

STATE OF ALABAMA

ADCNR Grant #: B2F1-BU/19/OB

MONTGOMERY COUNTY

### SUBAWARD GRANT AGREEMENT

THIS SUBAWARD GRANT AGREEMENT, (“Agreement”) is made and entered into by and between the State of Alabama Department of Conservation and Natural Resources (hereinafter “ADCNR”) and the **City of Orange Beach** (hereinafter “Subrecipient”). Pursuant to this Agreement, ADCNR and Subrecipient (collectively hereinafter “Parties”) agree as follows:

1. **PROJECT PURPOSE AND IDENTITY:** The purpose of this Agreement is to provide funding under the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (hereinafter “RESTORE Act”) to Subrecipient for implementation of the RESTORE Act Initial Funded Priorities List project titled **“Enhancing Opportunities for Beneficial Use of Dredge Sediments (Denton Oyster Reef Restoration Through Beneficial Use of Upriver Sediment; Grand Bay Mississippi Sound Back-Barrier Island Restoration Project Feasibility Study; Lower Perdido Bay/Perdido Pass Navigation Project Hydrological Modeling and Sediment Budget Study (Planning)”** pursuant to the applicable Financial Assistance Award (hereinafter “Project”). The purpose of the Project is to complete planning, design, engineering, and feasibility assessments for three project areas where future placement of dredge sediments would achieve habitat restoration. This Agreement between Parties will be identified by the “ADCNR Grant Number” set forth above in the upper right corner of this Agreement. All invoices and other correspondence submitted to ADCNR in connection with this Agreement must be identified by said Grant Number.
2. **FEDERAL AWARD INFORMATION:** The Project’s Financial Assistance Award (hereinafter “Federal Award”) in its entirety is hereby incorporated into this Agreement by reference and attached as Exhibit A. Information as to the Federal Award associated with the Project includes the following:
  - a. Federal Award Identification Number (FAIN): GNTCP19AL0082
  - b. Federal Award Date: April 1, 2019
  - c. Total Amount of Federal Funds Obligated to Subrecipient: \$475,000
  - d. Subrecipient DUNS#: 791793961
  - e. Total Amount of Federal Award: \$3,000,000
  - f. Name of Federal Awarding Agency: Gulf Coast Ecosystem Restoration Council (hereinafter “Council”)
  - g. Pass-Through Entity & Awarding Official Contact Information:  
Alabama Department of Conservation and Natural Resources  
Commissioner Christopher M. Blankenship  
64 N. Union Street; Suite 468  
Montgomery, AL 36130 (36104, Physical Zip)
  - h. CDFA Number & Name: CDFA# 87.051 “Gulf Coast Ecosystem Restoration Council Comprehensive Plan Component Program”
  - i. Indirect Cost Rate of Subrecipient: N/A
3. **APPLICABLE LAWS:** Subrecipient shall perform and/or procure all Agreement Services in accordance with all applicable federal, state and local laws, codes, regulations, ordinances, etc., including, but not limited to all executive orders (hereinafter “EO”), Office of Management and Budget (OMB) requirements, U.S. Treasury Regulations, and Council Regulations. In addition, Subrecipient shall procure all applicable federal, state, and local permits and pay all said fees. Subrecipient further agrees and acknowledges it is responsible

for ensuring of all lower tier compliance as to all such requirements. Subrecipient also shall at all times maintain effective internal control providing reasonable assurance as to compliance with all requirements.

