** financial accounting statements, in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS), as applicable, is required and must include the following:

1. Auditor's opinion;
2. Requisite reports on internal control and compliance, if required;
3. Management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted);
4. Management's response to such letter;
5. The programs that are funded by this Agreement either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and state financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

The **SUBRECIPIENT** must submit the audit reports electronically to the **COUNTY** within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or within nine months after the end of the **SUBRECIPIENT'S** audit period. If applicable, any associated corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the Agreement by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant expressing an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, 2 CFR 200 Subpart F – Audit Requirements, as applicable, the Florida Single Audit Act (F.S. 215.97) as applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

**SUBSECTION VII.C. – SUBRECIPIENT RISK ASSESSMENTS AND MONITORING:** In accordance

with 2 CFR 200.332, the **COUNTY**, as HUD's Grantee and a pass-through entity, must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring. To enable those periodic assessments, the **SUBRECIPIENT** must provide information and documentation as required to the **COUNTY**. The **COUNTY'S** risk assessments results will be used to support the **COUNTY'S** oversight strategies and the level and frequency of monitoring, technical assistance, training to the **SUBRECIPIENT**.

The **SUBRECIPIENT** agrees to permit the **COUNTY** and persons duly authorized by the **COUNTY**, HUD, and other Federal, state, or local agencies, as applicable, or any authorized representatives under these agencies, to have access to and inspect all records, papers, documents, facility's goods and services, and project activity sites of the **SUBRECIPIENT** including interviews of any clients and employees of the **SUBRECIPIENT** to assess satisfactory performance and compliance of the full terms and conditions of this Agreement, in accordance with 2 CFR 200 (specifically 200.332), 24 CFR 570, and the Federal Register Guidance and to the extent permitted by the law, after giving the **SUBRECIPIENT** reasonable notice of such inspection.

The **SUBRECIPIENT** must submit to monitoring of its project activity by the **COUNTY** and persons duly authorized, as necessary, to ensure the CDBG-DR subaward is used for authorized purposes in compliance with Federal statutes, regulations and the terms and conditions of this Agreement.

Monitoring will 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. Any limited monitoring review scope of the terms and conditions within this Agreement does not relieve the **SUBRECIPIENT** of its obligation to manage the grant in accordance with all applicable rules and sound management practices.

Following such monitoring and in accordance with 2 CFR 200.521, the **COUNTY** will deliver to the **SUBRECIPIENT** a written report regarding management decisions which notate how activities are being conducted and whether corrective action(s) by the **SUBRECIPIENT** need to be taken to address deficiencies. The **SUBRECIPIENT** will rectify all noted deficiencies documented by the **COUNTY** within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted deficiencies as defined by the **COUNTY**. The **SUBRECIPIENT'S** failure to correct or provide the **COUNTY** with accepted justification for the deficiencies within the time specified by the **COUNTY** may result in withholding of payments or being deemed in breach or default of this Agreement and may result in the termination of this Agreement.

In response to **SUBRECIPIENT** deficiencies or other instances of capacity concerns prior to this Agreement, the **COUNTY** may also impose additional conditions on the use of the CDBG-DR funds, as noted under Exhibit I – CDBG-DR Special Terms and Conditions. This Exhibit ensures future compliance through trainings, technical assistance, and capacity building in an effort to correct or avoid early noncompliance.

**SUBSECTION VII.D. – RECORDKEEPING REQUIREMENTS:** The **SUBRECIPIENT** must comply with the recordkeeping requirements of 24 CFR 570.506, as amended by the Federal Register Guidance's Consolidated Notice waivers and alternative requirements, which describes the types of records which must be kept by the **SUBRECIPIENT** and the **COUNTY** for the Federal CDBG-DR award.

The **SUBRECIPIENT** must comply with the longer of the records retention requirements contained within the Uniform Administrative Requirements (UAR) at 2 CFR 200.334 and State of Florida GS1-SL, except that the **SUBRECIPIENT** must:

1. Retain records for individual CDBG-DR activities for 5 years after the Agreement has ended, as prescribed in State of Florida GS1-SL.
2. Maintain records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503 or change of use provisions at 24 CFR 570.505 for as long as those provisions continue to apply to the activity(ies).
3. Maintain records for individual activities in which there are outstanding loan balances, other receivables, or contingent liabilities until such receivables or liabilities have been satisfied and for 5 years following that satisfaction.

In accordance with 24 CFR 570.506, the **SUBRECIPIENT** shall also 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 the **COUNTY** under this Agreement. The **SUBRECIPIENT** must also retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document purchases, expenses, revenue, income, and assets of the **SUBRECIPIENT** by funding source, program, and functional expenses category during the term of this Agreement.

If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained by the **SUBRECIPIENT** until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR 200.334. Additional types of records are further described under Exhibit H – Certification of CDBG-DR Compliance Provisions.

The records retention period, as described within this Subsection, may be longer depending on other funding sources for activities. It is the **SUBRECIPIENT'S** further obligation to comply with all Federal and State of Florida retention schedules if other schedules shall apply.

The **SUBRECIPIENT**, including all its employees or agents, contractors, subcontractors, and consultants to be paid from CDBG-DR funds provided under this Agreement, shall allow access to its records at reasonable times for audits, inspections and monitoring as described in this Section and Subsections.

The **SUBRECIPIENT** specifically acknowledges its obligations under 2 CFR 200.338 (further detailed within SUBSECTION XIII.K. PERSONALLY IDENTIFIABLE INFORMATION), and to comply with F.S., 119.0701, as amended from time to time, with regard to public records, and shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the **COUNTY** in order to perform the services required under this Agreement;
2. Upon request from the **COUNTY'S** custodian of public records, provide the **COUNTY** with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
4. Meet all requirements for retaining public records and transfer, at no cost to the **COUNTY**, all public records in possession of **SUBRECIPIENT** upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COUNTY** in a format that is compatible with the information technology system of the **COUNTY**.

**IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.**

**SECTION VIII:**            **CONTRACTOR STATUS**

**SUBSECTION VIII.A. – INDEPENDENT CONTRACTOR:** It is the Parties' intention that the **SUBRECIPIENT** will be an independent contractor and not the **COUNTY'S** employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **SUBRECIPIENT** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **SUBRECIPIENT'S** activities and responsibilities hereunder. The **SUBRECIPIENT** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **SUBRECIPIENT** and the **COUNTY**, and the **COUNTY** will not be liable for any obligation incurred by the **SUBRECIPIENT**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

**SUBSECTION VIII.B. – SUBCONTRACTS:** Primary roles and responsibilities of the **SUBRECIPIENT** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by the **SUBRECIPIENT** must have a written contract. The **SUBRECIPIENT** must provide written notice to the **COUNTY** of all subcontractors, as well as provide copies of all contracts entered into with subcontractors, upon the **COUNTY'S** request. Procurement and/or bidding of non-primary roles and responsibilities must be awarded on a fair and non-collusive basis and must be in compliance with all applicable Lee County, State of Florida, and Federal procurement standards at 2 CFR 200.318-327. The **SUBRECIPIENT** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **SUBRECIPIENT** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List, in accordance with 2 CFR 200.214. The **SUBRECIPIENT** must ensure each subcontractor conforms to the terms and conditions of this Agreement, Exhibit H – Certification of CDBG-DR Compliance Provisions, and Exhibit F – Application, as applicable, and must be subject to indemnification as stated in SUBSECTION X.A. INDEMNIFICATION AND LIABILITY below.

**SUBSECTION VIII.C. – CONTRACTS AND FEDERAL PROCUREMENT STANDARDS:** 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 **COUNTY** Program Manager for prior written approval. For each contract, the **SUBRECIPIENT** shall report to the **COUNTY** as to whether that contractor or any subcontractors hired by the contractor, is a minority business and women's business enterprise, as defined in section 288.703, F.S. and in accordance with 24 CR 570.506, 24 CFR 570.507, and 2 CFR 200.321. The **SUBRECIPIENT** shall comply with the procurement standards at 2 CFR 200.318 - 200.327 and 2 CFR 200.330 when procuring property and services under this Agreement. The **SUBRECIPIENT** shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

1. The period of performance or date of completion;
2. The performance requirements;
3. That the contractor is bound by the terms of this Agreement;
4. That the contractor is bound by all applicable state and Federal laws, rules, and regulations;
5. That the contractor shall hold the **COUNTY** and the **SUBRECIPIENT** harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
6. The obligation of the **SUBRECIPIENT** to document in the **SUBRECIPIENT'S** reports the contractor's progress in performing its work under this Agreement;

7. The requirements of Appendix II to 2 CFR 200 - Contract Provision for Non-Federal Entity Contract Under Federal Awards - (refer to Exhibit H – Certification of CDBG-DR Compliance Provisions)

The **SUBRECIPIENT** must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.609 and 2 CFR 200.214), 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.

## **SECTION IX:**           **CONFLICTS OF INTEREST**

The **SUBRECIPIENT** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of activities required under this Agreement. The **SUBRECIPIENT** further agrees that no person having any such interest shall be employed or engaged for said performance. The **SUBRECIPIENT** agrees that no employee, officer, agent of the **SUBRECIPIENT** or its subrecipients shall participate in the selection, award, or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **SUBRECIPIENT** or its subrecipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **SUBRECIPIENT**.

The **SUBRECIPIENT** is subject to the requirements at 24 CFR 570.611 and 2 CFR 200.318, as applicable, which includes developing or maintaining written standards of conduct and a conflict-of-interest policy that complies with the process for promptly identifying and addressing such conflicts.

Any potential conflict of interest shall be reported using the **COUNTY'S** disclosure form.

## **SECTION X:**           **RISK MANAGEMENT**

**SUBSECTION X.A. – INDEMNIFICATION AND LIABILITY:** To the fullest extent permitted by applicable law, **SUBRECIPIENT** shall protect, defend, indemnify, save and hold the **COUNTY**, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **SUBRECIPIENT** resulting from the **SUBRECIPIENT'S** work as further described in this Agreement and its attachments, which may arise in favor of any person or persons resulting from the **SUBRECIPIENT'S** performance or nonperformance of its obligations under this Agreement except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the **COUNTY**, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, the **SUBRECIPIENT** hereby agrees to indemnify the **COUNTY** for all reasonable expenses and attorney's fees incurred by or imposed upon the **COUNTY** in connection therewith for any loss, damage, injury, liability, or other casualty. The **SUBRECIPIENT** additionally agrees that the **COUNTY** may employ an attorney of the **COUNTY'S** own selection to appear and defend any such action, on behalf of the **COUNTY**, at the expense of the **SUBRECIPIENT**. The **SUBRECIPIENT** further agrees to pay all reasonable expenses and attorney's fees incurred by the **COUNTY** in establishing the right to indemnity.

The **SUBRECIPIENT** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Agreement. All individuals hired are employees of the **SUBRECIPIENT** and not of the **COUNTY**.

The **SUBRECIPIENT** further agrees to assume sole responsibility, 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, F.S. The **SUBRECIPIENT** shall hold the **COUNTY** harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. Nothing herein shall be construed as consent by the **SUBRECIPIENT** to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

If the **SUBRECIPIENT** is a state agency or subdivision, as defined in Section 768.28, F.S., then the **SUBRECIPIENT** agrees to be fully responsible for its negligent or tortious acts of omissions, which result in claims or suits against the **COUNTY**. 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 the state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

Nothing herein is intended to serve as a waiver of sovereign immunity by the **COUNTY** or the **SUBRECIPIENT**.

The provisions of this SUBSECTION X.A. INDEMNIFICATION AND LIABILITY shall survive the termination of this Agreement.

#### **SUBSECTION X.B. – INSURANCE REQUIREMENTS**

##### **INSURANCE – NONPROFIT SUBRECIPIENTS**

The **SUBRECIPIENT** agrees to secure and maintain the insurance coverage outlined below during the term of this Agreement. The **SUBRECIPIENT** agrees that this insurance requirement shall not relieve or limit **SUBRECIPIENT'S** liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **SUBRECIPIENT'S** interests or liabilities but are merely minimums. It is the responsibility of the **SUBRECIPIENT** to ensure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance **namely Lee Board of County Commissioners as Certificate Holder and additional insured** will be attached to this Agreement as an Exhibit (*Exhibit G – Certificate(s) of Insurance*). Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverages at the time of Agreement execution and upon policy renewal. Renewal certificates are due to the **COUNTY** on or before the expiration date.

1. **Workers' Compensation:** Statutory benefits as defined by Section 440, F.S., encompassing all operations contemplated by this Agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
  - \$100,000 per accident
  - \$500,000 disease limit
  - \$100,000 disease limit per employee
2. **Commercial General Liability:** Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
  - \$500,000 bodily injury per person (BI)
  - \$1,000,000 bodily injury per occurrence (BI)
  - \$500,000 property damage (PD) or
  - \$1,000,000 combined single limit (CSL) of BI and PD

The General Liability Policy Certificate shall name "**Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials**" as "**Additional Insured**". The **SUBRECIPIENT** agrees that the coverage granted to the Additional



Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. **Business Auto Liability:** The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
  - \$100,000 bodily injury per person (BI)
  - \$300,000 bodily injury per occurrence (BI)
  - \$100,000 property damage (PD) or
  - \$300,000 combined single limit (CSL) of BI and PD
4. **Directors & Officers Liability:** Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than \$100,000.
5. **Fidelity Bonding:** Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of \$50,000.

#### **INSURANCE – GOVERNMENT/MUNICIPALITY SUBRECIPIENTS**

Documentation of the above coverage requirements are not applicable to local governments or municipalities that are self-insured.

**SUBSECTION X.C. – NOTICE OF CANCELLATION OR MODIFICATION:** The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

### **SECTION XI:                   SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION**

In accordance with the Federal Register Guidance, 2 CFR 200.208, 2 CFR 200.339, Appendix II to 2 CFR 200, 24 CFR 570.503, and other rights which may be available under law, the following Subsections identify suspension and termination of the Agreement, with and without cause, the potential events of default by the **SUBRECIPIENT**, and potential remedies by the **COUNTY** for noncompliance by the **SUBRECIPIENT** of any and all requirements of this Agreement, including any exhibits, attachments, and terms and conditions herein:

**SUBSECTION XI.A. – SUSPENSION:** The **COUNTY** reserves the right to suspend, withhold, withdraw, or recapture funding for failure to comply with the requirements of this Agreement. If the **SUBRECIPIENT** fails to submit required documents by the due date, the **COUNTY** can suspend the Agreement and withhold payments until all requirements are satisfied.

In the event the **SUBRECIPIENT** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Agreement, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **SUBRECIPIENT** with regard to those unpaid funds.

**SUBSECTION XI.B. – EVENTS OF DEFAULT:** If any of the following events occur ("Events of Default"), the **COUNTY** may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in SUBSECTION XI.C. REMEDIES or pursue any remedy at law or in equity, without limitation:

1. Any warranty or representation made by the **SUBRECIPIENT**, in this Agreement with the **COUNTY**, is or becomes false or misleading in any respect, or if the **SUBRECIPIENT** fails to keep or perform any of the obligations, terms, or covenants in this Agreement with the **COUNTY**, and/or has not cured them in a timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;
2. Any material adverse change occurred in the financial condition of the **SUBRECIPIENT** at any time during the term of this Agreement and the **SUBRECIPIENT** fails to cure this adverse change within

thirty (30) calendar days from the date written notice is sent by the **COUNTY**;

3. The **SUBRECIPIENT** fails to submit any required reports or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by the **COUNTY**;
4. The **SUBRECIPIENT** fails to perform or timely complete any of its obligations under this Agreement, including participation in the **COUNTY'S** measures for technical assistance and training;
5. Both the **SUBRECIPIENT** and the **COUNTY** agree that in the event the **COUNTY** elects to make payments or partial payments after any Events of Default, it does so without waving the right to exercise remedies allowable herein or at law and without becoming liable to make any further payment; or,
6. Neither the **SUBRECIPIENT** nor the **COUNTY** (Parties) 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 **SUBRECIPIENT**, the **COUNTY**, or either Parties' employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar causes wholly beyond both Parties' 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 **SUBRECIPIENT** shall take all reasonable measures to mitigate any and all resulting delays or disruptions in the **SUBRECIPIENT'S** performance obligation under this Agreement. If the delay is excusable under this Subsection, the delay will not result in any additional charges or cost under the Agreement to either Parties. In the case of any delay the **SUBRECIPIENT** believes is excusable under this Subsection, the **SUBRECIPIENT** shall notify the **COUNTY** in writing of the delay or potential delay and describe the cause of the delay either (1) with ten (10) calendar days after the cause that creates or will create the delay first arose, if the **SUBRECIPIENT** could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date the **SUBRECIPIENT** first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. The foregoing shall constitute the **SUBRECIPIENT'S** sole remedy or excuse with respect to delay. Providing notice in accordance with this Subsection is a condition precedent to such remedy. The **COUNTY**, at its sole discretion, will determine if the delay is excusable under this Subsection and will notify the **SUBRECIPIENT** of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against the **COUNTY**. The **SUBRECIPIENT** shall not be entitled to an increase in the Agreement price or payment of any kind from the **COUNTY** 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, the **SUBRECIPIENT** shall perform at no increased cost, unless the **COUNTY** determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the **COUNTY**, in which case, the **COUNTY** may do any or all of the following: (1) accept allocated activity(ies) performance or deliveries from the **SUBRECIPIENT**, provided that the **SUBRECIPIENT** grants preferential treatment to the **COUNTY** with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by the **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.

