

CDBG-DR INTERGOVERNMENTAL MEMORANDUM OF AGREEMENT*The following information is provided pursuant to 2 CFR 200.332(b)(1)*

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/2023
Agreement No.:	DRMOA111
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Department Name:	Lee County Utilities
Subrecipient ID (Unique Entity Identifier via SAM.gov):	SS8JCN35XH77 (TIN 59-6000702)
Period of Performance (Start Date):	1/1/2025
Period of Performance (End Date):	12/30/2028
Total Amount Obligated via Agreement:	\$14,850,000.00
Project/Activity ID(s):	Critical Infrastructure/DRMOA111
Federal Award Program/Project/Activity Description:	CDBG-DR Critical Infrastructure/Moss Marina Booster Pump Station Relocation
Does the Federal award include an Indirect Cost Rate?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, is the Indirect Cost Rate a:	<input type="checkbox"/> Federally Negotiated Rate _____ % <input type="checkbox"/> De Minimis Rate 15%

Official County Contact for Award: Jeannie Sutton, Director, Strategic Resources and Government Affairs; 2115 Second St., Fort Myers, FL 33901; Phone: (239) 822-8438; Email: JSutton@leegov.com

INTERGOVERNMENTAL MEMORANDUM OF AGREEMENT
between
LEE COUNTY STRATEGIC RESOURCES AND GOVERNMENT AFFAIRS
and
LEE COUNTY UTILITIES DEPARTMENT
for the administration of
MOSS MARINA BOOSTER PUMP STATION RELOCATION

THIS MEMORANDUM OF AGREEMENT (MOA) entered into this 1st day of January, 2025, between the Lee County Utilities Department hereafter referred to as **DEPARTMENT** and **LEE COUNTY**. The Office of Strategic Resources and Government Affairs (SRGA), hereafter to be known as the **LEAD AGENCY** will be administering the grant funds and will outline the parties terms of implementation, responsibilities and requirements for the Moss Marina Booster Pump Station Relocation

FUNDING OVERVIEW

The U.S. Department of Housing and Urban Development (HUD) awarded **LEAD AGENCY** \$1,107,881,000 in funding to support long-term recovery efforts following Hurricane Ian (FEMA – 4673 – DR) through the Office of Disaster Recovery (ODR) within the Office of Community Planning and Development. Community Development Block Grant-Disaster Recovery (CDBG-DR) funding is designed to address needs that remain after all other assistance has been exhausted. Lee County Office of Strategic Resources and Government Affairs administers Lee County's CDBG-DR award.

RECITAL

WHEREAS, the **DEPARTMENT** desires to administer the CDBG-DR Critical Infrastructure Program grant through the delivery of the design and construction for the relocation of the Moss Marina Booster Pump Station in Lee County, Florida and has therefore applied for CDBG-DR funds through the **LEAD AGENCY** to support such activity(ies); and

WHEREAS, upon review of **DEPARTMENT'S** application, the **LEAD AGENCY** determined that the proposed activities align with the purpose of CDBG-DR funding and the **LEAD AGENCY'S** Action Plan for use of the funds; and

WHEREAS, the **DEPARTMENT** is willing and able to provide the administration, management, and oversight of the design and construction of the CDBG-DR Moss Marina Pump Station Relocation Project including 1. Procurement of a design firm, 2. Oversight of design services, 3. Procurement of a construction contractor, 4. Oversight of construction activities, and 5. Project Closeout in Lee County, Florida for the purpose of CDBG-DR Critical Infrastructure Program; and

WHEREAS, the **LEAD AGENCY** agrees to allocate CDBG-DR funds to reimburse the **DEPARTMENT** for designated expenses specified in the projects budget; and

WHEREAS, the **LEAD AGENCY** and the **DEPARTMENT** are required to enter into a written agreement specifying the terms and conditions of the relationship of the **LEAD AGENCY** and **DEPARTMENT**

NOW, THEREFORE, the **LEAD AGENCY** and **DEPARTMENT** in consideration of the mutual covenants contained herein, do agree to the responsibilities, terms and conditions below.

1. **LEAD AGENCY'S Responsibilities**

- a. Abide by all State and Federal guidelines, specifically those statutes governing execution of the program/project and the use of CDBG-DR funds.
- b. Conduct all environmental studies in accordance with all applicable rules and regulations of SRGA and HUD.
- c. Ensure compliance with all applicable rules and regulations of HUD, including those specifically found at 2 CFR Part 200, 24 CFR 570, and Federal Register 88 FR 32046.
- d. Provide technical assistance to the **DEPARTMENT** as needed.
- e. Provide operational and financial oversight including receiving regular reports from the **DEPARTMENT** for required HUD reporting and payment processing.
- f. Conduct risk-based monitoring (in person or by desk audit) of programmatic and financial operations and information for compliance as it pertains to the **DEPARTMENT'S** project/program.
- g. Provide the required infrastructure and access for project documentation and record management.
- h. Provide the **DEPARTMENT** detail reporting requirements including method and frequency. The **DEPARTMENT** will be responsible for project related reporting to the **LEAD AGENCY**.