4. **AGREEMENT SERVICES:** Subrecipient hereby agrees, in proper sequence and in the time herein specified, to perform all tasks and to provide all the necessary labor, materials, equipment, services and facilities necessary to both achieve Project completion and fulfill all terms of this Agreement in accordance with all requirements of the Federal Award, RESTORE Council Financial Assistance Standard Terms and Conditions, any Council-specific conditions, and all applicable laws (hereinafter "Agreement Services").
5. **RELIANCE UPON SUBRECIPIENT:** Subrecipient acknowledges and agrees it hereby accepts responsibility to stay current as to necessary compliance measures and that ADCNR is relying upon the Subrecipient to maintain compliance as to all requirements associated with performance under this Agreement including, but not limited to, all exhibits hereto, required certifications and all applicable laws.
6. **AGREEMENT FUNDING AMOUNT:** ADCNR's funding commitment under this Agreement shall be within the budgetary limits as described herein and pursuant to the Federal Award and shall not exceed a total of **four hundred seventy-five thousand** and 00/100 dollars (**\$475,000.00**).
7. **CONTINGENCY:** Subrecipient acknowledges and agrees the commencement and continuation of this Agreement, as well as any funding to be disbursed pursuant to this Agreement, is contingent on the availability of and actual receipt by ADCNR of the Federal Award funding designated for this Project.
8. **ALLOWABLE COSTS:**
  - a. Costs allowed under this Agreement shall be determined in accordance with provisions of all applicable federal, state and local laws, regulations and other requirements including, but not limited to, the following:
    - i. Federal Award;
    - ii. RESTORE Council Financial Assistance Standard Terms and Conditions (hereinafter "Council STC") incorporated herein by reference (August 2015 version of Council STC also incorporated within the Federal Award) and available at <https://restorethegulf.gov/sites/default/files/RESTORE%20Council%20STCs%20Final%208-18-2015.pdf>. (Subrecipient agrees it shall remain responsible under this Agreement for acting pursuant to the then applicable/current version of Council STC); and
    - iii. 31 C.F.R. Part 34.
  - b. Subrecipient agrees that any expenditure related to any type of lower tier contract or subaward support prior to execution of a written agreement pursuant to Paragraph 25 of this Agreement, and, as applicable, prior to approval for a subaward pursuant to Paragraph 25, shall not qualify as an Allowable Cost.
  - c. Subrecipient shall immediately notify ADCNR in writing in the event, subsequent to execution of this Agreement, it receives other financial assistance to support or fund any activity related to Agreement Services. Subrecipient further agrees that no costs funded by such other sources constitute Allowable Costs.
  - d. Subrecipient acknowledges that no pre-award costs or other costs incurred prior to the Effective Date of this Agreement are eligible for reimbursement pursuant to this Agreement.
9. **REIMBURSEMENT PAYMENTS:** Invoices, with required supporting documentation (including, but not limited to, documentation as to compliance with applicable procurement standards) detailing the Allowable

Costs to be reimbursed in accordance with the Federal Award Subrecipient budget categories, shall be submitted to the following:

Federal RESTORE Grant Coordinator  
ADCNR/State Lands Division  
31115 Five Rivers Blvd.  
Spanish Fort, AL 36527  
kelly.swindle@dcnr.alabama.gov

The Subrecipient may invoice no more frequently than monthly for reimbursement of Allowable Costs. Subrecipient's final request for reimbursement of Allowable Costs under this Agreement must be received by ADCNR no later than **March 31, 2022**. Subrecipient acknowledges that due to annual State of Alabama fiscal year closeout procedures, ADCNR is not able to process payments in the month of September. Accordingly, requests for payment not submitted to ADCNR sufficiently in advance of September will not be processed prior to commencement of the closeout period. In addition, only Allowable Costs incurred during an active fiscal year performance period are eligible for reimbursement. Requests for payment not received by deadlines set by ADCNR which are intended to be sufficiently in advance of the October 31<sup>st</sup> deadline for a fiscal year performance period, will not be eligible for reimbursement. While funding under this Agreement shall be on a reimbursement-only basis for Allowable Costs, if at any time any funds disbursed by ADCNR are for any reason not expended (or, for example, are returned/credited to Subrecipient subsequent to payment of an invoice), Subrecipient shall immediately notify ADCNR and return such funds in such timeframe and manner as specified by ADCNR.

10. **PROJECT PERIOD:** The period allowed for Project completion by the Subrecipient (hereinafter "Project Period") shall commence on the Effective Date, and end on **January 31, 2022**.
11. **AGREEMENT TERM:** The term of this Agreement shall commence on the Effective Date and end **February 28, 2022** (hereinafter "Agreement Term").
12. **SUBMISSION OF REPORTS/INFORMATION:** Subrecipient understands and acknowledges that ADCNR must meet several requirements set forth in the Federal Award and Council STC related to reporting. Furthermore, Subrecipient acknowledges that ADCNR is specifically relying upon Subrecipient to be familiar with these requirements and any subsequent updates or revisions to these requirements. In addition, Subrecipient shall provide accurate and timely information to ADCNR, as necessary, for ADCNR to remain in compliance with all said requirements of the Federal Award and Council STC. Accordingly, Subrecipient agrees to provide the following information, and any additional information as may be deemed necessary by ADCNR:
  - a. Reporting:
    - (1) The Subrecipient agrees to submit semi-annual financial and performance reports and a final financial and performance report. The semi-annual reports are due both March 15 and September 15 each year with the last semi-annual report being due September 15, 2021. The final financial and performance report is due no later than March 15, 2022. The Subrecipient agrees failure to submit such reports in a timely manner may result in the termination of this Agreement.
    - (2) The semi-annual reports must provide supporting documentation detailing Allowable Cost expenditures and other information including, but not limited to, information consistent with Federal Award and Council STC requirements.
    - (3) The final report must provide ADCNR with a summary financial and performance report related to the Project expenditures and confirmation of Project completion including, but not limited to,