**SUBSECTION XI.C. – REMEDIES:** If an Event of Default occurs, the **COUNTY** 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, the **COUNTY** may choose to exercise one or more of the following remedies, either concurrently or consecutively:

1. Terminate this Agreement upon written notice by the **COUNTY**, sent in conformity with SECTION XIX. NOTICES;
2. Begin any appropriate legal or equitable action to enforce performance of this Agreement;
3. Withhold or suspend payment of all or any part of a request for payment; Demand the **SUBRECIPIENT** return to the **COUNTY** any funds used for any failed/incomplete activities, ineligible

activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and

4. Exercise any corrective or remedial actions, including but not limited to:
  - a. Request additional information from the **SUBRECIPIENT** to determine the reasons for or the extent of noncompliance or lack of performance;
  - b. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
  - c. Advise the **SUBRECIPIENT** to suspend, discontinue, or refrain from incurring costs for any activities in question.
5. Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude the **COUNTY** 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 the **COUNTY** 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 the **COUNTY** for any other default by the **SUBRECIPIENT**.

**SUBSECTION XI.D. – TERMINATION BY COUNTY:** Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **COUNTY** may, at any time and for other reasons not mentioned above (“for convenience”), cancel this Agreement by giving twenty-four (24) hours written notice to the **SUBRECIPIENT** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the **COUNTY**. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the *application* for this Agreement, and such funds become unavailable, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

**SUBSECTION XI.E. – TERMINATION BY SUBRECIPIENT:** Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **SUBRECIPIENT** may, at any time and for other reasons not mentioned above (“for convenience”), cancel this Agreement by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

The **COUNTY'S** obligation to make any payments under any provision of this Agreement shall cease on the effective date of termination.

In the event that this Agreement is terminated, the **SUBRECIPIENT** shall not incur new obligations under the terminated portion of the Agreement after the date the **SUBRECIPIENT** has received the notification of termination. The **SUBRECIPIENT** shall cancel as many outstanding obligations as possible. The **COUNTY** shall disallow all costs incurred after the **SUBRECIPIENT'S** receipt of the termination notice. The **COUNTY** may, to the extent authorized by law, withhold payments to the **SUBRECIPIENT** for the purpose of set-off until the exact amount of damages due to the **COUNTY** from the **SUBRECIPIENT** is determined.

In accordance with 24 CFR 570.503, upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** 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.

## **SECTION XII:**      **USE AND REVERSION OF ASSETS, REAL PROPERTY**

The **SUBRECIPIENT** must ensure that any equipment or fixed assets purchased in whole or in part with

CDBG-DR funds be adequately safeguarded and assure such assets are used solely for authorized purposes. The purchase, use, management and disposition of equipment and other capital assets must comply with 2 CFR 200.313, 2 CFR 200.439, the applicable Federal Register Guidance, and 24 CFR 570. See SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION regarding the revision of any CDBG-DR funds or assets upon termination or expiration of this agreement. Per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income, and shall be returned to the **COUNTY** within 30 days of receipt of the proceeds.

Any real property under the **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 (1) be used to meet a national objective until five years after expiration or termination of this Agreement (24 CFR 570.505), unless otherwise agreed upon by the Parties, or except as otherwise set forth herein or (2) if not used to meet a national objective, the **SUBRECIPIENT** shall pay to the **COUNTY** 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.

The rights and remedies under this Section are in addition to any other rights or remedies provided by law or under this Agreement.

### **SECTION XIII:        ASSURANCE, CERTIFICATIONS, AND COMPLIANCE**

The **SUBRECIPIENT** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from CDBG-DR funds provided through this Agreement, and that it is binding upon the **SUBRECIPIENT**, its successors, transferees, and assignees for the period during which services are provided and activities are performed. Additional requirements of the assurances, certifications, and compliance measures below can be further detailed or outlined in the Agreement's exhibits, forms, and attachments.

**SUBSECTION XIII.A. – IMMIGRATION LAWS AND CITIZENSHIP STATUS:** The **COUNTY** will not intentionally award Agreements to any **SUBRECIPIENT** who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by the **SUBRECIPIENT** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the Agreement by the **COUNTY**.

Additionally, the **SUBRECIPIENT** must follow requirements to verify citizenship of CDBG-DR fund recipients in certain circumstances. In accordance with 49 CFR 24.408, the **SUBRECIPIENT** cannot provide relocation assistance to a person who has not provided certification of U.S. citizenship or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the **SUBRECIPIENT** that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States. The **COUNTY** may require the **SUBRECIPIENT** to follow other verification requirements as prescribed within the Federal Register Guidance, regulations, or within the Action Plan.

Furthermore, the **SUBRECIPIENT** shall ensure that CDBG-DR funds, which are passed through Lee County, are restricted to people legally able to reside in the United States.

**SUBSECTION XIII.B. - E-VERIFY REQUIREMENTS:** The **SUBRECIPIENT** must verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of

Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization 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 employer 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.

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.

If the **SUBRECIPIENT**, or its contractors, consultants, or subrecipients, does not use E-Verify, they shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of this Agreement.

**SUBSECTION XIII.C. – NATIONAL OBJECTIVE:** All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. The **SUBRECIPIENT** certifies that the activities carried out under this Agreement shall meet the stated national objective as outlined under SUBSECTION II.C. NATIONAL OBJECTIVE. Furthermore, the **SUBRECIPIENT** certifies and acknowledges that it understands documentation and records requirements for the stated national objective type(s), as defined at 24 CFR 570.208, 24 CFR 570.506, and any and all alternative requirements under the Federal Register Guidance in relation to relevant national objective type(s) as stated in the above Subsection.

**SUBSECTION XIII.D. – USE OF FUNDS AND ORDER OF ASSISTANCE:** CDBG–DR Appropriations Acts generally include a statutory order of assistance for Federal agencies which require Grantees to verify whether funds made available by FEMA or the U.S. Army Corps of Engineers (USACE) are available for an activity, or the costs are reimbursable by FEMA or the USACE, before awarding CDBG-DR assistance for the cost of carrying out the same activity.

The **SUBRECIPIENT** shall not use CDBG–DR funds for activities reimbursable by or for which funds are made available by FEMA or the U.S. Army Corps of Engineers (USACE). The **SUBRECIPIENT** must verify and inform the **COUNTY** if FEMA and USACE funds are available prior to award or expenditure of CDBG-DR funds to an eligible activity within the Scope of Work contained under Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description. Exhibit H – Certification of CDBG-DR Compliance Provisions further outlines Duplication of Benefits certifications which the **SUBRECIPIENT** must adhere to. Failure to do so can result in a return of funds as further outlined within this Agreement under SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SUBSECTION XIII.E. DUPLICATION OF BENEFITS.

**SUBSECTION XIII.E. – DUPLICATION OF BENEFITS:** The **SUBRECIPIENT** certifies that it 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 within Appropriations Acts and Federal Register Guidance. The **SUBRECIPIENT** must comply with HUD's requirements for Duplication of Benefits (DOB), as described in the Federal Register Guidance (Section IV.A.1. – Grant Administration; Duplication of Benefits (DOB)) and HUD guidance (including HUD training materials), including specific Order of

Assistance requirements as noted under SUBSECTION XIII.D. USE OF FUNDS AND ORDER OF ASSISTANCE. The **SUBRECIPIENT** shall carry out the activities under this Agreement in compliance with the **COUNTY's** procedures to prevent DOB. The **SUBRECIPIENT** shall also sign a Subrogation Agreement (see Exhibit K – CDBG-DR Program Subrogation Agreement).

In accordance with the Federal Register Guidance at 88 FR 32053 – Section IV.A.1.(d)(v) Applicable Rules, Statutes, Waivers, and Alternative Requirements: Reassess Unmet Need When Necessary, the **SUBRECIPIENT** certifies that they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **SUBRECIPIENT'S application**. This notification must include a statement explaining how this change in funding affects the provisions of the project and activity requirements as well as the use of and continued need for CDBG-DR funds through the **COUNTY**.

The **SUBRECIPIENT** shall either (1) maintain all funds provided under this Agreement in a separate bank account or (2) ensure that the **SUBRECIPIENT'S** accounting system shall have sufficient internal controls to separately track expenditure of all funds under this Agreement, in accordance with 2 CFR 200.302. In cases where the project and its activities are funded by more than one funding source (other funds besides CDBG-DR funds) where potential duplicative assistance could exist, the **SUBRECIPIENT** shall not commingle CDBG-DR funds provided under this Agreement with any other funds, projects or programs, when those funds are determined to be for the same purpose and same use, in accordance with the Federal Register Guidance. 88 FR 32050, Section IV.A.1.(a) – Overview of Grant Process, The Stafford Act – and Section 312 of the Stafford Act makes recipients of Federal disaster assistance liable for repayment of the amount of Federal disaster assistance that duplicates benefits available for the same purpose from another source (42 U.S.C. 5155(c)). The **COUNTY** may, in its sole discretion, disallow costs made with commingled funds that were designated as being available for the same purpose and use as the CDBG-DR funds and require reimbursement for such costs as described herein (SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS)).

**SUBSECTION XIII.F. – CIVIL RIGHTS REQUIREMENTS:** The **SUBRECIPIENT** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs, projects, and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this CDBG-DR funding, the **SUBRECIPIENT** assures and certifies the following:

1. That they will comply with all applicable Federal, state and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:
  - a. Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations – including that recipients/grantees of Federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166 and the Federal Register Guidance, to items such as, but not limited to, project outreach, project, or activity materials including communique in the form of digital (website) media and paper materials.
  - b. Section 109 - Title I of the Housing & Community Development Act of 1974
  - c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
  - d. Age Discrimination Act of 1975 (42 U.S.C. 610 et. seq.)
  - e. Fair Housing Act
2. That they will comply with the Americans with Disabilities Act of 1990 ("ADA") (P.L. 101-336, as codified at U.S.C. 42.126 (sections 12101-12213) and as amended, and 28 CFR 35); the Florida Civil Rights Act, as amended, Chapter 76, F.S.; Title VII of the Civil Rights Act of 1964, as amended; and laws which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. A Single-Point-of-Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section

504 and the ADA and coordinate activities and reports with the **SUBRECIPIENT'S** Single-Point-of-Contact.

3. That if clients are to be transported under this Agreement, **SUBRECIPIENT** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
4. That if personnel in programs under this Agreement work directly with children/youths and vulnerable or disabled adults, the **SUBRECIPIENT** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.
5. That activities under this Agreement shall provide for access to equal participation of religious or faith-based organizations, where applicable, in accordance with 24 CFR 570.200 and Executive Order 13279.

Additional requirement information can be accessed at the following websites:

- [Office of Fair Housing and Equal Opportunity \(FHEO\) Fair Housing Rights and Obligations](#)
- [FHEO main website](#)
- [Guidelines for promoting Fair Housing for individuals with Limited English Proficiency \(LEP\)](#)

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of logos and information regarding brochures can be found on the Fair Housing and Equal Opportunities HUD website.

**SUBSECTION XIII.G. – DETECTION AND PREVENTION OF FRAUD, WASTE, AND ABUSE:** In accordance with the Federal Register Guidance, the **SUBRECIPIENT** certifies that they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud, waste, and abuse, and that it will target its services and activities to those who need them the most. Additionally, the **SUBRECIPIENT** certifies that their written standards of conduct and their conflict-of-interest policy will supplement their anti-fraud, waste, and abuse (AFWA) initiatives, and that the **SUBRECIPIENT** may be required to take part in fraud, waste, and abuse (FWA) training and will work with the **COUNTY** to develop a FWA complaint and reporting process, including reporting such complaints to the **COUNTY**.

**SUBSECTION XIII.H. – INELIGIBLE ACTIVITIES:** The **SUBRECIPIENT** assures that it will not conduct or expend CDBG-DR funds on any activities which are deemed ineligible by the Federal Register Guidance (88 FR 32077, Section III.G.), federal regulations (most notably at 24 CFR 570.207), the Action Plan, and all other applicable laws.

**SUBSECTION XIII.I. – PROGRAM INCOME:** The **SUBRECIPIENT** shall report to the **COUNTY** all program income (as defined at 24 CFR 570.500 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 the **SUBRECIPIENT'S** periodic reporting outlined under SECTION VI. REPORTS AND EXHIBITS and SECTION VII. AUDITS, MONITORING, AND RECORDS.

The **SUBRECIPIENT** must return to the **COUNTY**, prior to closeout, any program income generated by the project and its activities. The **COUNTY** certifies that it shall use program income in accordance with

the applicable requirements of 2 CFR 200.307 and alternative requirements and waivers as prescribed under the Federal Register Guidance at 88 FR 32074, Appendix B: CDBG-DR Consolidated Notice - Section III.E. Program Income (in place of requirements at 24 CFR 570.500 and 24 CFR 570.504), and the terms of this Agreement. The **SUBRECIPIENT** shall return program income to the **COUNTY** if a program income balance exists, or program income is generated after closeout. In all cases, any program income received that is not used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of the Federal Register Guidance or the **COUNTY'S** CDBG Entitlement program, if program income is transferred to that program.

**SUBSECTION XIII.J. – CITIZEN PARTICIPATION AND PUBLIC WEBSITE REQUIREMENTS:** The **COUNTY**, as a Grantee, certified to HUD that it has a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements under the Federal Register Guidance). Additionally, the **COUNTY**, as a Grantee, certified to HUD that it will maintain a comprehensive CDBG-DR public website that permits individuals and entities awaiting assistance and the general public to see how all grant funds are used and administered. The Action Plan also details how the **COUNTY** will adhere to both requirements.

The **SUBRECIPIENT** certifies that it will adhere to requirements by the **COUNTY** to provide documentation and information which informs both the citizen participation and public website requirements. Further details on information needed to meet these requirements are spelled out in the exhibits, attachments, and forms as part of this Agreement.

**SUBSECTION XIII.K. – PERSONALLY IDENTIFIABLE INFORMATION (PII):** As previously referenced under SUBSECTION VII.D. RECORDKEEPING REQUIREMENTS and in accordance with 2 CFR 200.1 and 2 CFR 200.338, Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, and educational transcripts. This does not include PII that is required by law to be disclosed.

PII must always be safeguarded, even in instances of public records requests. No Federal awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award, *except for protected PII or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency.*

The **SUBRECIPIENT** certifies that they understand the PII definitions as noted above, and in accordance with their internal controls under 2 CFR 200.303, the SUBRECIPIENT must implement reasonable measures to safeguard Personally Identifiable Information (PII) and other sensitive data. These measures should form part of the SUBRECIPIENT's internal control framework to ensure compliance with federal regulations. The SUBRECIPIENT is responsible for maintaining appropriate safeguards to prevent unauthorized access, use, or disclosure of such information, consistent with cybersecurity best practices and the applicable federal, state, and local laws governing data protection.

Additionally, the **COUNTY**, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity," as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement in connection with this project and its activities, as applicable, is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that public services are



unaffected. Methods to accomplish the highest levels of public service coupled with PHI confidentiality will be an ongoing task of the affected staffs of the **COUNTY** and the **SUBRECIPIENT**.

**SUBSECTION XIII.L. – NECESSARY AND REASONABLE REQUIREMENTS:** The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for the Federal Awards in 2 CFR 200 Subpart E (Federal Cost Principles) apply to all CDBG-DR Grantees and their Subrecipients. The **SUBRECIPIENT** certifies that all costs incurred under this Agreement are necessary and reasonable for the performance of its project and/or activities. The Cost Principles are made applicable to local governments through 24 CFR 570.502. The **SUBRECIPIENT** must consider factors described at 2 CFR 200.404(a-e) when determining which types and amounts of cost items incurred under this Agreement are necessary and reasonable.