2. **DEPARTMENT'S Responsibilities**

- a. Provide project management oversight for the program/project including project planning, financial management, alignment of staff resources, project initiation, ongoing execution, reporting, records keeping, and closure of the funded project.
- b. Furnish project operational, financial, and progress reports as required by the **LEAD AGENCY** including ad-hoc requested reports, as required.
- c. Comply with and enforce with the **DEPARTMENT'S** staff and partners all applicable rules and regulations of HUD for the administration of CDBG-DR funding, including those specifically found at 2 CFR Part 200, 24 CFR 570, and Federal Register 88 FR 32046. Additionally, the **DEPARTMENT** shall be responsible for ensuring compliance with crosscutting requirements related to this **MOA**.
- d. The **DEPARTMENT** is subject to all applicable program guidelines as detailed in the CDBG-DR Critical Infrastructure Program Guidelines and Exhibit H: Certifications CDBG-DR Compliance Provisions.
- e. Comply with the recordkeeping requirements of 2 CFR 200.334, 24 CFR 570.490(a) and Fla.Stat. Chap. 119.0701, specifically:
 - i. Keep and maintain adequate records and supporting documentation applicable to all services, work, information, expense, costs, invoices, and materials provided and performed pursuant to the requirements of this Agreement. Said records and documentation will be readily available and/or copied for **LEAD AGENCY** review and will be retained by the **DEPARTMENT** for a minimum of FIVE (5) years from the date of closeout of the CDBG-DR program, or for such period as required by law. If any litigation, claim negotiation, audit or other action involving the records has been initiated before the expiration of the eight-year period, the records shall be retained for one (1) year after the final resolution of the action and final resolution of all issues that arise from such action.
 - ii. 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).

- iii. Keep and maintain public records that ordinarily and necessarily would be required by the **LEAD AGENCY** in order to perform the services required under this **MOA**.
- iv. Provide the public with access to public records on the same terms and conditions that the **LEAD AGENCY** would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- v. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law.
- vi. Meet all requirements for retaining public records and transfer, at no cost to the **LEAD AGENCY**, all public records in possession of **DEPARTMENT** 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 **LEAD AGENCY** in a format that is compatible with the information technology system of the **LEAD AGENCY**.

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

- f. The **DEPARTMENT** agrees that any duly authorized representative of **LEAD AGENCY**, HUD and/or the Controller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such records related to project related expenditures and job generation as a result of the above described project until the completion of all close-out procedures, thru recordkeeping deadlines respecting the grant, and until the final settlement and conclusions of all issues arising out of the grant.
- g. The **DEPARTMENT** agrees to collaborate with **LEAD AGENCY** to permit project monitoring. The **DEPARTMENT** agrees to allow the **LEAD AGENCY**, persons duly authorized by the **LEAD AGENCY** and the Federal or State grantor agency (if applicable) or any representatives to inspect all grant-related records, papers, documents, facility, goods and services of the **DEPARTMENT** and/or interview any subcontractors and employees of the **DEPARTMENT** to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the law after giving the **DEPARTMENT** reasonable notice. The monitoring is a limited scope review of the **MOA**, CDBG-DR, project management, and related requirements; monitoring does not relieve the **DEPARTMENT** of its obligation to manage the grant in accordance with applicable rules and sound management practices.

PROGRAM BUDGET/TERMS OF PAYMENT

1. Funding for this agreement is through Hurricane Ian related HUD CDBG-DR allocated to Lee County, Florida. The **DEPARTMENT** agrees to accept as full compensation the total amount not to exceed **\$14,850,000.00**.
2. If for any reason whatsoever, the **DEPARTMENT** does not adhere to the commitments as contemplated in this agreement, the **LEAD AGENCY'S** sole remedy, and the limit of the **DEPARTMENT'S** liability under this agreement, will be for the **DEPARTMENT** to reimburse the **LEAD AGENCY** the amount contemplated by this agreement.
3. The **DEPARTMENT** will provide expenditure projection for the project to form a basis for the project budget. The budget should represent the annual estimated expenditures for each year of the project.

Estimates can be chosen from among the activity expense categories below. The **DEPARTMENT** is permitted to adjust its approved budget between category lines up to 10%, with the total budget remaining unchanged. Budget changes must be reported within 30 days by providing a revised budget along with a written justification for the budget adjustment.

Housing - *DRGR Activity Types commonly identified under the housing category:*

- Acquisition - buyout of residential properties
- Acquisition of property for replacement housing
- Acquisition of relocation properties
- Clearance & Demolition*
- Construction of new housing
- Construction of new replacement housing
- Debris Removal*
- Disposition
- Homeownership Assistance (with waiver only)
- Homeownership Assistance to low- and moderate-income
- Rehabilitation/reconstruction of residential structures
- Relocation payments and assistance

Non-Housing (*Economic Development, Public Facilities, and Infrastructure*) - *DRGR Activity Types commonly identified under the non-housing category:*

- Acquisition - buyout of non-residential properties
- Acquisition - general
- Acquisition of buildings for the general conduct of government
- Acquisition, construction, reconstruction of public facilities
- Clearance and Demolition*
- Code enforcement
- Construction of buildings for the general conduct of government
- Construction/reconstruction of water lift stations
- Construction/reconstruction of water/sewer lines or systems
- Construction/reconstruction of streets
- Debris removal*
- Dike/dam/stream-river bank repairs
- Econ. Development or recovery activity that creates/retains jobs
- Privately owned utilities
- Public services
- Rehabilitation/reconstruction of a public improvement
- Rehabilitation/reconstruction of other non-residential structures
- Rehabilitation/reconstruction of public facilities

Planning & Administration - *DRGR Activity Types Include:*

- Planning
- Administration

Moss Marina Booster Pump Station Relocation Budget

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	\$14,850,000.00

Activity Delivery Funds	\$0.00
TOTAL	\$14,850,000.00

4. The **LEAD AGENCY** will make payments on a reimbursement basis to the **DEPARTMENT**. Reimbursement payments are contingent upon the **DEPARTMENT'S** having complete and accurate reports and achieving the **MOA** specified deliverables/outcomes.
5. **Payment Request:** The **DEPARTMENT** will submit to the **LEAD AGENCY** a monthly Payment Request form as shown in the system of record, with an original authorized signature and supporting documentation.

Request for payment shall be according to the guidelines specified by the **LEAD AGENCY**. The **DEPARTMENT'S** submission for reimbursement shall indicate one of the **LEAD AGENCY** approved budget categories for each expense submitted on the request for reimbursement.