supporting documentation detailing the Allowable Costs for the expenditures and other documents needed to be maintained by ADCNR for purposes of recordkeeping and potential audit compliance.

- b. Updates to Observational Data Plan: Subrecipient shall provide information necessary to update the Project's Observational Data Plan to include any plan details listed as "Not available (N/A)" or "To be determined (TBD)" annually in the September 15 performance report and then the final report.
- c. Updates to Data Management Plan: Subrecipient shall provide information necessary to update the Project's Data Management Plan to include any plan details listed as "Not available (N/A)" or "To be determined (TBD)" annually in the September 15 performance report and then the final report.
- d. Submission: All reports shall be sent to the address listed below:

Federal RESTORE Grant Coordinator  
ADCNR/State Lands Division  
31115 Five Rivers Blvd.  
Spanish Fort, AL 36527

- e. Format: Subrecipient shall provide data and reports generated or compiled within the scope of this Agreement specified herein in digital format or other format as may be specified by ADCNR.

13. OBSERVATIONAL DATA MANAGEMENT AND DELIVERY: Subrecipient agrees as follows in relation to data management activities required pursuant to the Federal Award:

- a. Data Sharing: Subrecipient will submit on an annual basis in the September 15 performance report and then the final performance report all data compiled, collected, or created under this Federal Award. Any observational data related to Gulf Coast restoration must be publicly visible and accessible in a timely manner, free of charge or at minimal cost to the user that is no more than the cost of distribution to the user, except where limited by law, regulation, policy, or national security requirements. Data are to be made available in a form that would permit further analysis or reuse, i.e., data must be encoded in a machine-readable format, using existing open format standards; and data must be sufficiently documented, using open metadata standards, to enable users to independently read and understand the data (for example, a PDF version of observational data is not a valid data delivery format). The public facing, anonymously accessible data location (internet URL address) of the data should support a service-oriented architecture to maximize sharing and reuse of structured data and be included annually in the September 15 performance report and then the final performance report. Data should undergo quality control (QC) and a description of the QC process and results should be referenced in the metadata.
- b. Timeliness: Subrecipient will submit data to ADCNR on an annual basis in the September 15 performance report and then the final performance report and further will ensure the public has access to data pursuant to Subrecipient's website, or such other publicly available clearinghouse as mutually agreed by Parties, no later than two years after the data are first collected and verified or by March 31, 2024, whichever occurs first. Provisions of this Paragraph 13(b) shall survive the Agreement Term and remain a continuing obligation of Subrecipient.
- c. Council Language: Subrecipient will agree that data produced under this award and made available to the public must be accompanied by the following statement: "The [report, presentation, video, etc.] and all associated data and related items of information were prepared by the **City of Orange Beach** under Award No. **GNTCP19AL0082** from the Gulf Coast Ecosystem Restoration Council (RESTORE Council). The data, statements, findings, conclusions, and recommendations are those of the author[s] and do not necessarily reflect any determinations, views, or policies of the RESTORE Council."