**SUBSECTION XIII.M. – COPYRIGHT, PATENT AND TRADEMARK:** In accordance with 2 CFR 200.1 and 2 CFR 200.135, trademarks, copyrights, patents and patent applications and property, are identified as intangible property, or property having no physical existence. The **SUBRECIPIENT** may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this CDBG-DR award. HUD, through the **COUNTY** as its pass-through entity, reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The **SUBRECIPIENT** is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR 401 (“Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements”).

Any and all patent rights accruing under, or in connection with, the performance of this Agreement are hereby reserved to the **COUNTY**. Any and all copyrights accruing under, or in connection with, the performance of this Agreement are hereby transferred by the **SUBRECIPIENT** to the **COUNTY**.

1. If the **SUBRECIPIENT** has a pre-existing patent or copyright, the **SUBRECIPIENT** shall retain all rights and entitlement to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.
2. 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 the **COUNTY** for a determination whether the **COUNTY** 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 **COUNTY**. If any books, manuals, films, or other copyrightable material are produced, the **SUBRECIPIENT** shall notify the **COUNTY**. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the **SUBRECIPIENT** to **COUNTY**. Within thirty (30) calendar days of execution of this Agreement, the **SUBRECIPIENT** shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. The **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 the **COUNTY** shall have the right to all patents and copyrights which accrue during performance of this Agreement.

**SUBSECTION XIII.N. – FEDERAL TERMS AND CONDITIONS:** For Federal CDBG-DR funded programs, the **SUBRECIPIENT** has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and will ensure compliance with applicable Uniform Administrative Requirements as described in 2 CFR 200, Community Development Block Grants (CDBG) regulations at 24 CFR 570, the Federal Register Guidance, the Action Plan, and all other established, applicable HUD regulations, acts, and statutes, as now in effect and as may be amended from time to time. The **COUNTY** outlines full CDBG-DR Compliance Provisions for the **SUBRECIPIENT** under Exhibit H – Certification of CDBG-DR Compliance Provisions and details program management standards within the respective program’s manual.

**SUBSECTION XIII.O. – STATE AND LOCAL GOVERNMENT REQUIREMENTS:** The **SUBRECIPIENT**

agrees to the following statements as it relates to state and/or local government requirements:

1. The **SUBRECIPIENT** will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this Agreement, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **SUBRECIPIENT**.
2. The **SUBRECIPIENT** will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).
3. The **SUBRECIPIENT** will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).
4. The **SUBRECIPIENT** will comply with and implement this Agreement in a manner satisfactory to Lee County and HUD and consistent with all applicable laws, regulations, and policies and procedures that may be required as a condition of Lee County providing the grant funds, including but not limited to, all applicable program administration and compliance requirements set forth by this Agreement, and in accordance with the CDBG-DR NOFA Application, CDBG-DR Action Plan, and any other documentation previously provided by the **SUBRECIPIENT**, attached as Exhibit F – Application, and made a part hereof.
5. Lee County's provision of grant funds under this Agreement is specifically conditioned on the **SUBRECIPIENT's** compliance with this provision and all terms and conditions of this Agreement, the most recently published version of Lee County's *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*, and the CDBG-DR *Public Facilities Infrastructure Program Policies and Procedures Manual*, which can be accessed on <https://cdbgdrr.leegov.com>, and any amendments thereto, related Federal Register Guidance (including Guidance, which is provided under future Federal Register Notices), and the requirements of the authorities cited above, as the same may be amended from time to time.
6. The **SUBRECIPIENT** will acknowledge support for activities funded wholly or in part by CDBG-DR funds provided by HUD and the **COUNTY**. In publicizing, advertising, or describing the program, state "Funding provided by Lee Board of County Commissioners and HUD."
7. The **SUBRECIPIENT** will notify the **COUNTY** of any changes to the **SUBRECIPIENT** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.
8. If needed, **SUBRECIPIENT** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This may include, but is not limited to, the use of the **SUBRECIPIENT'S** facility to assist with Emergency Food Stamp preregistration if the facility is operations and use of staff to assist with case management and post-disaster shelter assessments. **SUBRECIPIENT** will be responsible to notify United Way 211 via phone, email, or through submission of online survey form, immediately after a disaster declaration if the location is accessible and operational and of any **SUBRECIPIENT** staff who are available to assist with recovery efforts.

#### **SECTION XIV: OTHER PROVISIONS AND CONDITIONS**

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.

Any power of approval or disapproval granted to the **COUNTY** under the terms of this Agreement shall survive the term of this Agreement.

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.

In the event travel is pre-approved by the **COUNTY**, any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, F.S., the rules promulgated thereunder and 2 CFR 200.474.

If the **SUBRECIPIENT** is allowed to temporarily invest any advances of CDBG-DR funds under this Agreement, any interest income shall either be returned to the **COUNTY**.

The **SUBRECIPIENT** acknowledges being subject to Florida's Government in the Sunshine Law (section 286.011, F.S.) with respect to the meetings of the **SUBRECIPIENT'S** governing board or the meetings of any subcommittee making recommendations to the governing board. The **SUBRECIPIENT** 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.

The **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.

Upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

#### **SECTION XV: CITIZEN COMPLAINTS**

The **SUBRECIPIENT** is responsible for tracking and reporting citizen complaints to the **COUNTY** under the following types of complaints and/or inquiries: (1) Program or Project Appeals, where applicable; (2) HUD complaints; (3) Fair Housing complaints; and (4) Fraud, Waste, and Abuse (FWA) complaints. The **SUBRECIPIENT** must adopt the **COUNTY'S** written citizen complaint policy or provide their own policy that provides citizens with the address, phone number, and times for submitting complaints and grievances. The policy must also provide that timely written answers to written complaints and grievances will be provided within 15 working days, where practicable, or the **SUBRECIPIENT** must document why additional time for the response is required.

#### **SECTION XVI: LEGAL AUTHORIZATION**

The **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. The

**SUBRECIPIENT** certifies that the undersigned person has the authority to legally execute and bind the **SUBRECIPIENT** to the terms of this Agreement. The **COUNTY** may, at its discretion, request documentation evidencing the undersigned has authority to bind the **SUBRECIPIENT** to this Agreement as of the Effective Date; any such documentation is incorporated herein by reference.

Prior to the execution of this Agreement, the **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. The **SUBRECIPIENT** shall immediately notify the **COUNTY** in writing if its ability to perform is compromised in any manner during the term of this Agreement.

## **SECTION XVII:      AGREEMENT DISPUTE RESOLUTION PROCEDURE**

Any dispute between the Parties with respect to provisions contained in a Lee County Office of Strategic Resources and Government Affairs Agreement or issues that arise pertinent to an Agreement shall be resolved as follows:

The Parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) daytime period can be extended for an additional ten (10) days.

1. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for SRGA include the Agreement Coordinator and Program Manager.
2. During the course of the dispute process, requests made by one Party to the other for non-privileged information, reasonably related to the dispute, shall be responded to in good faith.
3. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten (10) days.
4. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the Parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, the **SUBRECIPIENT** will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.
5. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in Paragraph 1-3 above.

## **SECTION XVIII:      AGREEMENT CLOSEOUT**

The **SUBRECIPIENT** must complete a closeout checklist and final closeout reports to ensure complete and final documentation of all finance and program activities. The closeout checklist and reports must be submitted to the **COUNTY** within 90 days after the end date of this agreement.

The closeout checklist must include documentation and certification that:

1. All CDBG-DR funds have been expended within the exception of any closeout liabilities or contingent liabilities (24 CFR 570.509(a)(1));

2. All work financed with CDBG-DR funds has been completed, is eligible, and meets a national objective, including activities financed through escrow accounts, loan guarantees, or similar mechanisms; performance and expenditure reports have been submitted and account for program income and administrative expenditures (24 CFR 570.509(a)(2-5)); and
3. All other responsibilities under this Agreement have been met or the **COUNTY** has determined that there is no further benefit in keeping the Agreement open to secure performance (24 CFR 570.509(a)(6)).

The final closeout reports must include the following:

1. Final Project Performance Measures and Outcomes Form (*Exhibit E*);
2. Final *Quarterly Activity Report* (with final progress narrative);
3. Updated *Project Budget and Expense (Sources and Uses) Worksheet* (including program income);
4. Final *Payment Request Form*; and
5. Inventory of property acquired or improved with CDBG funds. The inventory should identify real property acquired with over \$25,000 of CDBG funds including its current use, to facilitate compliance with requirements for the continuing eligible use of property at 24 CFR 570.505.

Based on the **SUBRECIPIENT'S** final reports and other relevant information, the **COUNTY** may execute a closeout agreement that specifies closeout costs or contingent liabilities that are subject to payment with CDBG-DR funds after the closeout agreement is signed; continuing responsibilities after closeout; or other provisions appropriate to special circumstances.

As specified in 2 CFR 200.345, the closeout of a CDBG-DR award to a **SUBRECIPIENT** does not affect:

1. The **COUNTY's** right to disallow costs and/or recover funds on the basis of a later audit or other review.
2. The **SUBRECIPIENT's** obligation to return funds due to the **COUNTY** from subsequent refunds, corrections, or other transactions.
3. The **COUNTY** and **SUBRECIPIENT'S** obligation to comply with records retention as specified in 2 CFR 200, Subpart D—Post Federal Award Requirements, Records Retention and Access, including 2 CFR 200.334-338, as modified by 24 CFR 570.502(a)(7)(ii).
4. The **SUBRECIPIENT's** responsibilities for property management and disposition:
  - For real property in 24 CFR 570.503(b)(7).
  - For other property, as applicable in 2 CFR 200, Subpart D, Post Federal Award Requirements, Property Standards, including:
    - 2 CFR 200.310 (Insurance coverage).
    - 2 CFR 200.312 (Federally owned and exempt property).
    - 2 CFR 200.313 and 24 CFR 570.502(a)(6) (Equipment).
    - 2 CFR 200.314 (Supplies).
    - 2 CFR 200.315 (Intangible property).
    - 2 CFR 200.316 (Property trust relationship).
    - Audit requirements in 2 CFR 200, Subpart F.

**SECTION XIX:       NOTICES**

Official notices concerning this Agreement will be directed to the following authorized representatives below, either in writing, by hand delivery, first class, or certified mail with return receipt requested at the addresses below, or in electronic format, by electronic mail:

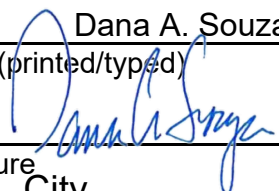
**SUBRECIPIENT**

Name: Dana Souza  
Title: City Manager  
Agency: City of Sanibel  
Address: 750 Dunlop Road, Sanibel FL, 33957  
Telephone: (239) 472-6397  
Email: [dana.souza@mysanibel.com](mailto:dana.souza@mysanibel.com)

**COUNTY**

Name: Glen Salyer  
Title: Assistant County Manager  
Agency: Lee County BoCC  
Address: 2115 Second Street, Fort Myers, FL 33901  
Telephone: (239) 533-2221  
Email: [gsalyer@leegov.com](mailto:gsalyer@leegov.com)

The signatures of the two persons shown below are designated and authorized to sign all applicable reports:

\_\_\_\_\_  
Dana A. Souza  
Name (printed/typed)  
  
\_\_\_\_\_  
  
Signature  
City  
Manager  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (printed/typed)  
  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Title

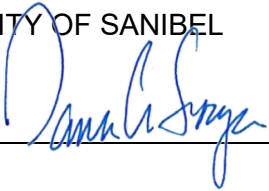
In the event that the **SUBRECIPIENT** designates different representatives after execution of this Agreement, notice of the name and address of the new representative will be rendered in writing or electronically by authorized officer of the **SUBRECIPIENT** to the **COUNTY**.

**SECTION XX:       ALL TERMS AND CONDITIONS INCLUDED**

This Agreement and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this Agreement is legally determined unlawful or unenforceable, the remainder of the Agreement shall remain in full force and effect and such terms or provisions shall be stricken.

**IN WITNESS THEREOF**, the **SUBRECIPIENT** and the **COUNTY** have caused this Agreement and all Agreement Exhibits, Attachments, Reports, and Forms as indicated on the *Subrecipient Agreement Document Checklist* to be executed by their undersigned officials as duly authorized.

**SUBRECIPIENT: CITY OF SANIBEL**

BY:  \_\_\_\_\_ 1/13/26  
Signature Date  
Dana A. Souza  
Name (print)

ATTEST:  
CLERK OF CIRCUIT COURT

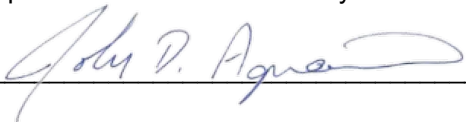
BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chair

Approved as to form for the City of Sanibel:

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

 \_\_\_\_\_

\_\_\_\_\_  
County Attorney's Office

## EXHIBIT A

### SCOPE OF WORK AND ACTIVITIES

#### PROGRAM/PROJECT ACTIVITY OVERVIEW

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the *Public Facilities Infrastructure Program NOFA*. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for program and project eligibility with core HUD CDBG-DR requirements. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record.

#### Program/Project Activity Overview

**Project Name:** *Sanibel Police Station*

**CDBG-DR Program eligible activity:**

☒ *Rehabilitation/reconstruction of public facilities*

**The National Objective to be achieved for each activity as a result of this Project:**

☒ *Activities designed to meet community development needs having a particular urgency ("Urgent Needs"); or*

**The method of measuring the National Objective, if LMI:**

N/A

**The number of individuals benefiting as a result of this Project:**

- Total beneficiaries: 7,370
- Total low/mod beneficiaries: 2,255

**CDBG-DR storm tie-back and/or Mitigation resilience measure:**

This project supports the Sanibel City Council's adopted Strategic Goals for Hurricane Ian Recovery and Community Resilience by replacing a damaged and inadequate facility with a resilient Police Station designed to meet both the community's daily operational needs and its emergency response requirements. In addition, the Police Station project aligns with the Sanibel Comprehensive Plan (Part 3.1: Safety) and the Long-Term



Recovery Plan, advancing key resilience priorities established in those guiding documents.

Specifically, the project fulfills the Goal, Objective, and Policies outlined in Section 3.3.9 of the Sanibel Plan, which state the following: The goal is to provide adequate police services, fire protection, City administration, library services, power, medical facilities, public health, education, and insect control services for residents and land uses within the City of Sanibel. Objective 1 is to ensure continued maintenance of an adequate level of service for these human support systems. Policy 1.1 directs the City to preserve and maintain existing facilities through proper maintenance and upkeep procedures, while Policy 1.2 calls for expanding and adding facilities as needed to provide adequate service.

## **EXHIBIT B**

### **SCOPE OF WORK AND ACTIVITIES**

#### **PROJECT ACTIVITY SCOPE OF WORK DESCRIPTION**

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the *Public Facilities Infrastructure Program NOFA*. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for key performance measures and project budget cost eligibility. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

#### **Project Activity Scope of Work Description ("Work")**

Construct a new resilient Police Station that will meet current FEMA Flood Regulations, the Florida Building Code and all requirements of Sanibel's Land Development Code and meets the operational needs of the Police Department.

#### **Design and Approach:**

The design for the proposed Police Station is now complete, and the City Council officially approved it on May 7, 2024. Once constructed, the new facility will address a critical and immediate need in the Sanibel community, providing a modern, fully equipped Police Station capable of effectively serving residents on a daily basis and ensuring a rapid, coordinated response during emergencies. The project represents a significant investment in public safety, supporting both routine law enforcement operations and the community's long-term resilience.

| <b>Activity</b>                         | <b>Target Date</b> |
|-----------------------------------------|--------------------|
| RTI for construction (internal process) | May 2026           |
| Advertise for construction              | June 2026          |
| Award construction and NTP              | December 2026      |
| Begin construction                      | January 2027       |
| Construction complete                   | July 2028          |

## EXHIBIT C

### **FINANCIAL AND GRANT MANAGEMENT SYSTEM BUDGET WORKSHEET**

The information provided under this Exhibit is retrieved from the Subrecipient Agreement. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations within the County's financial accounting system for the awarded CDBG-DR funds. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

#### **Financial and Grant Management System Budget Worksheet**

As noted within the Agreement, the Subrecipient's allocation of CDBG-DR funding for this project is broken down in the following manner:

|                                       | Most Impacted and Distressed (MID) |
|---------------------------------------|------------------------------------|
| Activity Funds (Direct Project Costs) | \$14,999,909.00                    |
| Activity Delivery Funds               | \$40,780.00                        |
| TOTAL                                 | \$15,040,689.00                    |

Compliance with Section 3 and Davis-Bacon and Related Acts will be the responsibility of the subrecipient under the terms of this agreement. Subrecipients are eligible to receive staff augmentation and technical assistance through Lee County and its consultants for these purposes. Costs associated with Section 3 and Davis-Bacon and Related Acts will be reimbursed from funds available in the Activity Delivery Funds line of the budget as shown above. The budget allocated for this purpose was calculated based on the estimated effort for this specific project.