REPORTING AND AGREEMENT DELIVERABLES

The **DEPARTMENT** shall provide the **LEAD AGENCY** with all reports and information set forth in the **LEAD AGENCY'S** approved system, including monthly 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 **DEPARTMENT'S** monthly reports, include administrative activity, financial activity, and program activity, must include sufficiently detailed summaries of the current status, progress, and completed work. The **DEPARTMENT** 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 **DEPARTMENT**. Upon request from the **LEAD AGENCY**, the **DEPARTMENT** shall provide additional program or activity updates and information. If all required reports and copies are not sent to the **LEAD AGENCY** within the agreed-upon submission schedule or are otherwise not completed in a manner acceptable to the **LEAD AGENCY**, 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 **LEAD AGENCY** withholds such payments, it shall notify the **DEPARTMENT** in writing of its decision, reasons for withholding payment, and the remedy for corrective action the **DEPARTMENT** must follow. The **LEAD AGENCY** may also take other action as stated within this Agreement or allowable by law.

The **DEPARTMENT'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 **DEPARTMENT** to submit outputs or deliverables to the **LEAD AGENCY**.
2. **Project Budget and Expense (Sources and Uses) Worksheet:** The **DEPARTMENT** 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 **DEPARTMENT** or vendor staff, (c) sources of leveraged funds committed by the **DEPARTMENT** to the project, and (d) timelines for the projected expenditure of CDBG-DR funds.

3. **Payment Request Form:** The means by which the **LEAD AGENCY** and the **DEPARTMENT** document project and activity expenses and requests for payment. The **DEPARTMENT** 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, 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 **LEAD AGENCY** to the **DEPARTMENT**. 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 **LEAD AGENCY** 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 **LEAD AGENCY** 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 **DEPARTMENT'S** check issued with authorized signature. For construction contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request.

The **DEPARTMENT** 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 **LEAD AGENCY'S Hurricane Ian CDBG-DR Subrecipient Manual**.

4. **Monthly Activity Report:** The **DEPARTMENT** 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 **DEPARTMENT** 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 **DEPARTMENT** must notify the **LEAD AGENCY** and provide information on any project or activity changes within a project amendment request for the **LEAD AGENCY** to determine whether the request rises to the level of an amendment to the Agreement.

7. **Single Audit:** Lee County expends more than \$1,000,000 in federal funding annually, and is subject to single audit. As a **DEPARTMENT** of Lee County, the **DEPARTMENT'S** CDBG-DR funded activity may be included in the County's Single Audit.
8. **Davis-Bacon and Related Acts (DBRA) Labor Standards Reports (as applicable):** When an activity triggers DBRA requirements, the **DEPARTMENT** 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 **DEPARTMENT** is required to submit data and information on Section 3 and Targeted Section 3 worker labor hours, total worker labor hours, and other qualitative efforts which the **DEPARTMENT** and their vendors took in an attempt to reach or achieve Section 3 goals.
10. **Closeout Report:** The **DEPARTMENT** must report project completion data and provide documentation of closeout processes in relation to this project and activity(ies). The closeout checklist and reports must be submitted to the **LEAD AGENCY** within 90 days after the end date of this agreement.

The **DEPARTMENT'S** Agreement deliverables (as identified within "Exhibits"), which the **DEPARTMENT** 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):** Lee County uses a federally negotiated indirect cost rate, as applicable, in accordance with 2 CFR 200.414. No action is required from the **DEPARTMENT** related to the federally negotiated rate.
15. **Exhibit E: Projected Performance Measures and Outcomes Form:** The **LEAD AGENCY** will utilize the **DEPARTMENT'S** detailed scope of work to establish and project out specific performance metrics which the **DEPARTMENT** is required to meet to as a condition of project completion and closeout. The **LEAD AGENCY** will select the performance measure based on the eligible activity and proposed scope of work approved within the NOFA

Application, for the CDBG-DR Critical Infrastructure Program.

PROJECT TERM

Terms of this **MOA** shall be effective and binding upon approval and award of a grant to the **LEAD AGENCY** by the **DEPARTMENT** and continue for a period of 3 years.

AMENDMENTS

In the event that there are proposed changes to the project scope by the **DEPARTMENT** or **LEAD AGENCY**, the **DEPARTMENT** must submit in writing a request for an amendment to the **MOA** that details the nature of proposed change, justification, and the desired effective date of the change(s). The **LEAD AGENCY** will review the change and if appropriate, approve the change. The **LEAD AGENCY** reserves the right to approve or deny all **MOA** amendments. An approved amendment shall be documented on the **MOA** amendment form and signed by both parties. The **LEAD AGENCY** may not assume and act upon proposed changes without a written and executed change to the **MOA**.

The **LEAD AGENCY**, the BoCC, or their designee may approve amendments to the Agreement, in accordance with the **LEAD AGENCY'S Internal Grant Management Manual**. As noted within the Manual, the **LEAD AGENCY** reserves the right to review the request from the **DEPARTMENT** and determine whether an amendment is required or whether **LEAD AGENCY** Manager or BOCC approval is needed.

CONFLICT OF INTEREST

The **DEPARTMENT** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the deliverance of services required in this **MOA**. The **DEPARTMENT** further agrees that no person having any such interest shall be employed or engaged in the delivery of the services of this **MOA**. The **DEPARTMENT** agrees that no employee, officer, agent of the **DEPARTMENT** or its sub-recipients shall participate in the selection, award or administration of a contract or construction bid if a conflict-of-interest, either real or perceived, would be involved. The **DEPARTMENT** or sub-recipient 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 **DEPARTMENT**. For federally funded contracts, conflict-of-interest provisions described in 2 CFR 200 and all other established, applicable HUD regulations must be followed. The **DEPARTMENT** shall notify the **LEAD AGENCY** if it learns of real or perceived conflict of interest related to this **MOA**.