- d. Failure to Share Data: Subrecipient failing or delaying to make data accessible in accordance with the submitted Data Management Plan (see “Preliminary Data Management Plan” set forth within the Federal Award) and the terms hereof may lead to enforcement actions and be considered by the Council and/or ADCNR when making future award decisions. Subrecipient is responsible for ensuring that these conditions are also met by any lower tier subrecipients and subcontractors.
  - e. Data Citation: Subrecipient agrees that publications based on data, and new products derived from source data, must cite the data used according to the conventions of the Publisher and use Digital Object Identifiers (DOIs), if available. All data and derived products that are used to support the conclusions of a publication must be made available in a form that permits verification and reproducibility of the results.
14. RECORDS RETENTION/ACCESS/AUDITS: Subrecipient shall maintain detailed records sufficient to account for the receipt, obligation, and expenditure of grant funds (including, if applicable and allowed, records related to tracking program income). Accordingly, Subrecipient agrees as follows:
- a. Record Retention: Subrecipient shall maintain (and require all subrecipients and contractors to maintain) records and accounts associated with this Agreement, including, but not limited to, property, personnel and financial records, in accordance with ADCNR’s records retention policy ([http://www.archives.alabama.gov/officials/rdas/Conservation\\_RDA\\_2016.pdf](http://www.archives.alabama.gov/officials/rdas/Conservation_RDA_2016.pdf)) and 2 C.F.R. §200.333, as well as all other applicable federal, state and local requirements, the Federal Award and Council STC. Such records will be made available to all entities listed pursuant to Paragraph 14(b) and shall be retained for a minimum of three (3) years after expiration of this Agreement, unless ADCNR grants permission in writing to destroy. However, Subrecipient agrees that it is responsible for being familiar with all such retention requirements and maintaining records for periods longer than this 3-year minimum, as applicable.
  - b. Access: The Council, Treasury Office of Inspector General, the Government Accounting Office, ADCNR, the Alabama Examiners of Public Accounts, or any of their duly authorized representatives shall have timely and unrestricted access during normal business hours to any pertinent books, documents, papers, and records (including electronic records) of the Subrecipient and its agents, subrecipients and contractors in order to make audits, inspections, financial reviews, excerpts, transcripts and other examinations as directed by law (and to make copies of such). In additions, such rights to access shall include timely and reasonable access to Subrecipient’s personnel for the purpose of interview and discussion related to such records.
  - c. Audit Requirements: Subrecipient shall follow all audit requirements under the Federal Award and this Agreement and applicable federal, state and local laws. Subrecipient shall also ensure applicable lower tier compliance.
  - d. Survival: The provisions of this Paragraph 14 survive the Agreement Term and remain a continuing obligation of Subrecipient.
15. POLITICAL ACTIVITY: Subrecipient shall comply with all provisions of the Hatch Act (5 U.S.C. §1501 et seq.), as applicable, which limits political activities of employees whose principal employment activities are funded in whole or in part with federal funds. Subrecipient further agrees that it is responsible for ensuring such compliance of lower tier subrecipients and contractors, as applicable.
16. LOBBYING ACTIVITY:
- a. Compliance: Subrecipient shall comply with all applicable federal, state and local laws related to lobbying activities including, but not limited to, the Byrd Anti-Lobbying Amendment (31 U.S.C.

§1352). Subrecipient further acknowledges and agrees it is responsible for ensuring compliance as to lower tier subrecipients and contractors.

- b. Certification: Subrecipient hereby certifies, by execution of this Agreement, that no federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - c. Lower Tier Certification: Subrecipient further agrees to include the certification required pursuant to Paragraph 16(b) in all applicable lower tier agreements.
  - d. Notification: If subsequent to execution of this Agreement, Subrecipient becomes aware of any information indicating any certification potentially is no longer accurate or indicating any potential non-compliance issue, it shall immediately notify ADCNR in writing. Subrecipient shall also immediately suspend any related expenditures/activities until the potential issue has been resolved to ADCNR's satisfaction and Subrecipient receives written approval from ADCNR to resume such expenditures/activities
17. PROPERTY ACQUISITION: Subrecipient acknowledges and agrees that the Project does not include any activities associated with land acquisition or the purchase of equipment.
18. RESEARCH & DEVELOPMENT: Subrecipient acknowledges and agrees that the Project does not include any activities related to research and development as defined pursuant to 2 C.F.R. §200.87.
19. FRAUD/WASTE/ABUSE: Subrecipient shall immediately report to ADCNR as well as the Council, U.S. Treasury and the U.S. Treasury Inspector General in accordance with 31 C.F.R. §34.803(a), any indication of fraud, waste, abuse or potential criminal activity associated with any activity or expenditure of funds related to this Agreement.
20. CONFLICTS OF INTEREST: Subrecipient by his/her/its signature, certifies to the best of his/her/its knowledge and belief, no conflict of interest (or appearance of conflict), personal or organizational, in any manner existed or now exists which has, has had or may have any effect on this Agreement or any activity/expenditure associated with this Agreement. By execution of this Agreement, Subrecipient certifies that a conflicts of interest policy consistent with 2 C.F.R. § 200.318 covering each activity associated with or funded pursuant to this Agreement is currently in effect and at all times will remain in effect during the Agreement Term. In the event Subrecipient subsequently cannot maintain this certification during the Agreement Term, Subrecipient shall immediately notify ADCNR in writing. Subrecipient shall also immediately suspend any related expenditures/activities until the potential issue has been resolved to ADCNR's satisfaction and Subrecipient receives written approval from ADCNR to resume such expenditures/activities.
21. ENVIRONMENTAL COMPLIANCE: Subrecipient shall comply with all applicable federal, state and local environmental laws, regulations and policies including, but not limited to, all requirements set forth below and more fully described within the Federal Award and Council STC. Subrecipient further agrees that it is responsible for including all environmental requirements set forth below pursuant to the Council STC in all lower tier agreements and for ensuring lower tier compliance. If Subrecipient becomes aware of any potential impact on the environment not approved pursuant to the Federal Award, Subrecipient shall immediately notify ADCNR and suspend activities related to such potential impact until Subrecipient receives written approval from ADCNR to resume such activities.