## EXHIBIT D

### **INDIRECT COST RATE ALLOCATION PLAN**

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the *Public Facilities Infrastructure Program NOFA*. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations for an indirect cost rate within the County's financial accounting system. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

#### **Indirect Cost Rate Allocation Plan**

When applicable, documentation that supports the indirect cost rate and Activity Delivery Cost must be included under this Exhibit. Pursuant to 2 CFR 200.414, the SUBRECIPIENT is entitled to apply the 15% de minimis indirect cost rate without requiring further approval from the COUNTY. Alternatively, if the SUBRECIPIENT has a federally negotiated indirect cost rate, they may elect to use that rate, which shall be accepted by the COUNTY without additional negotiation or approval. The terms of this Agreement shall reflect the applicable indirect cost rate as established under this Exhibit. The Subrecipient's indirect cost is based on the following indirect cost rate allocation plan in accordance with 2 CFR 200.414:

☒ *Not applicable to this Agreement and will not be requested from the Subrecipient.*

See the plan or proposal above for further details and requirements of when the Subrecipient is set to receive indirect costs. The County also identifies financial data and information in Exhibit C for the Subrecipient's use in the submission of Payment Request Forms, Single Audits, and other reports which require the County's accounting of CDBG-DR funding through its financial system.

## **EXHIBIT E**

### **PROJECTED PERFORMANCE MEASURES AND OUTCOMES FORM**

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and, if applicable, the Subrecipient's approved application in response to the *Public Facilities Infrastructure Program* NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up detailed performance management goals for the Subrecipient to meet through implementing and completing the project.

The Subrecipient will report via the monthly activity report on how the project has progressed on reaching the target numbers of the projected performance measure(s). Subrecipients will work with the County to ensure any updates to this Exhibit are subsequently reviewed and approved within the System of Record in accordance with the Agreement.

#### **Projected Performance Measures and Outcomes**

When applicable, documentation which supports the performance measure(s) is taken from the Subrecipient's stated project scope of work ("projected outcomes"). The following table provides those measures which the Subrecipient must report performance on related to meeting performance goals:

| Eligible Activity Type                                        | Possible Performance Measures/Accomplishments<br>(select at least one measure for the eligible activity being met) | Projected Total |
|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------|
| Rehabilitation/ reconstruction of public facilities           | # of buildings (non-residential)                                                                                   |                 |
|                                                               | # of Linear feet of green public improvement                                                                       |                 |
|                                                               | # of Non-business Organizations benefitting                                                                        |                 |
|                                                               | # of public facilities                                                                                             | 1               |
|                                                               | # of Linear feet of Public Improvement                                                                             |                 |
|                                                               | # of Acres wetlands                                                                                                |                 |
|                                                               | # of Linear miles of Public Improvement                                                                            |                 |
|                                                               | # of cable feet of public utility                                                                                  |                 |
|                                                               | # of Properties                                                                                                    |                 |
|                                                               | # of Elevated Structures                                                                                           |                 |
|                                                               | # of Businesses                                                                                                    |                 |
| MIT - Public Facilities and Improvements-Non Covered Projects | # acres of newly added or improved green space                                                                     |                 |
|                                                               | # acres of wetlands created                                                                                        |                 |
|                                                               | # cubic feet of stormwater storage added                                                                           |                 |
|                                                               | % decrease in affluent discharged                                                                                  |                 |
|                                                               | % decrease in area inundated by flooding                                                                           |                 |
|                                                               | % decrease in disruption hours to residents and businesses from impacts of storm events                            |                 |

| Eligible Activity Type                                                    | Possible Performance Measures/Accomplishments<br>(select at least one measure for the eligible activity being met) | Projected Total |
|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------|
|                                                                           | % decrease in NFIP CRS score                                                                                       |                 |
|                                                                           | % decrease in road closures in target area during a flood event                                                    |                 |
| MIT - Public Facilities and Improvements-Non Covered Projects<br>(cont'd) | % decrease water surface elevation level during a flood with a qualifying event                                    |                 |
|                                                                           | \$ estimated flood loss avoidance                                                                                  |                 |
|                                                                           | \$ Funds allocated for water management/flood mitigation improvements                                              |                 |
|                                                                           | \$ Funds allocated for water-quality improvements                                                                  |                 |
|                                                                           | % increase in acres of cropland protected from flooding                                                            |                 |
|                                                                           | % increase in groundwater infiltration                                                                             |                 |
|                                                                           | % increase in number of acres converted to open space                                                              |                 |
|                                                                           | % increase in pumping capacity                                                                                     |                 |
|                                                                           | # linear feet of streams restored                                                                                  |                 |
|                                                                           | # occupied structures in floodplain                                                                                |                 |
|                                                                           | # of acres green infrastructure created                                                                            |                 |
|                                                                           | # of acres green space created                                                                                     |                 |
|                                                                           | # of acres green space preserved                                                                                   |                 |
|                                                                           | # of acres no longer vulnerable to flood events                                                                    |                 |
|                                                                           | # of acres of native vegetation planted                                                                            |                 |
|                                                                           | # of acres with improved multiple hazard risk mapping                                                              |                 |



| Eligible Activity Type                                                    | Possible Performance Measures/Accomplishments<br>(select at least one measure for the eligible activity being met) | Projected Total |
|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------|
|                                                                           | # of brownfield acres converted to wetland                                                                         |                 |
|                                                                           | # of buildings (non-residential)                                                                                   |                 |
|                                                                           | # of containment systems constructed                                                                               |                 |
|                                                                           | # of Elevated Structures                                                                                           |                 |
|                                                                           | # of fewer outages of critical facilities and utilities                                                            |                 |
|                                                                           | # of green infrastructure projects constructed                                                                     |                 |
|                                                                           | # of greenspace users                                                                                              |                 |
|                                                                           | # of Linear feet of Public Improvement                                                                             |                 |
|                                                                           | # of Linear Feet of Sewer Lines                                                                                    |                 |
| MIT - Public Facilities and Improvements-Non Covered Projects<br>(cont'd) | # of linear feet of trails constructed                                                                             |                 |
|                                                                           | # of Linear Feet of Water Lines                                                                                    |                 |
|                                                                           | # of Linear miles of Public Improvement                                                                            |                 |
|                                                                           | # of Non-business Organizations benefitting                                                                        |                 |
|                                                                           | # of non-invasive species trees planted on project sites                                                           |                 |
|                                                                           | # of properties protected from future flooding                                                                     |                 |
|                                                                           | # of properties with access above 100-yr flood level                                                               |                 |
|                                                                           | # of public facilities                                                                                             |                 |
|                                                                           | # of pump stations repaired/replaced                                                                               |                 |

| Eligible Activity Type | Possible Performance Measures/Accomplishments<br>(select at least one measure for the eligible activity being met) | Projected Total |
|------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------|
|                        | # of reduced hours streets are flooded                                                                             |                 |
|                        | # of residents protected from future flooding                                                                      |                 |
|                        | <b># of Section 3 Labor Hours</b>                                                                                  | 6,000           |
|                        | # of small water retention devices/systems installed                                                               |                 |
|                        | # of storm water projects implemented                                                                              |                 |
|                        | # of Targeted Section 3 Labor Hours                                                                                | 800             |
|                        | # of Total Labor Hours                                                                                             | 16,000          |
|                        | # of vacant lots repurposed                                                                                        |                 |
|                        | # of water control structures repaired/replaced                                                                    |                 |
|                        | % reduction in emergency maintenance costs                                                                         |                 |
|                        | % reduction in energy costs                                                                                        |                 |
|                        | % reduction in loss of service                                                                                     |                 |
|                        | % reduction of sanitary sewer overflows                                                                            |                 |
|                        | % reduction of watershed nitrate loading                                                                           |                 |
|                        | % reduction of water surface elevation level                                                                       |                 |
|                        | <b># of structures harden against future flood events</b>                                                          |                 |
|                        | <b># of Persons</b>                                                                                                |                 |



Lee County  
*Southwest Florida*

# **Public Facilities Infrastructure Program**

**Organization Information**

- ▶ Organization Name: City of Sanibel
- ▶ Address: 800 Dunlop Road Sanibel, FL 33957
- ▶ Telephone: (239) 472-3700
- ▶ Federal Employer ID #: 59-1568877
- ▶ Organization Website: mysanibel.com
- ▶ Unique Entity Identifier: LQTEM84ENKQ5

**Authorized Organization Representative**

- ▶ Name: Dana Souza
- ▶ Title: City Manager

**Contact Person**

- ▶ Name: Craig Chandler
- ▶ Title: Deputy Planning Director
- ▶ Email: craig.chandler@mysanibel.com
- ▶ Telephone: (239) 391-4426

**Partner Organization**

- ▶ Will your organization be partnering with any other organizations? No

## Project Information

► Name: Sanibel Police Station

## Public Facility Description

### Project Information

This application seeks \$15 million to construct a new and more resilient Sanibel Police Station. This new Police Station will replace a 2-story structure that is a wing of the over 40-year-old existing City Hall building.

Hurricane Ian destroyed the lower level of the Sanibel Police Station and rendered the remaining portions of the Police Station and City Hall uninhabitable between September 28, 2022, and March 30, 2023. Because of the damage, City Hall and the Police Station complex could not serve as the on-island Unified Command Center that is necessary and so critical when coordinating the emergency response efforts to a catastrophic event by multiple responding jurisdictions. While FEMA provided a temporary Unified Command Center by erecting a tent to serve as the Hurricane Ian Unified Command Center, there were multiple challenges due to weather, noise, and heat. An adequate on-island facility is urgently needed to manage emergency and disaster response efforts efficiently, effectively, and safely.

In the post-storm period, Sanibel's damaged (and therefore smaller/not fully-operable) Police Station, has proven to be inadequate to support the day-to-day police services needed by the residents, businesses, and visitors of Sanibel. The current building no longer provides adequate facilities to house police officers and civilian staff members who work in patrol, parking enforcement, traffic enforcement, detective services, emergency dispatch area, and command positions. Permanent space for a squad room, training, and armory facilities cannot be placed in the flood damaged first level of the current police station, which was destroyed by the storm surge from Hurricane Ian.

The City has funded the design (100% construction drawings) of a new Police Station that will meet current FEMA and Florida Building Codes. It also meets all the requirements of Sanibel's Land Development Code. The Sanibel City Council approved the final design on May 7, 2024, and the construction drawings will be complete within 30-days, making the project shovel-ready.

A resilient police station is required to serve multiple community needs. The Police Station must provide safe and ADA compliant public access for daily interactions with residents, business owners and visitors, functional space for daily police operations, and be able to transform quickly into a Unified Command Center when faced with community emergencies and threats. Sanibel must have a facility that can accommodate space for multiple agencies during emergency operations, such as the Sanibel Fire & Rescue District, the Captiva Fire & Rescue District, Lee County Sheriff, FEMA, Florida DEM, US Fish and Wildlife Services, the Island Water Association, and LCEC, particularly when faced with large-scale catastrophic events such as Hurricane Ian.

The building code has changed significantly in the 40 years since City Hall and the police

station were built, and the new facility will be constructed to meet required base flood elevation and to withstand high winds and potential flooding. It will meet all first responder needs, including communication, fitness and training areas, squad rooms, lockers, kitchen, armory, secure evidence rooms, and shower/restroom facilities.

The Primary Objectives of the County Commission approved Lee County CDBG-DR Action Plan are to “Restore critical public facilities and infrastructure,” “Mitigate future disaster impacts through infrastructure investments,” and “Plan for Future Resilience.” The construction of this modern and resilient 22,600 square foot Police Station and Emergency Operations Center will safeguard the dedicated first responders who serve the Sanibel Community, strengthen the island's ability to effectively respond to future natural and manmade disasters and emergencies, and meet the Primary Objectives of the Lee County CDBG-DR Action Plan.

#### CDBG-DR Eligibility Justification:

The Lee County CDBG-DR Action Plan (Action Plan - pg. 62 of Amendment 4) identifies Sanibel as one of four areas in Lee County that received the brunt of Hurricane Ian's impact, suffering over \$50 million in real property damage. This real property loss includes damage and losses sustained to public facilities and infrastructure.

Additionally, Sanibel is one of only two Lee County jurisdictions (communities) that lost taxable property values following the storm. Sanibel's Fiscal Year 2023-2024 property values were reduced by 34% by the Lee County Property Appraiser as a direct result of Hurricane Ian's wind, storm surge, and flooding impacts.

The Urgent Need for financial assistance in Lee County is clearly within the coastal communities of Sanibel, Fort Myers Beach, and the river front area of North Fort Myers. One of the most urgent needs Sanibel has, in order to serve Sanibel's residents with Police services, is to construct a new Police Station.

Lee County staff has informed Sanibel that HUD indicated the Police Station may not be eligible for CDBG-DR funding because it “serves general purposes of government” (email uploaded in Section 4 of application). Sanibel disagrees with this position. First, the HUD Guide to National Objectives & Eligible Activities for Entitlement Communities (pg. 2-12) states that “police stations” are not included in statute definition of “buildings for the general conduct of government.” While the offices for Command Staff (Chief, Deputy Chief, Captain, Administrative Assistant, Emergency Management Technician)—offices typically considered for the general conduct of government—are designed to be located in the new Police Station, the office areas for these staff members will only occupy approximately 1,500 square feet—merely 6% of the 22,600 square foot building. So, the predominant use (i.e., 94%) of the proposed building is inarguably to support public safety purposes and as-needed emergency management functions, not general government. This “predominant use” standard is the appropriate litmus test (See uploaded - Section 4 of application - CDBG Memorandum dated December 8, 1987, stating, “In determining whether a building is a ‘building for the general conduct of government,’ look at the predominant use of the building.”). Further, Sanibel is a small community with one Police station. As detailed above, the new Police Station will have minimal space for Command Staff offices 3) and the predominant daily use of the building is for police operations and as needed emergency management functions that directly serve the public. The HUD Guide to National Objectives & Eligible Activities for Entitlement Communities (pg. 2-12) states:

Generally speaking, buildings which house administrative functions of the government are considered to be “buildings for the general conduct of government.” Thus, CDBG

assistance to a building in which the chief of police and the fire captain of a city have their offices would generally be ineligible. For small communities where one building provides both the administrative functions and services directly to the public, a determination should be sought from HUD as to whether the building may be assisted under this category.

If the small section of the Police Station assigned for Command Staff (administrative offices) is deemed ineligible for CDBG-DR funding, then the City will use secured State funding (\$1 million) and City funds to pay for the ineligible portion of the building. CDBG-DR funding will be used to construct the operational and public facing elements of the building. The HUD Guide to National Objectives & Eligible Activities for Entitlement Communities (pg. 2-13) states:

"If a public facility contains both eligible and ineligible uses, §570.200(b)(1) of the regulations should be consulted for special qualifying criteria for the eligible portion of the facility."

24 C.F.R. §570.200(b)(1) (2024), provides: "(b) Special policies governing facilities. The following special policies apply to: (1) Facilities containing both eligible and ineligible uses. A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if: (i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and (ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. Allowable costs are limited to those attributable to the eligible portion of the building or facility."

Based on the City's review of applicable HUD regulations, and based upon the predominant (94%) use of Sanibel's sole proposed Police Station being dedicated for eligible uses as opposed to dedicated to general government purposes, the City of Sanibel requests that Lee County seek a formal determination from HUD as to the full or partial funding eligibility for the Sanibel Police Station project – prior to ranking and submitting applications for review by the Lee County CDBG-DR Planning and Infrastructure Advisory Committee.

Should HUD determine that the building is not fully eligible under the guidelines, the City of Sanibel requests that Lee County seek a waiver for the Police Station project, as there is an urgent need to complete the proposed project, the project clearly meets the stated objectives of the Lee County CDBG-DR Action Plan, and the Police Station will be constructed in one of the three areas of Lee County that have been identified in the Action Plan as being the most severely impacted by Hurricane Ian.

24 C.F.R. §5.110 (2024), provides:

Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q))

The Sanibel Police Station project is a project of good cause and is shovel ready.