MANDATORY DISCLOSURE OF VIOLATIONS

The **DEPARTMENT** is required to promptly disclose, in writing, to the **LEAD AGENCY** and the appropriate federal awarding agency, any credible evidence of violations of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations, including those under the False Claims Act, as required by 2 CFR 200.113.

TERMINATION

This **MOA** shall be in effect during the period provided by the Project Term described above and is subject to the availability of HUD CDBG-DR funding. In accordance with 2 CFR 200, enforcement up to and including suspension or termination may occur if the **DEPARTMENT** materially fails to comply with any terms of the award.

In the event HUD CDBG-DR funds to finance the project becomes unavailable, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours' written notice. However, the **DEPARTMENT** or the **LEAD AGENCY** may terminate this **MOA** without cause upon thirty (30) days' written notice.

The terms of this agreement shall be effective and binding upon project approval, award of a grant and the execution of this **MOA**.

USE AND REVERSION OF ASSETS, REAL PROPERTY

The **LEAD AGENCY** 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 **LEAD AGENCY** within 30 days of receipt of the proceeds. Any real property under the **DEPARTMENT'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 **DEPARTMENT** shall pay to the **LEAD AGENCY** 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

IN WITNESS WHEREOF, the **DEPARTMENT** and the **LEAD AGENCY** have executed this Agreement

this the _____ day of _____, 1/9/2025 | 12:46 PM EST.

(X) Signed by:
Maria Moya
3EE66A2C34E54E7...
Assistant County Manager
(Name and title of authorized **LEAD AGENCY** Signatory)

(X) DocuSigned by:
Pamela Keyes
074300D8C15D4D3...
Utilities Director
(Name and title of authorized **DEPARTMENT** signatory)

DS



ATTEST:
CLERK OF THE CIRCUIT COURT

BY: Signed by:
Lataasha Seth
341104300D8C15D4D3...
DEPUTY CLERK

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

BY: DocuSigned by:
Amanda L. Swindle
16C0B0806004010473...
OFFICE OF THE COUNTY ATTORNEY

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 Critical 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: Moss Marina Booster Pump Station Relocation

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").

Per 24 CFR 570.208(c), to comply with the national objective of meeting community development needs having a particular urgency, and activity must be designed to alleviate existing conditions which the grantee certifies:

- 1. Pose a serious and immediate threat to the health or welfare of the community;*
- 2. Are of recent origin or recently became urgent;*
- 3. The grantee/subgrantee is unable to finance the activity on its own; and,*
- 4. Other resources of funding are not available to carry out the activity.*

In accordance with FR-6393-N-01, this activity is using the Urgent Need national objective which is allowed for a period of 36 months after the applicability date of the Lee County's Allocation Announcement Notice (May 18, 2023).

The method of measuring the National Objective, if LMI: Not Applicable – activity will not meet a LMI national objective

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

- Total beneficiaries: 28,595
- Total low/mod beneficiaries: 11,900

CDBG-DR storm tie-back and/or Mitigation resilience measure: Hurricane Ian made landfall just north of the Town of Fort Myers Beach as a high-end Category 4 hurricane, causing catastrophic damage and substantial loss of life in the city from high winds and destructive storm surge, which damaged the majority of homes and businesses along the coastline. The potable distribution system suffered from unreliable potable water service and fire protection for over four

weeks. Lee County Utilities is looking to relocate the Moss Marina booster pump station to a more inland location and protect it further with hardening and flood-proofing elements to avoid future service interruptions and ensure a reliable supply of potable water and fire protection to the Town of Fort Myers Beach. This project will promote regional resilience, prevent future disruptions to the potable water service operation and thus, minimize significant impacts to all customers. Relocation of the booster pump station to a more inland location and hardening against climate vulnerabilities will ensure long-term operation and function to avoid service interruptions ensuring a reliable supply of potable water and fire protection to the Town of Fort Myers Beach. As evidenced by the impact of Hurricane Ian on the existing Moss Marina Pump Station there is an urgent need to relocate the pump station to alleviate an existing condition that poses a serious and immediate threat to the health and welfare of the community. In accordance with FR-6393-N-01, this activity is using the urgent need national objective which is allowed for a period of 36 months after the applicability date of the Lee County's Allocation Announcement Notice (May 18, 2023).

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 Critical 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")

The purpose of this project is to relocate the Moss Marina Booster pump station from its current location on Fort Myers Beach to a more inland location and provide additional structure hardening measures for protection against climate vulnerabilities.

The goal of this project is to avoid potable water service interruptions and ensure a reliable supply of drinking water and fire protection. The Town of Fort Myers Beach is home to approximately 5,600 permanent residents and is a popular tourist destination with nearly 5 million visitors arriving annually to the area.

Project Milestones

Design Completion 6-1-2026

Construction Start 1-1-2027

50% Completion 7-1-2027

Final Construction Completion 12-31-2027

Design and Approach: Lee County Utilities has an experienced project management team that has executed pump station construction projects: - Master Pump Station 7716 Relocation, completed 2020, \$2.5M - Master Pump Station 5507 Rehabilitation, completed 2024, \$2M – Winkler Road Master Pump Station, estimated completion 2026, estimated \$6M Lee County Utilities has been a recipient of multiple grant awards on various projects, successfully administering requirements from the following: Florida State Revolving Fund FDEP Hurricane Stormwater & Wastewater Assistance Grant Funds FDEP Resilient Florida Grant Funds SFWMD Alternative Water Supply Grant Funds EPA Community Grant Funds State Appropriation Grant Funds.

A Consultant will be procured for design services will provide funding monitoring services to include compliance with DBRA, M/WBE/DBE, American Iron and Steel

and Build America Buy America requirements. Consultant will work directly with selected contractor to obtain records and documentation pertaining to funding requirements.