- a. National Environmental Policy Act; and EO 11514 (Protection and Enhancement of Environmental Quality).
  - b. Endangered Species Act.
  - c. Magnuson-Stevens Fishery Conservation and Management Act.
  - d. Clean Water Act Section 404.
  - e. Migratory Bird Treaty Act; Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.); and EO No. 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds).
  - f. National Historic Preservation Act; Archeological and Historic Preservation Act; and Abandoned Shipwreck Act.
  - g. Clean Air Act; Federal Water Pollution Control Act; and EO 11738 (Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans).
  - h. Flood Disaster Protection Act.
  - i. EO 11988 (Floodplain Management), EO 13690 (Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input); and EO 11990 (Protection of Wetlands).
  - j. EO 13112 (Invasive Species).
  - k. Coastal Zone Management Act.
  - l. Coastal Barriers Resources Act.
  - m. Wild and Scenic Rivers Act.
  - n. Safe Drinking Water Act.
  - o. Resource Conservation and Recovery Act.
  - p. Comprehensive Environmental Response, Compensation, and Liability Act.
  - q. EO 12898 (Environmental Justice in Minority Populations and Low Income Populations).
  - r. Rivers and Harbors Act.
  - s. Marine Protection, Research and Sanctuaries Act; National Marine Sanctuaries Act; and EO 13089 (Coral Reef Protection).
  - t. EO 13653 (Preparing the United States for the Impacts of Climate Change).
  - u. Farmland Protection Policy Act.
  - v. Fish and Wildlife Coordination Act.
  - w. Section 602 of the Solid Waste Disposal Act
22. OTHER COMPLIANCE: Subrecipient shall comply, and ensure lower tier compliance, with all applicable federal, state and local laws, regulations and policies including, but not limited to, all requirements set forth below and more fully described within the Federal Award and Council STC. In addition, Subrecipient shall assist ADCNR as to compliance with all such requirements.
- a. Foreign Travel: Subrecipient agrees that no travel outside the United States shall be permitted pursuant to this Agreement.
  - b. Seat Belts: Pursuant to EO 130443, Subrecipient agrees to encourage employees and any contractors to enforce on-the-job seat belt policies and programs when operating any vehicles in connection with performance of activities associated with this Agreement.
  - c. Research Involving Human Species: Subrecipient agrees that no research involving human subjects shall be permitted pursuant to this Agreement.
  - d. Federal Employee Expenses: Subrecipient agrees that no funding pursuant to this Agreement shall be used to pay transportation, travel or other expenses for any employee of the federal government without prior written approval from ADCNR.