## Project Type

- |                                                                                                                        |                                                                            |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <input type="checkbox"/> Aquisition                                                                                    | <input type="checkbox"/> Safe Rooms                                        |
| <input checked="" type="checkbox"/> New Construction                                                                   | <input checked="" type="checkbox"/> Handicapped Accessibility Improvements |
| <input type="checkbox"/> Building Hardening                                                                            | <input checked="" type="checkbox"/> Energy Efficiency Improvements         |
| <input checked="" type="checkbox"/> Backup Generator: Must be a permanent fix to the structure. No portable generators |                                                                            |

► Other:



### Target Service Location

- |                                                     |                                                               |
|-----------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> City of Cape Coral         | <input type="checkbox"/> Town of Fort Myers Beach             |
| <input type="checkbox"/> City of Fort Myers         | <input type="checkbox"/> Village of Estero                    |
| <input type="checkbox"/> City of Bonita Springs     | <input checked="" type="checkbox"/> Unincorporated Lee County |
| <input checked="" type="checkbox"/> City of Sanibel | <input type="checkbox"/> All of Lee County                    |

## National Objective

► National Objective: Urgent Need

**Provide a description how the proposed project will meet the selected National Objective**

The Sanibel Police Station at City Hall was significantly damaged by Hurricane Ian. The urgent need for CDBG-DR funding for this project was created by Hurricane Ian, which occurred within 18-months of this application. Due to the damage inflicted on the current police station, and the financial constraints the City is operating under, there is a critical and urgent need for CDBG-DR funding to construct a new police station to deliver police services that protect the health and welfare of the community.

The current station is inadequate to meet the short and long-term operational needs and to provide critical policing services and emergency response by the City of Sanibel for the island communities.

Police facilities at City Hall were previously designated for improvement prior to Hurricane Ian, resulting in the city's procurement of professional services for design of a new detached police station in FY21-22. Maintaining adequate staffing levels for the Police Department has been challenging in part due to outdated and obsolete facilities. Without facilities upgrade, if unaddressed, these staffing shortfalls may have a detrimental health and safety impact on Sanibel residents, as well as the many tourists that visit Sanibel and Captiva Islands.

Following Hurricane Ian, the need for a Unified Command Center and elevated emergency equipment platform became clear priorities in the final design of the new station. Furthermore, relocation of police facilities from City Hall provides an opportunity to utilize their existing space for other departments (IT and Natural Resources), whose former offices were destroyed due to their location at grade below Base-Flood Elevation.

The proposed police station will be constructed +2 feet above the base flood elevation and will meet all current Florida Building Code, FEMA Flood Regulations, and Sanibel Land Development Code requirements. During a critical incident or a declared State of Emergency, the police station will serve as a Unified Command Center to protect the health and welfare, of Sanibel residents and those who reside in the neighboring island of Captiva. Following Hurricane Ian, local, county, state, and federal officials, such as the Sanibel Police Department, Lee County Sheriff's Office, Sanibel Fire Department, Lee County EMS, Lee County Emergency Management, Florida Department of Emergency Management, FEMA, LCEC, and responding contractors, were forced to use an inadequate tent as the Unified Command Center.

The City of Sanibel's location in a special flood hazard area, and the proposed Police Station in an AE +9-foot flood zone, significantly increases project costs for new construction. Additionally, Sanibel Building Department staff finds construction costs are generally 20% higher on Sanibel relative to "mainland" areas of Lee County, when all other variables are equal. These inherent cost factors present substantial funding challenges, especially in the context of a city budget that has been greatly affected by

storm related expenditures.

The Lee County CDBG-DR Action Plan (Action Plan - pg. 62 of Amendment 4) identifies Sanibel as one of four areas in Lee County that received the brunt of Hurricane Ian's impact, suffering over \$50 million in real property damage. This real property loss includes damage and losses sustained to public facilities and infrastructure.

Additionally, Sanibel is one of only two Lee County jurisdictions (communities) that lost taxable property values following the storm. Sanibel's Fiscal Year 2023-2024 property values were reduced by 34% by the Lee County Property Appraiser as a direct result of Hurricane Ian's wind, storm surge, and flooding impacts. This financial constraint creates an urgent need to obtain Federal and State financial assistance rebuild the Sanibel community.

The Urgent Need for financial assistance in Lee County is clearly within the coastal communities of Sanibel, Fort Myers Beach, and the river front area of North Fort Myers. One of the most urgent needs Sanibel has, in order to serve Sanibel's residents with critical police services, is to construct a new Police Station.

This project meets the requirements for the urgent need National Objective, described in 88 FR 32046. Specifically, this completed project will immediately alleviate existing conditions that pose a serious and immediate threat to the health and welfare of the community.

## National Objective Descriptions

| National Objective                   | Description                                                                                                                                                                                                                                                                                             |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| L/M Income Area Benefit              | Census block groups that align with the service area maps                                                                                                                                                                                                                                               |
| L/M Income Limited Clientele         | The infrastructure improvements benefit a specific persons who are presumed by HUD to be principally LMI (abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS or migrant farm workers)                          |
| L/M Income Job Creation or Retention | The project proposes activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons. Must include income certifications or describe method on how LMI job creation will be documented |
| Urgent Need                          | Does the narrative description on the application under Urgent Need provide specific examples of needs that have urgency, including how the existing conditions pose a serious and immediate threat to the health and welfare of the community?                                                         |

|                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Slums and Blight | <p>Does the designated activity area meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law? Additionally, the area must meet one of the two conditions:</p> <ul style="list-style-type: none"> <li>• Public improvements throughout the area are in a general state of deterioration; or</li> <li>• At least 25 percent of the properties throughout the area exhibit one or more of the following: <ul style="list-style-type: none"> <li>• Physical deterioration of buildings/improvements;</li> <li>• Abandonment of properties;</li> <li>• Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;</li> <li>• Significant declines in property values or abnormally low property values relative to other areas in the community; or</li> <li>• Known or suspected environmental contamination</li> </ul> </li> </ul> |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## The scope of the project

Construct a new resilient Police Station that will meet current FEMA Flood Regulations, the Florida Building Code and all requirements of Sanibel's Land Development Code and meets the operational needs of the Police Department.

## The projected outcome(s) of the project

The completed project immediately satisfies an urgent need of the Sanibel community by constructing a Police Station that adequately serves the community each day and during emergency situations.

## The unmet or mitigation need that is being addressed by the project and how it aligns with community goals

This project serves to satisfy Sanibel's City Council adopted Strategic Goals for Hurricane Ian Recovery and Community Resilience, by replacing a damaged and inadequate facility with a resilient Police Station that meets the daily and emergency response needs of Sanibel.

Additionally, the Police Station project will fulfill the requirements of the Sanibel (comprehensive) Plan (Part 3.1. Safety) and Long-Term Recovery Plan, as it relates to resilience priorities.

The following Goal, Objective and Policies are stated in Section 3.3.9. of the Sanibel Plan:

Goal Statement: Provide adequate police services, fire protection, City administration, library services, power, medical facilities and public health, education and insect control services for residents and land uses in the City of Sanibel.

Objective 1. Ensure continued maintenance of an adequate level of service for these other human support systems.

Policy 1.1. Preserve and maintain existing facilities through implementation of proper maintenance and upkeep procedures. Policy 1.2. Expand and add facilities as needed to provide adequate service.

**Description of your agency's experience completing projects of a similar size and scope, including federal, state, and/or local government grant experience and capacity of the organization to administer the project and oversee all compliance requirements.**

Throughout its 50 years as a municipality, The City of Sanibel has successfully planned, implemented and completed numerous projects funded by county, state and federal grant programs. Those projects have ranged from a few thousand dollars to multi-million dollars. Funding has varied, depending upon the need, from Lee County Tourist Development Council (TDC) to Florida Dept of Transportation to the Federal Emergency Management Agency (FEMA).

A few specific grant funded projects recently included: 1) Donax WRF Plant Improvement Project a) Project Cost: \$20 million b) Funding Agency: State appropriation managed through FDEP c) Funding Amount: \$3.1 million 2) Phase 4B Sewer Expansion Project a) Project Cost: \$2.3 million b) Funding Agency: State appropriation managed through FDEP c) Funding Amount: \$1.25 million 3) Donax WRF and Wulfert WWTP Generators a) Project Cost: \$1.2 million b) Funding Agency: FEMA / FDEP (Hazard Mitigation Grant Program) c) Funding Amount: \$900,000 4) Beach Renourishment Project a) Project Cost: \$26 million b) Funding Agency: FDEP c) Funding amount: 100% with 50% provided by state up-front

#### **The applicant's plan of executing the Subgrantee Agreement**

N/A

#### **The applicant's plan for Oversight and Monitoring of Subgrantee**

N/A

**Please provide a project administration team highlighting roles and responsibilities of each individual participating in program participation and management.**

The project's completion will require a team of City staff, primarily from the Police, Public Works, Finance and Administration departments, with responsibilities divided among several staff members.

The Police and Public Works staff serve as the primary project management team. They provide technical review and coordination of project design, bid specifications, construction management, attend progress meetings, on-site inspections and

pre-construction meetings. Duties can be supplemented by consulting engineering firm when needed. Select department staff includes: William Dalton - Police Chief Anthony Thompson, DBA - Deputy Police Chief Fred Mittl, PE - Public Works Director Scott Krawczuk, EI - Deputy Director Oisin Dolley, PE - City Engineer Jason Goodrich, EI - Utilities Supervisor Josh Holler - Streets & Parks Superintendent

The Finance Department is responsible for the municipality's financial operations, including general accounting, procurement, accounts payables and receivables and grants management. The department's experienced staff ensures the City's capacity to provide financial oversight of all grant funded projects. The relevant Finance staff includes: Jocelyn Upchurch, CDFO, CBTO - Deputy Finance Director Elizabeth Santos - Senior Accountant Cheryl Lynn - Accounts Payable Mark Harmon - Grants Manager Brett Schira - Procurement Manager

The City's Administration Department provides oversight and support of all City operations, including grant funded projects. The relevant Administration staff include: Dana Souza - City Manager Steven C. Chaipel, CPA, CPFA - Deputy City Manager/CFO John Agnew, JD - City Attorney Crystal Mansell, SHRM-CP, CLRP, PHRP - Human Resources Director Eric Jackson, Public Information Officer

**The partner's experience undertaking projects of similar complexity and providing public services**

N/A

**The partner's plan for Maintenance and Operations**

N/A

**Please provide a project administration team highlighting roles and responsibilities of each individual participating in program participation and management**

N/A



**Capacity to perform financial management and oversight**

The City of Sanibel utilizes Tyler Technologies' Munis, an enterprise resource program (ERP / management software) for public agencies. The system includes multiple modules, such as financial management, human capital management, and contracts. The municipal accounting software is specifically designed for government entities to enhance overall administration and provide accountability. The system provides detailed reports enabling elected officials (City Council), auditors and other users to monitor the City's financial activities and assets.

The Finance Department consists of eight professionals under the leadership of the Deputy City Manager/CFO and Deputy Finance Director. The capacity of the department was expanded in April of 2024 with the hiring of a Senior Accountant, providing greater accountability to department operations.

**Capacity to perform grant management functions as demonstrated through prior experience managing grants with in-house staff or with a grant management consultant**

The Tyler ERP system also includes a grant management module. The module is directly connected to the larger finance system thereby enabling greater oversight of revenue and expenses for both general operations and specific grant projects. Each module enables City staff to efficiently administer all grant funded projects.

In April 2024, the City filled two new positions: a Grants Manager and a Procurement Manager. Both new staff positions are full-time and are filled by professionals with extensive experience. These positions work in cooperation with and are supported by six additional professionals in the Finance Department.

**Internal auditing capability**

The Deputy City Manager/CFO and Deputy Finance Director are responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Deputy City Manager/CFO and/or Deputy Finance Director have established a process for periodic independent review by an external auditor to assure compliance with policies and procedures. The internal controls relevant to grant funded projects address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer. All transactions require multiple employees

involved.

2. Separation of transaction authority from accounting and record keeping. By separating the person who authorized or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved. Employees who authorize transactions do not enter them into system and vice versa.

3. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities. All employees involved in the process have a clear understanding.

4. Written confirmation is required for all transactions. Due to the potential for error and improprieties arising from telephone transactions, all transactions should be supported by written communications and approved by two authorized signers. Written communications may be via letter, fax and/or email and must be from an authorized person. No telephone transactions are permitted. All transactions are documented on a cash transfer form and approved by the City Manager and the Deputy City Manager/CFO or Deputy Finance Director.

5. Development of a wire transfer agreement with the lead bank or third-party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

### Administrative staffing

The project's completion will require a team of City staff, primarily from the Police, Public Works Finance and Administration departments, with responsibilities divided among several staff members.

The Police and Public Works staff serve as the primary project management team. They provide technical review and coordination of project design, bid specifications, construction management, attend progress meetings, on-site inspections and pre-construction meetings. Duties can be supplemented by consulting engineering firm when needed. Select department staff includes: William Dalton - Police Chief Anthony Thompson, DBA - Deputy Police Chief Fred Mittl, PE - Public Works Director Scott Krawczuk, EI - Deputy Director Oisin Dolley, PE - City Engineer Jason Goodrich, EI - Utilities Supervisor Josh Holler - Streets & Parks Superintendent

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### Monitoring and control of timely expenditure of funds

Regardless of an individual's function with a grant funded project, all active participants have a responsibility to the grantor agency, the City of Sanibel and the citizens of Sanibel to protect the community from fraud, waste or abuse of public property and funds.

The City's internal financial controls include appropriate separation of duties between acquiring products and services, review and approval of payment, making payments, and recording all transactions. Multiple individuals are required to process each financial step from purchasing to payment. Additionally, the Sanibel City Council reviews monthly detailed financials reports, which adds another layer of oversight.

To ensure timeliness of grant projects, the Grant Manager is responsible for ensuring project staff awareness of grant related schedules, such as required reports to grantors, periodic payments to contractors, invoicing grantors for reimbursement and overall project deadlines. The Project Manager is responsible for keeping contractors and subcontractors on schedule in order to fulfill grant calendar requirements.

### **Describe how the subrecipient will implement Construction, Davis Bacon, and Related Acts and understand project costs must be based on paying laborers and mechanics federal prevailing wages, as published by DOL. The then-current wage rates must be attached to the construction contract and accepted by the general contractor prior to contract execution**

The City of Sanibel has administratively updated its protocols in order to adhere to Code of Federal Regulations Part 200, Appendix II. In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable. (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision

for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (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.

**Confirm that the subrecipient will not take any choice limiting actions, including, but not limited to, physical work or activity, may start until environmental clearance is obtained. All prohibitions regarding ‘choice limiting actions will apply, rendering the award void and applicant ineligible for award. Activities with multiple environmental issues which cannot be addressed timely and cost-effectively will cause the award of CDBG-DR Funds to be canceled**

The City of Sanibel acknowledges that taking any choice limiting actions, understood as any activity that may have an adverse impact on the environment or limit the choice of reasonable alternatives, directly or indirectly related to the project, without proper environmental clearance, will void the grant award. The City also understands that CDBG-DR Funds could be cancelled if multiple environmental issues are not addressed in a timely and cost-effective manner. Therefore, the City will not begin any project activities until a full environmental review is completed, and any environmental impact mitigation measures are reviewed and approved.

**Explain the applicant/subrecipient’s plan to provide OR ensure the subgrantee provides opportunities and training to low and very low-income persons to the greatest extent feasible. These efforts should be, especially focused on recipients of government assistance for housing and to businesses that provide economic opportunities to low and very low-income persons. The applicant/subrecipient should explain how they will comply with Section 3 requirements set forth in 24 CFR Part 75**

The City shall ensure fulfillment with HUD Section 3 requirements, “regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance” (Title 24, Subtitle A, 75.3.a.2.iii).

**Describe how the subrecipient will take affirmative steps to ensure good faith effort outreach to small, minority, women and veteran-owned business to be included in all solicitation opportunities (procurement of services and goods) and documenting efforts and procurement opportunities**

The City of Sanibel has administratively updated the City's Purchasing Policy (#11-03). It is the intention of the City to formally amend the purchasing policy by ordinance to comply with state and federal requirements prior to September 30, 2024. The policy shall state:

Minority, Small Business, Women's Business and Labor Surplus Area Firms Promotion  
The City's purchasing policy encourages the evaluation and engagement with minority and small business companies, Women's business entities, LSA and veteran-owned businesses.

**Subrecipients must provide their procurement policy documents for analysis**

Purchasing policy and procedures attached to application materials.