Lee County Utilities Staff Lee County Utilities Engineering staff is responsible for managing and implementing the project according to budget, timeline, and funding requirements. Lee County Utilities Fiscal staff is responsible for gathering funding compliance requirements, progress and annual reports, preparing payment requests and necessary back up, and record keeping.

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)	\$14,850,000.00
Activity Delivery Funds	\$0
Total	\$14,850,000.00

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 Critical 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. The County is responsible for reviewing and approving the Subrecipient's indirect cost allocation plan or proposal included below. Calculated Modified Total Direct Costs (MTDCs) subject to a: Not applicable – an indirect cost rate will not be utilized or requested from the subrecipient under this Agreement.

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 *Critical 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 (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 Pump Station
	# 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	
	# of Section 3 Labor Hours	2,600 Est.
	# of Targeted Section 3 Labor Hours	520 Est.
	# of Total Labor Hours	10,400 Est

EXHIBIT F**APPLICATION**

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the *Critical Infrastructure Program* NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below as a reference point to establish the original, approved conditions under which the original project was considered. The County will review this Exhibit when considering changes to the Agreement or other project details as outlined within the System of Record. 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.

Application

Please see the following documentation below: The full, approved project application, submitted by the Subrecipient, for which this Agreement was completed. Supporting documentation submitted by the Subrecipient as part of the application process is incorporated by reference and is maintained within the System of Record. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:

1. *Subrecipient Agreement*
2. *Critical Infrastructure Program NOFA.*
3. *Critical Infrastructure Program Guidelines*
4. *Notice to Proceed*
5. *Subrecipient's application in response to the Notice of Funding Availability*



Lee County
Southwest Florida

Critical Infrastructure Program



Organization Information

- ▶ Organization Name: Lee County Utilities
- ▶ Address: 1500 Monroe Street Fort Myers, FL 33901
- ▶ Telephone: (239) 533-8181
- ▶ Federal Employer ID #: 59-6000702
- ▶ Organization Website: www.leegov.com
- ▶ Unique Entity Identifier: SS8JCN35XH77

Authorized Organization Representative

- ▶ Name: Pamela Keyes
- ▶ Title: Utilities Director

Contact Person

- ▶ Name: Vicky Cooper
- ▶ Title: Fiscal Manager
- ▶ Email: vcooper@leegov.com
- ▶ Telephone: (239) 533-8148

Partner Organization

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



Project Information

► Name: Moss Marina Booster Pump Station Relocation

Project Type

- | | |
|---|--|
| <input type="checkbox"/> Water/Sewer Line Install | <input type="checkbox"/> Water Treatment Plant |
| <input type="checkbox"/> Lift Stations | <input type="checkbox"/> Drainage Improvements |
| <input checked="" type="checkbox"/> Pump Stations | <input type="checkbox"/> Electrical/Utilities Burial/Replacement |
| <input type="checkbox"/> Wastewater Treatment Plant | |
| <input type="checkbox"/> Backup Generator: Must be a permanent fix to the structure. No portable generators | |

► Other:



Target Service Location

Target Service Location

- | | |
|---|--|
| <input type="checkbox"/> City of Cape Coral | <input checked="" 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 type="checkbox"/> Unincorporated Lee County |
| <input 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

Lee County Utilities is a bulk water service provider to The Town of Fort Myers Beach. When the water reaches the Town's service area it flows through the Moss Marina Booster pump station to be further distributed to the Town's water distribution area. The pump station is utilized to increase water pressure through the distribution system, ensuring minimum pressures for drinking water and fire protection.

After Hurricane Ian's landfall in September 2022, the Moss Marina Booster pump station suffered widespread electrical failure due to the equipment being located at ground level from the massive 14+ foot storm surge recorded. As a result, The Town of Fort Myers Beach distribution system suffered from unreliable potable water service and fire protection for over four weeks.

The proposed project will relocate the booster pump station to be more inland where it can be further protected and hardened against storm surge and flooding. The climate stable pump station will reduce the likelihood of water service outages and provide for reliable potable water service and fire protection.

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"> • Public improvements throughout the area are in a general state of deterioration; or • At least 25 percent of the properties throughout the area exhibit one or more of the following: <ul style="list-style-type: none"> • Physical deterioration of buildings/improvements; • Abandonment of properties; • Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings; • Significant declines in property values or abnormally low property values relative to other areas in the community; or • Known or suspected environmental contamination
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The scope of the project

The purpose of this project is to relocate the Moss Marina Booster pump station from its current location on Fort Myers Beach to a more inland location and provide additional structure hardening measures for protection against climate vulnerabilities.

The projected outcome(s) of the project

The goal of this project is to avoid potable water service interruptions and ensure a reliable supply of drinking water and fire protection. The Town of Fort Myers Beach is home to approximately 5,600 permanent residents and is a popular tourist destination with nearly 5 million visitors arriving annually to the area.

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

This project will promote regional resilience, prevent future disruptions to the potable water service operation and thus, minimize significant impacts to all customers. Relocation of the booster pump station to a more inland location and hardening against climate vulnerabilities will ensure long-term operation and function to avoid service interruptions ensuring a reliable supply of potable water and fire protection to the Town of Fort Myers Beach.



Project Design and Approach: Applicant/Subrecipient

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.

Lee County Utilities has an experienced project management team that has executed pump station construction projects: - Master Pump Station 7716 Relocation, completed 2020, \$2.5M - Master Pump Station 5507 Rehabilitation, completed 2024, \$2M - Winkler Road Master Pump Station, estimated completion 2026, estimated \$6M

Lee County Utilities has been a recipient of multiple grant awards on various projects, successfully administering requirements from the following: Florida State Revolving Fund FDEP Hurricane Stormwater & Wastewater Assistance Grant Funds FDEP Resilient Florida Grant Funds SFWMD Alternative Water Supply Grant Funds EPA Community Grant Funds State Appropriation Grant Funds

The applicant's plan of executing the Subgrantee Agreement

Not applicable, the proposed project does not include execution of a Subgrantee Agreement.