- e. **Minority Serving Institutions:** Subrecipient acknowledges the Council's goal of meaningful participation of minority serving institutions ("MSIs") in its financial assistance programs and agrees to include such meaningful participation of MSIs as to Project activities when possible.
  - f. **Research Misconduct:** Subrecipient agrees, to the extent at any time applicable, to abide by all provisions of the Federal Policy on Research Misconduct issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 FR 76260).
  - g. **Care and Use of Live Vertebrate Animals:** Subrecipient agrees that no research involving vertebrate animals shall be permitted pursuant to this Agreement.
  - h. **Homeland Security Presidential Directive 12:** Subrecipient acknowledges and agrees that its performance under this Agreement does not require or involve routine physical access to a federally-controlled facility or routine access to a federally-controlled information system.
  - i. **Export-Controlled Items:** Subrecipient acknowledges and agrees that its performance under this Agreement does not require or involve access to export-controlled items.
  - j. **Trafficking of Victims Protection Act Of 2000:** Subrecipient agrees the award term set forth in 2 C.F.R. § 175.15(b) implementing provisions of the Trafficking Victims Protection Act of 2000 (22 U.S.C. §7104(g)), to extent applicable, is hereby incorporated into this Agreement.
  - k. **Federal Funding Accountability and Transparency Act Of 2006 (FFATA):** Subrecipient shall comply and assist ADCNR as to compliance with all applicable requirements of FFATA (31 U.S.C. §6101) associated with this Agreement.
  - l. **Certifications:** Subrecipient shall execute, as applicable, and comply (and assist ADCNR as to compliance) with all certifications associated with this Agreement including, but not limited to, all certifications and requirements set forth in 31 C.F.R. §34.802, assurances (Forms SF-424B and SF-424D, or equivalent, as applicable), and any required Council-specific certifications and/or other certifications as required by 2 C.F.R. Part 200.
  - m. **Construction Activities:** Subrecipient acknowledges and agrees that that its performance under this Agreement does not require or involve construction related activities.
23. **PROCUREMENT:** Subrecipient shall conduct all procurement actions consistent with the Federal Award, Council STC and all applicable federal, state and local requirements including, but not limited to, provisions of 2 C.F.R. Part 200. Furthermore, Subrecipient specifically agrees to ensure that applicable clauses set forth pursuant to 2 C.F.R. Part 200 will be included in all purchase orders, contracts and agreements.
24. **DEBARMENT AND SUSPENSION:**
- a. **Compliance:** Subrecipient shall comply with provisions of 2 C.F.R. Part 180 "OMB Guides To Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," which generally prohibit entities, and their principals, that have been debarred, suspended or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions, and which sets forth the responsibilities of recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors. Subrecipient further acknowledges and agrees it is responsible for ensuring compliance as to lower tier subrecipients and contractors.



- b. Certification: Subrecipient hereby certifies, by execution of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in Project implementation or any aspect of the Agreement by any Federal department or agency.
  - c. Lower Tier Certification: Subrecipient further agrees to include the certification required pursuant to Paragraph 24(b), or such other certification as required by Council, in all applicable lower tier agreements.
  - d. Notification: If subsequent to execution of this Agreement, Subrecipient becomes aware of any information indicating any certification potentially is no longer accurate or indicating any potential non-compliance issue, it shall immediately notify ADCNR in writing. Subrecipient shall also immediately suspend any related expenditures/activities until the potential issue has been resolved to ADCNR's satisfaction and Subrecipient receives written approval from ADCNR to resume such expenditures/activities.
25. LOWER TIER SUBAWARDS/CONTRACTS: Subrecipient shall not execute a lower tier subaward agreement associated with its performance under this Agreement without the prior written consent of ADCNR. Further, Subrecipient agrees and acknowledges that, unless otherwise approved in writing by the applicable Council Grants Officer, all lower tier engagements shall be made in a manner to provide, to the maximum extent practicable, open and free competition in accordance with 2 C.F.R. §200.317-26, in addition to all other applicable federal, state and local requirements. No expenditure of funds associated with this Agreement shall be made prior to full execution of a written, legally binding agreement extending to the approved subrecipient/contractor all applicable requirements associated with this Agreement. As to all lower tier agreements and activities, Subrecipient agrees that it is responsible for ensuring compliance under all applicable federal, state and local laws including, but not limited to, all requirements of 2 C.F.R 200, the Federal Award and Council STC.
26. MINORITY/WOMEN BUSINESSES: As applicable, when contracting, Subrecipient must take all necessary affirmative steps, as set forth in 2 C.F.R. § 200.321(b), to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
27. LOWER TIER SUBAWARD/CONTRACT NOTICE: In the event ADCNR approves Subrecipient engaging a lower tier subrecipient and/or contractor, as applicable, pursuant to Paragraph 25, Subrecipient shall include the following notice in each request for applications or bids for a subaward, contract, or subcontract, as applicable:
- "Applicants or bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a Council official) are subject to 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants or bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, "New Restrictions on Lobbying," published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Governmentwide Guidance for New Restrictions on Lobbying," and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996)."*
28. LOWER TIER AGREEMENT PROVISIONS: In the event ADCNR approves Subrecipient engaging a lower tier subrecipient and/or contractor, as applicable, pursuant to Paragraph 25, all resulting subawards and contracts made by the Subrecipient must contain, as applicable, provisions required pursuant to 2 C.F.R. Appendix II to part 200, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards," the Federal Award, the Council STC and all other federal, state or local laws.