**Subrecipient's ability to Complete Subgrantee Capacity Assessment**

N/A

**Subrecipient's ability to Complete Subgrantee Risk Assessment**

N/A

**Subrecipient's Ability to Execute a Subgrantee Agreement**

N/A

**Please describe Subrecipient's Plans for Subgrantee Oversight and Monitoring**

N/A

**Subgrantee's Capacity to perform financial management and oversight**

N/A

**Subgrantee's Capacity to perform grant management functions as demonstrated through prior experience managing grants with in-house staff or with a grant management consultant**

N/A

**Subgrantee's Internal auditing capability**

N/A

**Subgrantee's Administrative staffing**

N/A

**Subgrantee's Monitoring and control of timely expenditure of funds**

N/A

**Describe how the subgrantee will implement Construction, Davis Bacon and Related Acts and understand project costs must be based on paying laborers and mechanics federal prevailing wages, as published by DOL. The then-current wage rates must be attached to the construction contract and accepted by the general contractor prior to contract execution**

N/A



Confirm that the subgrantee will not take any choice limiting actions, including, but not limited to, physical work or activity, may start until environmental clearance is obtained. All prohibitions regarding 'choice limiting actions will apply, rendering the award void and applicant ineligible for award. Activities with multiple environmental issues which cannot be addressed timely and cost-effectively will cause the award of CDBG-DR Funds to be canceled

N/A

Explain the subgrantee's plan to provide opportunities and training to low and very low-income persons to the greatest extent feasible. These efforts should be , especially focused on recipients of government assistance for housing and to businesses that provide economic opportunities to low and very low-income persons. The applicant/subrecipient should explain how they will comply with Section 3 requirements set forth in 24 CFR Part 75

N/A

Describe how the subgrantee will take affirmative steps to ensure good faith effort outreach to small, minority, women and veteran-owned business to be included in all solicitation opportunities (procurement of services and goods) and documenting efforts and procurement opportunities

N/A

Subgrantee's must comply with 2 CFR Part 200 requirements for procurement

N/A



**Timelines of critical tasks to be accomplished for each proposed activity, including a description of the steps you will take to complete the funded activities and describe any dependencies or actions that need to happen before you can start on the activities**

The design for the proposed Police Station is complete and the City Council approved the design on May 7, 2024.

Should HUD regulations require the City to competitively bid the project, the timeline is as follows:

From the date HUD provides the City with a Notice to Proceed:

- Project Bidding - 60-90 days. - Contractor Selection and contract execution - 60 days. - Site preparation and construction - 16 months. - Project closeout - 60 days.

Total estimated time to complete - 23 months.

### Monthly spending plans and proposed draw down schedules

If allowed by HUD regulations, the City will request an advance payment for projects once a contract has been approved by Lee County and the Sanibel City Council. As with State funded recovery projects, the City will seek 30% to 50% of the contract expense to be paid in advance and expedite cash flow for CDBG-DR funded projects. If advance payments are not allowed by HUD, the City will seek monthly drawdowns once the selected contractor has been issued a Notice to Proceed by the City and begins invoicing.

For this project, with a budget of \$ 13.6 million, the City would request approximately 4 to 6.5 million in advance. Each month the City would request a reimbursement based on contractor invoicing to ensure positive cash flow with multiple major recovery projects occurring concurrently.

If advance payments are not allowed by HUD, the City will seek monthly drawdowns once the selected contractor has been issued a Notice to Proceed by the City and begins invoicing.

### Proposed reporting for outcomes achieved

- Compliance with required HUD reporting. - Report at completion of task. - Quarterly reports for construction project.

### **Subrecipients plan to ensure the project is timely, draws are completed on time, and reports are complete and accurate**

Select project team members will meet regularly in order to monitor project progress and guarantee fulfillment of all grant agreement requirements. When necessary periodic meetings may also include additional City staff, as well as project contractors and subcontractors. Part of the purpose is to ensure the project is timely, draws are completed on time and reports are accurate and complete.

## **Describe the process carried out to determine cost estimations prior to applying**

First, the City selected ADG Architecture, through a competitive RFQ process, to develop concept plans and construction documents for the proposed Police Station.

The cost estimate for GMP as it was prepared to present to the Sanibel City Council on May 7, 2024.

## **Describe additional steps you will take, if approved, to manage costs, change orders, and ensure the project is completed on time and within budget**

Sanibel Police Chief William Dalton will serve as the City's project manager. He will work directly with the selected contractor to manage construction. Chief Dalton is a Certified Residential Contractor in Florida and has a broad knowledge of the construction of structures.

Additionally, weekly construction meetings will occur between City staff, the general contractor, primary sub-contractors, and the architect. This team will work to ensure the project is on schedule.

The use of a GMP, if approved by HUD, will assist in managing cost control.

## **Describe the actions that will be taken to implement the project after construction completion. Describe how the finished project will be maintained and updated**

The new Police Department building will be staffed with current police department employees once construction is complete. This will implement a more resilient facility for the City of Sanibel and Captiva in emergency response.

The City has a good history of maintaining assets. The completed building will have maintenance & operations plan and lifecycle expectancy plan to allow for budgeting annual expenses. The plan cannot be completed until a general contractor is under agreement for construction as the general contractor will be required to develop the referenced plans. The uploaded documents show the proposed building elevation and provide a statement on how /when the maintenance plan will be developed.

## **Describe how the project is innovative, based on national best practices, and designed in accordance with an existing evidence-based program**

The project is innovative in that it is designed to meet the ballistic and hardening requirements for modern Police Stations. The design meets FEMA Flood Requirements, the Florida Building Code, and local land development codes. It is designed to be resilient to both natural and manmade threats. The building is also designed with photovoltaics for energy efficiency and to provide power to the building during power outages. It is also designed to be equipped with a diesel generator to provide redundancy for backup power needs.

**Subrecipients plan to oversee cost effectiveness and internal controls of the subgrantee**

N/A

**A description of how the subgrantee will coordinate with other planning, community development, and/or recovery or resilience projects and initiatives that are underway**

Not applicable, as there is no subgrantee associated with this application.

**Describe how the subgrantee will coordinate with other partners carrying out related activities and/or projects**

Not applicable, as there is no subgrantee associated with this application. However, this proposed Police Station will be constructed on a City on parcel, which consists of City Hall, the Sanibel Library, the Big Arts Performing Arts Center, and the Sanibel Historic Museum and Village. The project site abuts property owned by the Sanibel Community Association which is used primarily for overflow parking for events occurring at the Community House. The City will coordinate construction activities with all organizations to mitigate conflicts during construction.

### A description of the area of the need that will be addressed

The proposed construction of a Police Station will meet the critical need of building a resilient Police Station that meets the short- and long-term needs of the community and fulfills the urgent need of providing adequate public safety operational facilities to serve the public.

### A description of the intended impact the plan will have on the community and area of high need

The proposed Police Station will improve the overall safety and well-being of Sanibel Island residents by improving the department's ability to provide critical police services to the community on a daily basis and during critical incidents and states of emergency. The project's focus on meeting or exceeding all applicable codes, will protect both personnel and equipment, ensuring that police services can be delivered without interruption.

### A description of the intended beneficiaries of the project, including any HUD-defined vulnerable populations and communities who are the intended beneficiaries of the project

The intended beneficiaries of the project are the residents of Sanibel Island, with a particular focus on HUD-defined vulnerable populations and communities. These include low- and moderate-income households, elderly individuals, persons with disabilities, and other at-risk groups who are disproportionately affected by natural disasters.

The applicable census tracts and block groups that are projected to benefit from the project. Census data can be found here: [Low- and Moderate-Income Area Data](#)

|   | Census Tract | Block Group    |
|---|--------------|----------------|
| 1 | Sanibel City | GEOID: 1263700 |
| 2 |              |                |
| 3 |              |                |

### The types of entities benefitting from the plan

☒ Residents☒ Local Government☒ Businesses☐ Other:

- If "Residents" is selected, list the projected number of beneficiaries and number of LMI beneficiaries who will benefit from the project

Total Number of Beneficiaries: 6482

Total LMI Beneficiaries: 1375

**The target populations from the table below who will benefit from the project**

- ☒ Populations presumed by HUD to be LMI persons:
  - Abused children
  - Elderly persons (62 and older)
  - Battered spouses
  - Homeless persons
  - Severely disabled adults (as defined by the Census)
  - Illiterate adults
  - Persons living with AIDS
  - Migrant farm workers
- ☒ Vulnerable populations, as defined by HUD in the Consolidated Notice:
  - Groups or communities whose circumstances present barriers to obtaining or understanding information or accessing resources, based on such factors as the following:
    - Geography
    - Markets
    - Prevalent housing stock and tenure
    - History
    - Prejudice
- ☒ Underserved communities, as defined by HUD in the Consolidated Notice:
  - Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life



**A description of the method used to identify the intended beneficiaries of the project if it were implemented**

Beneficiaries of the initiative encompass all Sanibel residents, visitors, and businesses, including members from these groups. Sanibel has a predominantly older population, with 63.6% being over 65 years old. The island's unique geography can pose challenges for vulnerable populations during emergency situations, such as evacuation and response, especially with essential services like hospitals requiring transportation to the Fort Myers area. Additionally, Sanibel has a significant retiree population, with only 33.2% of residents in the labor force, leading to financial vulnerabilities that are not fully captured in LMI data. The LMI data also accounts for Captiva residents.

**A description of the community outreach and engagement that has happened to date, including a description of the stakeholders and approaches to outreach and engagement**

The City of Sanibel began engaging the public regarding a "Police Department Modernization Project" on two City Council agendas in 2020, which sought to complete hardening improvements to improve building conditions and storm resiliency. The scope of work shifted in 2021 with four agenda discussions prior to a Public Workshop on October 17, 2021, which included presentation of a feasibility analysis, financing options, and an environmental assessment map completed by various city departments. The workshop was successful in its format, engaging a large collection of Sanibel residents in evaluating project alternatives. Ultimately, the City of Sanibel authorized a contract for ADG architecture to develop building and site design plans for an independent police station.

In 2022, the project was discussed at two City Council meetings, as well as a Town Workshop held on February 15, 2022, which discussed a wide range of strategic goals, including city infrastructure and public safety.

On May 7, 2024, ADG Architecture presented its 90% design drawings and site plan to City Council. The presentation was followed by City Council and public discussion.

**A description and justification of the proposed costs**

ADG Architecture was selected as the City's architect through a competitive RFQ process. Once under contract, ADG developed concept plans and construction documents for the proposed Police Station. These plans are complete.

The cost estimate for GMP as it was prepared to present to the Sanibel City Council on May 7, 2024. This project is shovel ready.

**A description of whether the project will be implemented with applicant staff, vendor support and/or other**

Project implementation and management will be managed through a combination of City and contracted vendors. As stated, Police Chief Dalton will serve as the project manager and will interface directly with the general contractor. ADG Architecture will provide construction administration services and show drawing review. The City's Director of Building (an architect and Building Official) will manage inspections.

**A description of the timeframe, dependencies, and methods for obligating grant funds, and how the applicant plans to ensure funds are spent timely. A description of how the applicant will address and control for dependencies, if applicable**

This project is shovel ready and straight forward. As described in Section 7 of this application, the timeline to complete the project is 23 months. Material lead time dependencies will be managed by the general contractor and the value engineering process worked to mitigate long lead times for materials and mechanical equipment. Weekly project meetings with key team members will address and manage any issues that are unlikely to arise.

## Budget Form

| Description                     | CDBG-DR Funds Requested               | Leveraged Funds | Project Cost    |
|---------------------------------|---------------------------------------|-----------------|-----------------|
| Activity Delivery Costs         |                                       |                 |                 |
| Environmental Review Costs      | \$0.00                                | \$0.00          | \$0.00          |
| Source of External Funds        | No External Funds                     |                 |                 |
| File Management                 | \$0.00                                | \$43,000.00     | \$43,000.00     |
| Source of External Funds        | Florida Department of Law Enforcement |                 |                 |
| Inspections                     | \$0.00                                | \$50,000.00     | \$50,000.00     |
| Source of External Funds        | Florida Department of Law Enforcement |                 |                 |
| Program Administration          | \$0.00                                | \$250,000.00    | \$250,000.00    |
| Source of External Funds        | Florida Department of Law Enforcement |                 |                 |
| Construction                    |                                       |                 |                 |
| Bonding/Insurance               | \$281,000.00                          | \$0.00          | \$281,000.00    |
| Source of External Funds        | No External Funds                     |                 |                 |
| Construction Management         | \$0.00                                | \$628,566.00    | \$628,566.00    |
| Source of External Funds        | Florida Department of Law Enforcement |                 |                 |
| Debris Removal                  | \$0.00                                | \$0.00          | \$0.00          |
| Source of External Funds        | No External Funds                     |                 |                 |
| Demolition                      | \$563,500.00                          | \$0.00          | \$563,500.00    |
| Source of External Funds        | No External Funds                     |                 |                 |
| Fixtures/Equipment              | \$0.00                                | \$900,000.00    | \$900,000.00    |
| Source of External Funds        | Florida Department of Law Enforcement |                 |                 |
| General Contractor              | \$14,024,050.00                       | \$0.00          | \$14,024,050.00 |
| Source of External Funds        | No External Funds                     |                 |                 |
| Landscaping                     | \$150,000.00                          | \$0.00          | \$150,000.00    |
| Source of External Funds        | No External Funds                     |                 |                 |
| Maintenance of Traffic          | \$0.00                                | \$0.00          | \$0.00          |
| Source of External Funds        | No External Funds                     |                 |                 |
| Mobilization                    | \$0.00                                | \$0.00          | \$0.00          |
| Source of External Funds        | No External Funds                     |                 |                 |
| Site Preparation                | \$0.00                                | \$0.00          | \$0.00          |
| Source of External Funds        | No External Funds                     |                 |                 |
| Planning/Design                 |                                       |                 |                 |
| Development of Bidding Document | \$0.00                                | \$63,000.00     | \$63,000.00     |
| Source of External Funds        | Florida Department of Law Enforcement |                 |                 |

|                          |                                       |             |             |
|--------------------------|---------------------------------------|-------------|-------------|
| Drawings/Blueprints      | \$0.00                                | \$52,139.00 | \$52,139.00 |
| Source of External Funds | Florida Department of Law Enforcement |             |             |
| Land Acquisition         | \$0.00                                | \$0.00      | \$0.00      |
| Source of External Funds | No External Funds                     |             |             |
| Permitting               | \$22,139.00                           | \$0.00      | \$22,139.00 |
| Source of External Funds | No External Funds                     |             |             |
| Site Plan                | \$0.00                                | \$0.00      | \$0.00      |
| Source of External Funds | No External Funds                     |             |             |
| Surveys                  | \$0.00                                | \$0.00      | \$0.00      |
| Source of External Funds | No External Funds                     |             |             |
| Testing                  | \$0.00                                | \$13,295.00 | \$13,295.00 |
| Source of External Funds | Florida Department of Law Enforcement |             |             |

## Funding Summary

| CDBG-DR Funds Requested | Leveraged Funds | Project Cost    |
|-------------------------|-----------------|-----------------|
| \$15,040,689.00         | \$2,000,000.00  | \$17,040,689.00 |

## Duplication of Benefits

| Source of Funds                                               | Amount                                                                   | Status of Funds |
|---------------------------------------------------------------|--------------------------------------------------------------------------|-----------------|
| FEMA Building Resilient Infrastructure and Communities (BRIC) | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| FEMA Hazard Mitigation Grant Program (HMGP)                   | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| FEMA Public Assistance (PA)                                   | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| Florida Department of Law Enforcement                         | \$2,000,000.00                                                           | Committed       |
| Purpose of Funds:                                             | FDLE #MK024 granted for the Sanibel Police Station Construction project. |                 |
| Local (Municipal) Funds                                       | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| Other CDBG-DR Funds (from Florida COM)                        | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| Other State Funds                                             | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| Resilient Florida                                             | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| US Army Corps of Engineers (USACE)                            | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| US Department of Transportation                               | \$0.00                                                                   | N/A             |
| Purpose of Funds:                                             | N/A                                                                      |                 |
| Total                                                         | \$2,000,000.00                                                           |                 |

**Describe how the proposed project integrates mitigation measures and strategies to reduce natural hazard risks, including climate-related risks. Mitigation measures include but are not limited to, reducing risks to people and property; public service interruption for members who are most vulnerable to natural and climate-related risks; and/or community lifelines**

Establishing an elevated Police Station serves as a proactive measure to mitigate the risk of flooding caused by storm surges. Considering the increasing frequency of hurricanes and subsequent storm surges due to climate change, such measures are crucial. The Police Station will also function as a Unified Command Center during hurricanes, providing essential support to residents in times of crisis.