The applicant's plan for Oversight and Monitoring of Subgrantee

Not applicable, the proposed project does not include execution of a Subgrantee Agreement.

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

Consultant Consultant procured for design services will provide funding monitoring services to include compliance with DBRA, M/WBE/DBE, American Iron and Steel and Build America Buy America requirements. Consultant will work directly with selected contractor to obtain records and documentation pertaining to funding requirements.

Lee County Utilities Staff Lee County Utilities Engineering staff is responsible for managing and implementing the project according to budget, timeline, and funding requirements. Lee County Utilities Fiscal staff is responsible for gathering funding compliance requirements, progress and annual reports, preparing payment requests and necessary back up, and record keeping.



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

Not applicable

The partner's plan for Maintenance and Operations

Not applicable

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

Not applicable

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

The booster pump station will be relocated to a more inland location and will be hardened against climate vulnerabilities including flood proofing elements and backup power supply. Thus, avoiding service interruptions and ensuring a reliable supply of potable water and fire protection to the Town of Fort Myers Beach.

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

This project will reduce the booster pump station climate vulnerabilities and avoid service interruptions, ensuring a reliable supply of potable water and fire protection to the Town of Fort Myers Beach.

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

The Moss Marina Booster pump station will remain operational in its current location at its current capacity as work is done to create a new inland booster pump station. Once the new booster pump station is constructed, the existing station will be decommissioned. The goal of the project is to avoid service interruptions and ensure a reliable supply of potable water and fire protection to the approximate 5,600 permanent residents and nearly 5 million visitors arriving annually to the area.

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

Timeline for critical tasks and milestones: Design - Consultant selection of the most qualified vendor, Q2 2025 Design - 100% design, pre-construction permitting and bid specifications, estimated completion Q2 2026 Construction Mobilization - bid awarded to lowest responsive responsible bidder, estimated completion Q4 2026 Project close-out - Certification of project completion, estimated completion Q4 2027

Define project milestones (i.e. Design, Construction, Progress Meetings, Certification of Completion, Closeout, or any other milestones as applicable)

Design – Consultant selection Design - 100% Design Plans and Specifications
 Construction Mobilization - Bid awarded to lowest responsive responsible bidder Project close-out - Certification of project completion

Monthly spending plans and proposed draw down schedules

Estimated design and construction for the proposed project is approximately thirty months (or 2.5 years). Lee County encourages contracted vendors to bill monthly for work completed; drawdown schedules will reflect payments made to contracted vendors as project advances.

Proposed reporting for outcomes achieved

Design consultant will provide monthly progress reports to LCU staff addressing proposed project outcomes to include project status, percentage of work completed, forthcoming milestones and any project delays/issues with recommended resolutions.

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

The County looked at most recent cost estimates on materials and scopes of work most closely related to the proposed project. A contingency of 15% was also applied to account for project uncertainties, including cost escalation for materials/ labor that could be incurred prior to the contracted work.

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

A competitive solicitation for the professional services will be executed to identify the most qualified vendor for the project. As a part of this process, fees for identified work will be negotiated. As part of the consultant scope of work, cost estimates will be reviewed at the design milestones of 30%, 60%, 90% and 100%.

A competitive solicitation for the construction activities will be executed to identify a responsive and responsible low bidder for the project. Additionally, the County may utilize a Direct Material Purchase (DMP) for certain equipment, as authorized and applicable, to further reduce project costs.

Lee County Utilities' project team, in collaboration with the hired consultant will hold project meetings to ensure ongoing collaboration during construction, evaluation of project progress through the milestones schedule and costs incurred.

LCU's Project Managers are experienced in the use of management tools and traits to maintain contractors accountable to ensure the project remains within tasks and budget. These include, but are not limited to, monthly progress/status reports and project schedule updates with each monthly pay application.

Describe the cost and plan for funding for operations and maintenance.

The Town of Fort Myers Beach has agreed to transfer the maintenance and operation of the new booster pump station to Lee County Utilities once construction is completed and the existing booster station at Moss Marina is retired.

Lee County Utilities budgets annually for operations and maintenance of the entire utility system. Budgetary needs are reviewed thoroughly to include routine maintenance and anticipated rehabilitation and repairs of the system.

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

The project will be designed in accordance with industry standards and best practices. Selection of hardening and flood proofing methods will be aligned to compliment the final design.

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

Lee County has been identifying strategies to address regional climate vulnerabilities. Recently, Lee County Utilities was awarded funding from the FY 23-24 Resilient Florida Grant for the replacement of the switchgear and belt press at the FMB WRF. Additionally, Lee County is in the process of developing a Countywide multi-jurisdictional climate vulnerability study under the same grant program.

Describe how you will coordinate with other partners carrying out related activities and/or projects

Lee County Utilities staff coordinated with staff from the Town of Fort Myers Beach prior to submitting the initial scope to Lee County Board of County Commissioners for consideration. The Town supported the County's initiative to relocate and improve the booster pump station. Further discussions and coordination with the Town will occur with the project's progress.

Appropriate construction related permits will also be acquired prior to construction activities from FDEP, Lee County Community Development, Lee County Natural Resources NPDES, Lee County Department of Transportation, and South Florida Water Management District.



A description of the area of need that will be addressed

The Town of Fort Myers Beach is a coastal community on Estero Island along the Gulf of Mexico. According to the National Hurricane Center Storm Surge Risks Map, the Town of Fort Myers Beach continues to be at risk of storm surge for greater than 6 feet from hurricanes rated at Category 1 and above.

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

The proposed project will relocate the booster pump station to be more inland where it can be further protected and hardened against storm surge and flooding. The climate stable pump station will reduce the likelihood of water service outages and provide for reliable potable water service and fire protection.

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 Town of Fort Myers Beach is home to approximately 5,600 permanent residents and is a popular tourist destination with nearly 5 million visitors annually arriving to the area.

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		
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:

Total LMI Beneficiaries:

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

Hurricane Ian made landfall just north of the Town of Fort Myers Beach as a high-end Category 4 hurricane, causing catastrophic damage and substantial loss of life in the city from high winds and destructive storm surge, which damaged the majority of homes and businesses along the coastline. The potable distribution system suffered from unreliable potable water service and fire protection for over four weeks. Lee County Utilities is looking to relocate the Moss Marina booster pump station to a more inland location and protect it further with hardening and flood-proofing elements to avoid future service interruptions and ensure a reliable supply of potable water and fire protection to the Town of Fort Myers Beach.

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

Lee County Utilities staff coordinated with staff from the Town of Fort Myers Beach prior to submitting the initial scope to Lee County Board of County Commissioners for consideration. The Town supported the County's initiative to relocate and improve the booster pump station. The Town has agreed to transfer the ownership and thus, maintenance and operation of the new booster pump station to Lee County Utilities once construction is completed and the existing booster station at Moss Marina is decommissioned. Further discussions and coordination with the Town will occur with the project's progress.

A description and justification of the proposed costs

The project proposes to relocate the Moss Marina Booster pump station from its current location on Fort Myers Beach to a more inland location to provide structural hardening measures for protection against climate vulnerabilities. LCU staff has developed a preliminary Opinion of Probably Cost (OPC) for the proposed project to include design and permitting costs, construction engineering and inspection and construction costs. The OPC was developed based on industry standards, current market conditions and past experience with similar projects.

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

The proposed project will be implemented by LCU Engineering staff. The Engineering Operations Manager will be responsible for the overall implementation, coordination, and execution of the project. The Project Manager assigned to the project will be responsible for day-to-day management of the project design and construction contracts to ensure project milestones, budget and schedule are met. An organizational chart of key staff has been attached to provide details of key LCU personnel involved in the proposed project. In addition, the design consultant will assist by providing project progress reports, schedule updates, and funding requirement compliance.

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

If project is selected for funding, LCU will seek grant approval and acceptance from the Board of County Commissioners to obligate awarded funds. LCU will set up a dedicated separate account string to track project spending ensuring it is used only for the awarded funds. Timelines and tracking systems will keep spending on track.



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	N/A		
File Management	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Inspections	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Program Administration	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Construction			
Bonding/Insurance	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Construction Management	\$1,237,500.00	\$0.00	\$1,237,500.00
Source of External Funds	0		
Debris Removal	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Demolition	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Fixtures/Equipment	\$10,312,500.00	\$0.00	\$10,312,500.00
Source of External Funds	0		
General Contractor	\$1,546,875.00	\$0.00	\$1,546,875.00
Source of External Funds	0		
Landscaping	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Maintenance of Traffic	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Mobilization	\$515,625.00	\$0.00	\$515,625.00
Source of External Funds	0		
Site Preparation	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Planning/Design			
Design & Permitting Services	\$1,237,500.00	\$0.00	\$1,237,500.00
Source of External Funds	0		



Development of Bidding Document	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Drawings/Blueprints	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Land Acquisition	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Permitting	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Site Plan	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Surveys	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Testing	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		

Funding Summary

CDBG-DR Funds Requested	Leveraged Funds	Project Cost
\$14,850,000.00	\$0	\$14,850,000.00

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	
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	\$0.00	



Applicant Capacity and Experience: Applicant/Subrecipient

Capacity to perform financial management and oversight

LCU has established financial policies and procedures that are aligned with GAAP, the Federal Code of Regulations, Lee County's Procurement Ordinance and Grants Administration Manual. These policies cover areas such as procurement, expense approvals, and periodic financial audits, ensuring accurate oversight of all financial activities. In addition, LCU staff attends trainings to gain knowledge on the latest financial regulations and funding requirements.

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

LCU staff has extensive experience managing federal and state grants for several capital improvement projects with multiple phases. Currently, LCU staff is managing over fifteen federal and state grants ranging from \$750,000 to \$20,000,000. Tasks include, but are not limited to, solicitation process in compliance with funding requirements; progress reporting, payment requests and record keeping. In addition, LCU staff is well versed in project management of consultant firms, which have assisted LCU with funding requirements for past projects.

Internal auditing capability

Lee County has a third-party audit firm that performs audits on different expenses incurred by the County. Lee Clerk of Courts is responsible for working with the auditors to provide information, which is requested from the grants management team. LCU staff has participated in several different types of audits (external, internal and SEFA audits) and has provided Lee Clerk of Courts and auditing firms the requested information accurately and in a timely manner.

Administrative staffing

LCU staff is well versed in completing administrative tasks in projects of various levels of difficulty in a timely and detailed manner. LCU staff also attend seminars and workshops to further develop skills as necessary.

Monitoring and control of timely expenditure of funds



Applicant Capacity and Experience: Applicant/Subrecipient

LCU staff utilizes different tools and systems to monitor and control timely expenditure of funds. Lee County and LCU both have established internal controls for separation of duties to provide reasonable assurance that federal and state awards are expended only for allowable activities and that the cost of goods and services charged to federal and state awards are allowable and in accordance with the specific cost principles regulating the funding source.

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

Davis Bacon and Related Acts (DBRA) compliance is included in the current contract with the design team for the FMB Restoration & Capacity Enhancement project. The design team will perform monitoring and compliance for the County on DBRA requirements if project is selected for funding. Lee County Utilities staff will perform quality assurance and quality control (QA/QC) of the DBRA vendor by reviewing payrolls and interviews and establishing record keeping for the process. In addition, the County's Strategic Resources and Government Affairs staff will monitor documentation submitted by performing QA/QC sampling and gathering information for required reporting. Lee County staff will also participate in DBRA trainings to ensure optimal knowledge and compliance.