The station will be equipped with advanced technology and communication systems to ensure quick and efficient response during and after emergency events. By serving as a Unified Command Center during a major storm event, the new Police Station will coordinate rescue and recovery operations. This proactive approach not only enhances public safety but also reinforces the community's resilience in the face of natural disasters.

**Identify the risks or hazards being reduced and the impacts that those hazards have on people and property**

The risks and hazards of flooding from storm surge and damage from hurricane level winds will be greatly mitigated. This will allow all first responders to more effectively provide life safety services to members of the community after a storm. With improved infrastructure and enhanced disaster preparedness measures in place, the station will be better equipped to withstand the impact of severe weather events. By minimizing the risks associated with flooding and wind damage, vital emergency services can operate more effectively in the aftermath of a storm, ensuring the safety and well-being of all residents.

**Describe the value of the proposed project to the community. Describe the anticipated short-term impacts during normal circumstances, as well as how the project will enhance resilience in the long term and during extreme events. Description should include qualitative or quantitative data**

A new, stronger Police Station will serve as a Unified Command Center, enabling first responders to effectively provide life-saving assistance to the community after a storm. Moreover, it will provide advanced physical and classroom training amenities for officers in the near future, enhancing their performance in routine police duties. This resilient establishment will greatly improve its function as a Unified Command Center. Previously, during Hurricane Ian response efforts, our Incident Management Teams gathered in a tent in a nearby parking lot. The new Police Station signifies a significant enhancement in resources for our frontline responders.

## Application Certification

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and that the application and all support documentation has been duly authorized by the governing body of the applicant. I further certify that I am authorized to submit this application and have followed all policies and procedures of my agency regarding grant application submissions.

- ▶ Authorized Organization Representative Name: Dana Souza
- ▶ Authorized Submitter Representative Name: Craig J. Chandler
- ▶ Authorized Submitter Representative Title: Deputy Planning Director
- ▶ Certification Date: 12/01/2025
- ▶ Authorized Submitter Representative Signature: *Craig J. Chandler*
- ▶ Authorized Submitter Representative IP Address: 173.199.222.237

## **EXHIBIT G**

### **CERTIFICATE(S) OF INSURANCE**

The information provided under this Exhibit is retrieved from the Subrecipient Agreement or the Subrecipient's approved application in response to the *Public Facilities Infrastructure Program* NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to confirm that the Subrecipient has sufficient coverage against personal, commercial, or any other liability regarding the spending of CDBG-DR dollars. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently updated, reviewed, and/or approved within the System of Record when necessary.

#### **Certificate(s) of Insurance**

The Subrecipient has provided the following documentation below in an effort to confirm sufficient coverage is in place:

(1) Workers' Compensation Coverage

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in Subrecipient Management >General Items; Organization Information: Certificates of Insurance line item.

(2) Commercial General Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in Subrecipient Management >General Items; Organization Information: Certificates of Insurance line item.

(3) Business Auto Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in Subrecipient Management >General Items; Organization Information: Certificates of Insurance line item.

(4) Directors & Officers Liability



Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in Subrecipient Management >General Items; Organization Information: Certificates of Insurance line item.

(5) Fidelity Bonding

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in Subrecipient Management >General Items; Organization Information: Certificates of Insurance line item.

## **EXHIBIT H (SIGNATURE REQUIRED)**

### **CERTIFICATIONS** **CDBG-DR COMPLIANCE PROVISIONS** *Housing and Infrastructure*

This Exhibit to the Community Development Block Grant Disaster Recovery (“CDBG-DR”) Program Subrecipient Agreement contains supplementary compliance conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development (“HUD”) under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the Agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

By signing this Exhibit, the Subrecipient certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-DR funds.

#### **1. NATIONAL OBJECTIVES**

In accordance with [24 CFR 570.208](#), Section 104(b)(3) of the Housing and Community Development Act of 1974, all CDBG-DR funded activities must meet a National Objective. Under Section 101(c) of the authorizing Act (42 U.S.C. 5301), all CDBG-DR Activities must satisfy one of the named National Objectives.

1. Benefit to Low-to-Moderate Income Persons (LMI)
2. Urgent Need (UN)
3. Elimination of Slum and Blight (SB)

Upon completion of approved activity(ies) funded under this Agreement and prior to the funding expiration date of this Agreement, whichever comes first, the Subrecipient must document that the approved activity(ies) met the approved National Objective, as necessary.

For Subrecipients with a National Objective requirement, the County shall review the actual National Objective achievements of the activity. If the Subrecipient does not or cannot satisfactorily document the National Objective achievement of an approved activity(ies), the activity(ies) may be deemed ineligible, and repayment of funds may be required of the Subrecipient.

#### **2. DUPLICATION OF BENEFITS**

A Duplication of Benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the total need for the same purpose. It is the County's responsibility to ensure that CDBG-DR programs provide assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Subrecipient or Contractor must report all funds obtained for the same activity from any source from the date of the disaster until the activity is completed.

The Subrecipient or Contractor agrees to repay to the County, immediately upon demand, any assistance later received for the same purpose as the CDBG-DR funds and that exceeds the total need for the particular recovery purpose.

- a. **CDBG-DR Funds as Match (Infrastructure)**: When applicable and approved by the County, Subrecipients may use grant funds to satisfy a match requirement, share, or contribution 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 U.S. Army Corps of Engineers (USACE). By law, only \$250,000 or less of CDBG-DR funds may be used for the non-Federal cost-share of any project funded by USACE. Furthermore, Appropriations acts prohibit the use of CDBG-DR funds for any activity reimbursable by, or which funds are also made available by, FEMA or USACE.

For all match activities, Subrecipients must document that CDBG-DR funds have been used for the actual costs incurred for the assisted project and for costs that are eligible, meet a national objective, and meet other applicable CDBG requirements.

### **3. EQUAL EMPLOYMENT OPPORTUNITY**

The obligations undertaken by the Subrecipient or Contractor include, but are not limited to, the obligation to comply with all Federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

- a. **Title VI of the Civil Rights Act of 1964**: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

- b. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act)**: This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- c. **Restoration Act of 1987**: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives Federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- d. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]**: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- e. **The Fair Housing Amendment Act of 1988**: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- f. **The Age Discrimination Act of 1975**: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.
- g. **Section 504 of the Rehabilitation Act of 1973**: It is unlawful to discriminate based on disability in Federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.
- h. **The Americans with Disabilities Act of 1990 (ADA)**: This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all

phases of employment.

- i. **Executive Order 11063**: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.
- j. **Executive Order 12259**: This executive order provides that the administration of all Federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- k. **The Equal Employment Opportunity Act**: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, state, and local governments under the Civil Rights Act of 1964.
- l. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978**: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral. It is designed to assist employers, labor organizations, employment agencies, licensing, and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.
- m. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002)**: This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- n. **Executive Order 11246**: This executive order applies to all Federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race

#### **4. CERTIFICATION OF NONSEGREGATED FACILITIES**

(applicable to contracts and subcontracts over \$10,000)

The Subrecipient or Contractor and its subcontractor(s) certifies that the entity does not maintain or permit employees to perform their services at any location where segregated facilities are maintained. The Subrecipient or Contractor certifies further that it shall not maintain or provide for employees any segregated facilities at any of

its establishments and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subrecipient or Contractor and its subcontractor(s) agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Subrecipient or Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in project files; and will provide notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

## **5. ENVIRONMENTAL PROTECTION AND ACTS**

- a. **National Environmental Protection Act (NEPA):** All Federally funded activities are subject to the National Environmental Policy Act of 1969 (NEPA) and its regulations under 40 CFR 1500 – 1508. Additionally, [24 CFR 58.22](#) prohibits committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has Federal funding, in full or in part. This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review. Awarded activities must have completed an environmental review to demonstrate compliance with NEPA, as well as 24 CFR 58.
- b. **Clean Air and Water Acts:** *(applicable to contracts and subcontracts exceeding \$100,000)* The Subrecipient or Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.
- c. **Flood Disaster Protection:** The Subrecipient or Contractor shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by the

Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

- d. **Energy Efficiency:** The Subrecipient or Contractor shall comply with mandatory standards and policies relating to energy efficiency under the Energy Policy and Conservation Act (Public Law 94-163).
- e. **Procurement of Recovered Materials:** Per 2 CFR 200.323, if a subrecipient is a state agency or an agency of a political subdivision of a state, it and its contractors, must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**6. CONSTRUCTION STANDARDS**

While the following Construction Standards requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the *CDBG-DR Construction Standards Procedure* for Housing Programs and applicable program guidelines.

- a. **Green and Resilient Building Standards in Housing:** All new construction or rehabilitation of residential structures must meet an industry-recognized standard that has achieved certification under (i) Enterprise Green Communities; (ii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); (iii) ICC–700 National Green Building Standard Green+ Resilience; (iv) Living Building Challenge; or (v) any other equivalent comprehensive green building program acceptable to HUD. Additionally, all such covered construction must achieve a minimum energy efficiency standard, such as (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) DOE Zero Energy Ready Home; (iii) EarthCraft House, EarthCraft Multifamily; (iv) Passive House Institute Passive Building or EnerPHit certification from the Passive House Institute US (PHIUS), International Passive House Association; (v) Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label); (vi) Earth Advantage New Homes; or (vii) any other equivalent energy efficiency standard acceptable to HUD

- b. **Rehabilitation of Nonsubstantially Damaged Residential Buildings (Housing):** Per Federal Register Notice 88 FR 32046, for rehabilitation other than the rehabilitation of substantially damaged residential buildings described in 6.a. above, the Subrecipient must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist.

Subrecipients must apply these guidelines to the extent applicable for the rehabilitation work undertaken, for example, the use of mold resistant products when replacing surfaces such as drywall. Products and appliances replaced as part of the rehabilitation work must be ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products or appliances.

- c. **Broadband Infrastructure in Housing:** Per Federal Register Notice 88 FR 32046, any substantial rehabilitation, as defined by 24 CFR 5.100, reconstruction, or new construction of a building with more than four units must include installation of broadband infrastructure.

- d. **Elevation Standards (Housing and Infrastructure):**

- i. ***Housing:*** All new construction or rehabilitation of residential structures and located in the one percent annual chance (or 100-year) floodplain must be elevated at least two feet above the base flood elevation.
- ii. ***Mixed-use and Non Residential:*** Non-residential structures and infrastructure must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.
- iii. ***Critical Actions:*** Structures and services defined at 24 CFR 55.2(b)(3) and within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2-3) or successor standard) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation.

- e. **Planning and Design (Infrastructure):** All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, the Subrecipient is required to provide resilience performance metrics as identified by the County.

- f. **Flood Control Structures (Infrastructure and Non-Residential Structures):** Subrecipients that use CDBG-DR funds to assist flood control structures (i.e., dams and levees) are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event, without obtaining approval from the County, HUD, and any Federal agencies that HUD determines are necessary based on their involvement or



potential involvement with the levee or dam. Additional requirements and approval steps are outlined under Federal Register Notice guidance at 88 FR 32046.

## **7. AFFORDABILITY PERIOD REQUIREMENTS (HOUSING)**

While the following minimum affordability period requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the applicable program guidelines regarding affordability period requirements.

- a. **New Construction and Rehabilitation of Affordable Rental Housing:** To meet the LMI housing national objective, a Subrecipient who implements rental housing activities that will result in the new construction or rehabilitation of five or more units, assisted with CDBG-DR funds, must rent to LMI households at affordable rents as described within the *Lee County Action Plan for CDBG-DR Funds*. Furthermore, the minimum timeframes, enforceability, and other related requirements acceptable for compliance can be found under the HOME Investment Partnerships Program (HOME) requirements at 24 CFR 92.252(e), including the table listing the affordability periods at the of 24 CFR 92.252(e). The County has adopted these requirements and spells out affordability restriction enforcement and minimum affordability periods within the respective program guidelines, which Subrecipients are required to follow, where applicable.
- b. **New Construction of Homes Built for LMI Households:** For Subrecipients who implement activities where there is a construction of new single-family units (four units or less) for homeownership that will meet the LMI housing national objective criteria, the County has set affordability restrictions, which follow minimum affordability period and enforcements mechanisms of the HOME requirements set at 24 CFR 92.254(a)(4). Subrecipients whose activities are applicable to these requirements must follow the County's respective program guidelines regarding affordability restrictions, resale or recapture requirements, affordability period requirements, and all other requirements prescribed under the applicable guidelines regarding affordability.

## **8. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, VETERAN OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS**

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, veteran owned businesses, and labor surplus area firms are used in subcontracting when possible. Steps include:

- a. Placing qualified small and minority businesses, veteran owned businesses, and women's business enterprises on solicitation lists:

- b. Assuring that small and minority businesses, and women's and veteran's business enterprises are solicited whenever they are potential sources:
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, veteran owned, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, veteran owned businesses, and women's business enterprises; and
- e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

#### **9. POLITICAL ACTIVITY**

The Subrecipient or Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

#### **10. LOBBYING PROHIBITION AND BYRD ANTI-LOBBYING AMENDMENT**

The Subrecipient is prohibited from using contracted funds for the following purposes: (1) political activities; (2) lobbying; (3) political patronage; (4) nepotism activities; and (5) inherently religious activities such as worship, religious instruction, or proselytization. The Subrecipient will also comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of Agreement funds for the purpose of lobbying the legislature, state or county agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-DR funds received from the County to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and county (BOCC) business, including through the use of Federal appropriated funds being paid to any person for influencing or attempting to influence an office or employee of any agency, a member of Congress, an office or employee of Congress or an employee of a member of Congress in connection with this Federal contract, grant, loan or cooperative agreement. If the County and/or the Subrecipient suspects such action of occurring, the County reserves the right to request that the Subrecipient disclose and certify such activities in accordance with reporting requirements noted within the Agreement.

The Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) requires that 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.

The Contractor certifies, to the best of his or her knowledge and belief that:

- 1) No Federally appropriated funds have been paid or will be paid by, or on behalf of, the contractor, 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, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federally 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, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

## **11. DEBARMENT AND SUSPENSION**

A contract award ([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).

By executing this Agreement or contract, the Subrecipient or Contractor verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants or other assistance programs and will not enter into contracts with any entity that has been suspended or debarred from federal contract work.

## **12. CONFLICT OF INTEREST**

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Subrecipient or Contractor shall cause to be incorporated in all subcontracts the

language set forth in this paragraph prohibiting conflict of interest.

No member of, or delegate to, Congress, or any Resident Commissioner, shall be admitted to any share or part of any contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to any contract if made with a corporation for its general benefit.

### **13. DOMESTIC PREFERENCES FOR PROCUREMENTS**

Per [2 CFR 200.322](#), as appropriate and to the extent consistent with law, the subrecipient should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole, or in part, of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; or aggregates such as concrete; glass, including optical fiber; and lumber.

### **14. DAVIS-BACON AND RELATED LABOR STANDARD ACTS**

- a. **Davis Bacon Act:** Subrecipient or Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 31413148) and 29 CFR Subtitle A, Parts 1, 3 and 5, as applicable, to construction, alteration, and repair contracts over \$2,000.00.
- b. **AntiKickback Act of 1986:** Subrecipient or Contractor shall ensure that all contracts comply with the AntiKickback Act of 1986 (41 U.S.C. §§ 5158) that prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.
- c. **Contract Work Hours and Safety Standards Act of 1962:** Subrecipient or Contractor shall ensure all contracts comply with the Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. § 3702) which requires that workers receive overtime compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.

- d. For the purposes of this requirement "construction work" includes, but is not limited to, rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this agreement or contract. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract").
- e. Subrecipient or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County for review upon request.

### **15. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

The work to be performed under this contract may be 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), and implementing regulation at [24 CFR, Part 75](#). 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.

The responsibilities outlined in 24 CFR Part 75.19 include:

- a. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- b. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

#### **Section 3 Clause**

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.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or

other impediment that would prevent them from complying with the Part 75 regulations.

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; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers,

and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

- c. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
- d. Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

**16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY  
ACQUISITION POLICIES ACT OF 1970, AS AMENDED (42 U.S.C. 4601 et  
seq.) – “URA”**

The Subrecipient understands that activities and projects it undertakes with CDBG–DR funds may be subject to the URA at 49 CFR Part 24, section 104(d) of the HCDA (42 U.S.C. 5304(d)), and CDBG program requirements related to displacement, relocation, acquisition, and replacement of housing, except as modified by waivers and alternative requirements provided in Federal Register Notices 88 FR 3198 and 88 FR 32046. In such Notices, HUD waived or provided alternative requirements for the purpose of promoting the availability of decent, safe, and sanitary housing with respect to the use of CDBG–DR funds allocated under the Consolidated Notice.