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

Lee County Utilities confirms that no physical work or activity will start until environmental clearance has been obtained for the proposed project.

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



Applicant Capacity and Experience: Applicant/Subrecipient

For HUD funded projects, Lee County incorporates Section 3 requirements set forth in 24 CFR Part 75 into the project's solicitation. Project solicitations are posted on the County's website and published in the newspaper. In addition, for HUD funded projects, the County requires selected vendor to post information at job sites in affected areas regarding employment opportunities and preference in hiring Section 3 employees. Documentation demonstrating efforts made are required to be submitted by bidders and selected vendor.

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

Lee County Procurement Department has a detailed process to ensure good faith efforts to outreach to small, minority, women and veteran-owned businesses. Lee County Procurement Department publishes solicitation opportunities on various platforms to outreach to both Minority Business Enterprises (MBE) and Disadvantaged Business Enterprises (DBE). In addition, Procurement staff will reach out to identified DBE/MBE firms and send email announcing solicitation opportunity. Outreach efforts are saved for record keeping and compliance requirements. In addition, DBE/MBE funding requirements are incorporated into the solicitation documents to ensure selected contractor adheres to specified requirements.

Subrecipients must provide their procurement policy documents for analysis

Uploaded as required.

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



Applicant Capacity and Experience: Applicant/Subrecipient

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



Applicant Capacity and Experience: Subgrantee

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



Application Certification

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: Dave Harner
- ▶ Authorized Submitter Representative Name: Pam Keyes
- ▶ Authorized Submitter Representative Title: Utilities Director
- ▶ Certification Date: 05/24/2024
- ▶ Authorized Submitter Representative Signature: *Pam Keyes*
- ▶ Authorized Submitter Representative IP Address: 208.89.76.206

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 *Critical 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)

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

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 from the official date of the County’s final closeout of the grant.

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:

DocuSigned by:

Pamela Keyes

074300D8C1504D3

Signature

Pamela Keyes

Name (print)

1/2/2025 | 7:44 AM EST

Date

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 Clearance: Engineering and design costs for the project are being cleared as an “EXEMPT” under 24 CFR 58.34(a)(8).

Upon completion of 30% design documents, the Subrecipient must notify Lee County via email that the 30% design documents are complete and the Subrecipient must upload the 30% design documents to VistaTRAK.

In addition to drawings, cost estimate, and time schedule, the 30% design documents submittal must include a list of property acquisitions or known easements (temporary or permanent) required for the project.

In accordance with 24 CFR 58.22(a) the Subrecipient must not take any “choice limiting” actions prior to receiving the Authority to Use Grant Funds from HUD. Choice limiting actions include but are not limited to real property acquisition; demolition; rehabilitation; repair; new construction; site preparation or clearance; ground disturbance; and leasing, including a binding legal contract to commit these activities that is not conditioned on successful completion of the environmental review (ER) process.

EXHIBIT J
SUBRECIPIENT STAFF ORGANIZATION
Moss Marina Booster Pump Station Relocation

The Subrecipient must complete the following information, as applicable, as an extension of the requirements outlined within SECTION XVIII. 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 XVIII. 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 XVIII. NOTICES of the Agreement.

2. Contact Information

Name: Talya Bickle
Title: Engineering Operations Manager
Agency: Lee County Utilities
Address: 1500 Monroe Street, Fort Myers, FL 33901
Telephone: (239) 533-8504
Email: tbickle@leegov.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: Jessica Sulzer
Title: Engineering Manager
Agency: Lee County Utilities
Address: 1500 Monroe Street, Fort Myers, FL 33901
Telephone: (239) 218-7643jsulzer@leegov.com
Email: jsulzer@leegov.com

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: Raphaela Morais-Peroba
Title: Grants Analyst
Agency: Strategic Resources and Government Affairs
Address: 1500 Monroe Street, Fourth Floor, Fort Myers, FL 39901
Telephone: (239) 533-8782
Email: rperoba@leegov.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: Raphaela Morais-Peroba
Title: Grants Analyst
Agency: Strategic Resources and Government Affairs
Address: 1500 Monroe Street, Fourth Floor, Fort Myers, FL 39901
Telephone: (239) 533-8782
Email: rperoba@leegov.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: Raphaela Morais-Peroba
Title: Grants Analyst
Agency: Strategic Resources and Government Affairs
Address: 1500 Monroe Street, Fourth Floor, Fort Myers, FL 39901
Telephone: (239) 533-8782
Email: rperoba@leegov.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: Vicky Cooper
Title: Fiscal Manager
Agency: Lee County Utilities
Address: 1500 Monroe Street, Fort Myers, FL 33901
Telephone: (239) 533-8148
Email: vcooper@leegov.com

Section 7: Certification of Time Allocation

Are there any staff who are working on both CDBG-DR and non CDBG-DR programs? If so how many, and list names.

NO

EXHIBIT K**CDBG-DR PROGRAM SUBROGATION AGREEMENT**

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between **LEE COUNTY UTILITIES** (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 ~~Choose an item.~~ 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.

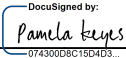
Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 C.S.C. 3729.

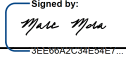
The person executing this Agreement on behalf of the Subrecipient hereby represents that he/she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by the Subrecipient.

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

LEE COUNTY UTILITIES

LEE COUNTY

By: Pamela Keyes
Signature: 
Title: Utilities Director
Date: 1/2/2025 | 7:44 AM EST

By: Marc Mora
Signature: 
Title: Assistant County Manager
Date: 1/6/2025 | 10:18 AM EST