Subrecipients are required to adopt the County’s Residential Anti-Displacement and Relocation Assistance Plan or establish separate optional relocation policies prior to undertaking any activity assisted with CDBG-DR funding which involves relocation. The written policy must be available to the public, describe the relocation assistance that the Subrecipient has elected to provide, and provide for equal relocation assistance within each class of displaced persons according to 24 CFR 570.606(d).

In the event of displacement because of a federally funded award, Subrecipients must comply with the URA, for any household, regardless of income, which is involuntarily and permanently displaced, and to comply with Section 104(d). The County also provides notice to Subrecipients that any demolition or disposition of public housing is subject to Section 18 of United States Housing Act of 1937, as amended, and 24 CFR Part 970.

**17. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.**

Per [2 CFR 200.216](#), Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 117–328, section 208, subsection (a), covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country, is prohibited.

**18. AGREEMENTS BETWEEN SUBRECIPIENTS AND CONTRACTORS**

- a. The Subrecipient shall not enter into any agreement, written or oral, with any contractor or other party without the prior determination that the contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible contractors.

The terms “other party” is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive grant funds from a Subrecipient to undertake Approved Activities.

- b. An agreement between the Subrecipient and any contractor or other party shall require:
  - 1) Compliance with all State and Federal requirements described in this Agreement including, without limitation, those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages.
  - 2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Activities.
  - 3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or



damaged by the contractor, or any subcontractor, in performing the Approved Activities.

- 4) Compliance with the applicable Equal Opportunity Requirements described in Section 3 of this Exhibit.

**c. Contractors shall:**

- 1) Perform Activities in accordance with Federal, state, and local regulations, as applicable.

**19. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the Subrecipient or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance, the Subrecipient or Contractor must comply with 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 regulation issued by the awarding agency.

**20. PATENTS**

- a. The Subrecipient or Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- b. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Subrecipient or Contractor.
- c. If the Subrecipient or Contractor uses any design device or materials covered by letters, patents or copyrights, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design device or material. It is mutually agreed and understood that without exception the contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Subrecipient or Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device, materials, or any trademark or copy-right in connection with

work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

## **21. COPYRIGHT**

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Subrecipient or Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

## **22. DRUG-FREE WORKPLACE ACT OF 1988**

- a. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
- b. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
- c. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.
- d. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- e. Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- f. Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

## **23. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)**

- a. Statutes and Executive Orders require employers to abide by the Immigration laws of the United States and to employ only individuals who are eligible to work in the

United States. The Employment Eligibility Verification System (E-Verify) operated by the U.S. Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) to provides an internet-based means of verifying employment eligibility of workers in the united States; it is not a substitute for any other employment eligibility verification requirements.

- b. Sub-CONSULTANT/CONTRACTOR/VENDOR requirement: Vendors shall require all subcontracted vendors to flow down the requirement to use E-Verify to sub-CONSULTANT/CONTRACTOR/VENDORS.
- c. It shall be the CONSULTANT/CONTRACTOR/VENDOR's responsibility to familiarize themselves with all rules and regulations governing this program.
- d. For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <http://www.dhs.gov/E-Verify>.

**24. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS, AND ACCIDENT PREVENTION**

- a. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel, or rope mats.
- b. The contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the contractor or his Surety for damages that may be caused by such use.
- c. Danger Signals and Safety Devices: The contractor shall make all necessary precautions to guard against damages to property and injury to persons. The contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public.
- d. Protection of Lives and Health: The contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of

Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the contractor shall take, or cause to be taken,, such additional safety and health measures as the Developer may determine to be reasonably necessary.

## **25. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION**

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- a. Obtaining the County's approval of the Application for such assistance; or,
- b. Any other approval or concurrence of the County required under this Agreement, Title I of the Housing and Community Development Act of 1974, or State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

## **26. CONFIDENTIAL FINDINGS**

All of the reports, information, data, etc., prepared or assembled by the Subrecipient or Contractor under any Agreement are confidential, and the Subrecipient or Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

## **27. ACCESS TO RECORDS – MAINTENANCE OF RECORDS**

Lee County, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Subrecipient or Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with any contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years after final payments and all other pending matters are closed.

## **28. INSPECTION**

The authorized representative and agents of Lee County and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

**29. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in any contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

BY:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (print)

## **EXHIBIT I**

### **CDBG-DR SPECIAL TERMS AND CONDITIONS**

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains special conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

#### **1. INITIAL RISK ASSESSMENT**

The Subrecipient has provided, or will provide, the County with information about the Subrecipient's experience, processes, policies, and procedures related to the management of Federal funding by the Subrecipient. These submissions, in addition to discussions with the Subrecipient, have been used by the county to assess the risk of noncompliance and capacity to compliantly execute the required activities for which the Agreement is made.

Should there be substantive changes to the organization, key personnel, methods, capacity, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall notify the County of said changes within 30 days of those changes.

The Subrecipient agrees to provide documents and information to the County, within 30 days of such a request made by the County, to facilitate its due diligence review as required by Federal Register Notice 88 FR 32046. Subrecipient further agrees to comply with the requirements, requests, and results of the County's due diligence and maintain the capacity to carry out disaster recovery activities in a timely and compliant manner at all times during the term hereof.

#### **2. RISK ASSESSMENT**

During the term of this Agreement, the Subrecipient agrees to provide documents and information, within 30 days of such a request made by the County, to facilitate the County's Subrecipient risk assessment process. The Subrecipient further agrees to comply with the requirements, requests, and results of the County's risk assessment, including participation in Subrecipient monitoring events.

#### **3. SPECIAL CONDITIONS**

Pursuant to Exhibit A, Scope of Work, and the Risk Assessment Sections, as referenced above, Subrecipient agrees to adhere to the following Special Conditions:

**A. ENVIRONMENTAL REVIEW SPECIAL CONDITION**

The environmental review for this project is currently classified as “Exempt” under 24 CFR §58.34. However, upon the completion of 30% design, the Subrecipient must initiate the process for an Environmental Assessment (EA) pursuant to 24 CFR Part 58.

The Subrecipient shall adhere to the following requirements upon reaching 30% design completion:

1. **Notification to the County:** The Subrecipient must notify their Grant Manager and Lee County in writing via email or a VistaTRAK note that the project has reached 30% design completion.
2. **Submission of Designs:** The Subrecipient must upload the 30% design documents to VistaTRAK for County review.
3. **Restriction on Activities:** The Subrecipient must not execute any construction contracts, commit funds, or undertake any choice-limiting actions as defined in 24 CFR §58.22, until an Authority to Use Grant Funds (AUGF) has been issued by HUD.
4. **Coordination with Lee County:** The Subrecipient must coordinate closely with Lee County to ensure compliance with all applicable federal, state, and local environmental review requirements.

Failure to comply with these conditions may result in noncompliance findings and the withholding of reimbursement for project expenses until compliance is achieved and documented.

## **EXHIBIT J**

### **SUBRECIPIENT STAFF ORGANIZATION**

#### **City of Sanibel**

The Subrecipient must complete the following information, as applicable, as an extension of the requirements outlined within SECTION XIX. NOTICES of the Agreement. The Subrecipient is not required to hire or create the following positions or titles but should assign the following roles to staff members who will serve as a primary point of contact for relevant responsibilities associated with that role.

Some projects or activities will not require a contact for all roles identified below. In addition, individual staff members may perform multiple roles. The Subrecipient will complete the contact information for those roles which are applicable for successful completion of this project/activity and denote where a specific member is performing multiple roles. If certain roles are not applicable for implementation of this project/activity, please denote "Not Applicable" under the Contact Information for each role.

The Subrecipient is responsible for providing an updated version of this Exhibit as contact information changes or updates are made to personnel which impact the roles and responsibilities. Descriptions of each role are outlined below.

#### **Section 1: Subrecipient Contract Administrator**

##### **1. Description**

The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in SECTION XIX. NOTICES of the Agreement. Unless otherwise directed by the County, any notice, report, or other communication required by the Agreement shall be directed via the County's approved system or written to the Subrecipient's Contract Administrator at the contact information identified in SECTION XIX. NOTICES of the Agreement.

##### **2. Contact Information**

Name: Dana Souza  
Title: City Manager  
Agency: City of Sanibel  
Address: 800 Dunlop Road, Sanibel, FL 33957  
Telephone: (239) 472-3700 ext. 356  
Email: Dana.Souza@mysanibel.com

#### **Section 2: Project Manager**

##### **1. Description**



The Subrecipient staff member who will serve as the primary contact and decision-maker for the project's implementation. This staff member is responsible for ensuring the project reaches established milestones and deadlines for completion, oversees all elements of project completion (e.g., procurement actions, reconciliations, contract management, administration), and is considered the administrator to ensure general and overall compliance of the project/activity with the CDBG-DR grant.

## **2. Contact Information**

Name: William F. Dalton  
Title: Police Chief  
Agency: Sanibel Police Department  
Address: 800 Dunlop Road, Sanibel, FL 33957  
Telephone: 239-994-0626  
Email: William.Dalton@mysanibel.com

## **Section 3: Section 3, Davis Bacon and Labor Standards Coordinator**

### **1. Description**

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 3 and Davis-Bacon and Related Acts (DBRA) labor standards. This staff member is responsible for actions such as providing guidance to (including conducting monitoring and oversight of) contractors and vendors on Section 3 and labor compliance requirements. This includes, but is not limited to, overseeing Section 3 goals reporting by contractors and vendors, conducting employee interviews, reviewing certified labor payrolls, and completing Section 3 and labor compliance reports for submission of performance data to the County. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. *If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.*

### **2. Contact Information**

Name: Crystal Mansell  
Title: Human Resources Director  
Agency: City of Sanibel  
Address: 800 Dunlop Road, Sanibel, FL 33957  
Telephone: (239) 472-3700 ext. 355  
Email: crystal.mansell@mysanibel.com

## **Section 4: Section 504 Coordinator**

**1. Description**

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 504, the Americans with Disabilities Act of 1990 ("ADA") and ensuring meaningful access to persons who are Limited English Proficiency (LEP). This staff member is responsible for actions which include, but are not limited to, conducting a Section 504 evaluation or self-assessment of Subrecipient facilities, detailing and tracking complaints or grievances on potential Section 504 or Civil Rights violations, and developing and maintaining Language Access Plans (LAPs) for LEP individuals, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. *If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.*

**2. Contact Information**

Name: Crystal Mansell  
Title: Human Resources Director  
Agency: City of Sanibel  
Address: 800 Dunlop Road, Sanibel, FL 33957  
Telephone: (239) 472-3700 ext. 355  
Email: crystal.mansell@mysanibel.com

**Section 5: Fair Housing Coordinator**

**1. Description**

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Fair Housing requirements as outlined within the Agreement and Exhibits. This staff member is responsible for actions which affirmatively promote fair housing, which may include, but are not limited to, conducting, overseeing, and documenting fair housing activities, conducting affordable housing reports, and detailing and tracking complaints or grievances on potential Fair Housing violations, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. *If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.*

**2. Contact Information**

Name: Steve Chaipel  
Title: Deputy City Manager  
Agency: City of Sanibel

Address: 800 Dunlop Road, Sanibel, FL 33957  
Telephone: (239) 472-3700 ext. 365  
Email: steve.chapel@mysanibel.com

## **Section 6: Financial Manager**

### **1. Description**

The Subrecipient staff member who will serve as the primary contact and subject matter expert for all financial management duties associated with the project. This staff member is most likely responsible for overseeing accounting actions such as accounts receivable, accounts payable, project budget setup, or encumbering the CDBG-DR dollars within the Subrecipient's financial management system and/or fiscal year (FY) obligations of CDBG-DR dollars to the project/activity governed by this Agreement. Tasks of the Financial Manager may include, but are not limited to, approving project invoices, overseeing monthly account reconciliations, creating or approving annual budgets for expending CDBG-DR dollars under this project/activity, and being responsible for walking through accounting procedures for County staff. The Financial Manager would likely be responsible for ensuring proper recordkeeping of such financial and accounting records for access by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. Given the segregation of duties for financial and accounting staff, the Financial Manager may also supervise or oversee multiple accounting clerks, financial analysts, or other financial staff who perform duties described above.

### **2. Contact Information**

Name: Steve Chapel  
Title: Deputy City Manager  
Agency: City of Sanibel  
Address: 800 Dunlop Road, Sanibel, FL 33957  
Telephone: (239) 472-3700 ext. 365  
Email: steve.chapel@mysanibel.com

## **Section 7: Certification of Time Allocation**

Are there any staff who are working on both CDBG-DR and non CDBG-DR programs? YES/NO  
NO

If so how many, and list names:  
N/A

## EXHIBIT K

### **CDBG-DR PROGRAM SUBROGATION AGREEMENT**

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between City of Sanibel (hereinafter referred to as "Subrecipient") and Lee County (hereinafter referred to as "County").

In consideration of the Subrecipient's receipt of funds or the commitment by the County to evaluate the Subrecipient's application for the receipt of funds (collectively, the "Subrecipient Award") under the Community Development Block Grant – Disaster Recovery Program (the "CDBG-DR Program") administered by the County, the Subrecipient hereby assigns to the County all of the 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 the Subrecipient Award paid or to be paid to the Subrecipient under the CDBG-DR Program and that are determined at the sole discretion of the County to be a duplication of benefit ("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."

The Subrecipient agrees to notify the County within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, SBA, the State of Florida, or any other entity not specifically disclosed in this Agreement. Further, the Subrecipient understands and acknowledges the County's right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR Subrecipient Award if the Proceeds received are determined to be DOB Proceeds within this CDBG-DR Program activity. The Subrecipient will be required to pay back the received CDBG-DR Subrecipient Award, which was found to be DOB Proceeds, within 30 days of receipt of the identified duplicative payment. The amount of DOB determined to be paid to the County shall not exceed the Subrecipient Award amount received by the Subrecipient from the CDBG-DR Program.

The Subrecipient agrees to assist and cooperate with the County to pursue any of the claims the Subrecipient has against insurers for reimbursement of DOB Proceeds under any such policies. The Subrecipient's assistance and cooperation shall include, but not be limited to, allowing suit to be brought under the Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the County. The 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 the County, the Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the County, to

the extent of the Subrecipient Award paid to the Subrecipient under the CDBG-DR Program, the policies, any amounts received under the CDBG-DR Program that are DOB Proceeds, and/or any right thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the County to consummate and make effective for the purposes of this Agreement.

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

If the 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, the Subrecipient agrees to promptly pay such amounts to the County, if Subrecipient received a Subrecipient Award under the CDBG-DR Program in an amount greater than the amount the Subrecipient would have received if such DOB Proceeds had been considered in the calculation of the Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, the Subrecipient shall notify the County in the manner above of such subsequent Proceeds. The County will determine the amount, if any, of the subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of the determined Subsequent DOB Proceeds shall not be requested from the Subrecipient to provide to the County. Subsequent DOB Proceeds shall be remitted to the County as follows:

1. If the Subrecipient has received full payment of the Subrecipient Award, any Subsequent DOB Proceeds shall be remitted to the County.
2. If the Subrecipient has received no payment of the Subrecipient Award, any determined Subsequent DOB Proceeds shall be used by the County to reduce payments and the agreed-upon amount of the Subrecipient Award to the Subrecipient, and all Subsequent DOB Proceeds shall be retained by the Subrecipient for use on the CDBG-DR Program activity.
3. If the Subrecipient has received a portion of the Subrecipient Award, 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 or agreed-upon amount of the Subrecipient Award, and Subsequent DOB Proceeds in such amount shall be retained by the Subrecipient for use on the CDBG-DR Program activity; and **(B)** any remaining Subsequent DOB Proceeds shall be remitted to the County.
4. If the County 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, less any portion of the Subrecipient Award amount paid to the Subrecipient and which needs to be remitted to the County, and this Agreement shall terminate.

Once the County has recovered an amount equal to the Subrecipient Award paid to the Subrecipient, the County will reassign to the Subrecipient any right assigned to the County pursuant to this Agreement.

The Subrecipient represents that all statements and representations made by the Subrecipient regarding Proceeds received by the 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 C.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 the Subrecipient.

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

**CITY OF SANIBEL**

**LEE COUNTY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_