29. **DRUG FREE WORKPLACE:** Subrecipient shall comply with all provisions of the Drug-Free Workplace Act of 1988 and any associated Council regulations and policies promulgated pursuant to the Council's authority.
30. **PRESS/EVENTS:** Subrecipient shall notify ADCNR of the location, date, and time of any press conferences, press releases, media events, etc., related to this Project at least five (5) working days prior to the scheduled event or release.
31. **PUBLICATIONS/VIDEOS/SIGNAGE/ACKNOWLEDGMENT:** Subrecipient agrees to the following:
- a. Subrecipient shall submit copies of all publication materials including, but not limited to, print, recorded or Internet materials to ADCNR.
  - b. When releasing information related to the Project, Subrecipient shall include a statement that the project or effort undertaken has been sponsored by the "Gulf Coast Ecosystem Restoration Council in cooperation with the State of Alabama Department of Conservation and Natural Resources."
  - c. Any signage to be produced pursuant to this Agreement must have prior written approval of ADCNR.
  - d. Unless otherwise approved by ADCNR in writing, every publication of material based on, developed under, or otherwise produced pursuant to this Agreement (except scientific articles or papers appearing in scientific, technical or professional journals) shall contain the following disclaimer: "This [report/video/etc.] was prepared by the **City of Orange Beach** using Federal funds under Award No. **GNTCP19AL0082** from the Gulf Coast Ecosystem Restoration Council (RESTORE Council). The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the RESTORE Council."
32. **INDEMNIFICATION:**
- a. Subrecipient agrees to protect, defend, indemnify, save and hold harmless the State of Alabama and ADCNR, and any and all of their officers, agents, and employees, from and against any and all claims, demands, expense and liability arising out of injury or death to any person, or the damage, loss or destruction of any property, which may occur or in any way grow out of, any act or omission of ADCNR, its officers, agents, and employees, the Subrecipient, and the Subrecipient's agents, servants, employees, and subcontractors. Subrecipient's obligation and duty to protect, defend, indemnify, save and hold harmless ADCNR and its agents and employees shall include and extend to any and all costs, expenses, attorney fees, judgements, awards, and settlements incurred by the parties or their agents or employees as a result of any claims, demands, and/or causes of action arising out of the performance of the obligations or objectives set forth herein. Subrecipient agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims are groundless, false or fraudulent.
  - b. Subrecipient further agrees it releases from liability and waives its right to sue the State of Alabama and ADCNR, and their officers, agents, and employees, regarding any and all claims resulting in any physical injury, economic loss, or other damage or loss as a result of or related in any way to the Agreement.
  - c. The provisions of this Paragraph 32 shall survive the Agreement Term and remain a continuing obligation of Subrecipient.
33. **TERMINATION OF AGREEMENT:** This Agreement may be terminated as follows:

- a. If, in the determination of ADCNR, Subrecipient fails to fulfill in timely and proper manner its obligations under this Agreement or violates any of the covenants, agreements, or stipulations of this Agreement, ADCNR, in addition to all other available remedies, shall thereupon have the right to terminate this Agreement by giving written notice, sent certified mail (return receipt requested) or overnight courier (signature required), to Subrecipient of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date. In that event, at the option of ADCNR, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by Subrecipient under this Agreement shall become the property of ADCNR.
  - b. ADCNR may terminate this Agreement at any time without cause by giving written notice to Subrecipient by certified mail (return receipt requested) or overnight courier (signature required) of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date. In that event, at the option of ADCNR, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by Subrecipient under this Agreement shall become the property of ADCNR.
  - c. If the Agreement is terminated by ADCNR, as provided herein, Subrecipient shall promptly submit a statement detailing the actual services performed and associated Allowable Costs to date of termination. The Subrecipient shall immediately return any remaining funds to ADCNR in such manner as specified by ADCNR.
34. NOTICE: Contact information of Parties for purposes of providing notice pursuant to the terms of this Agreement will be as set forth below, unless and until updated information is provided:

To ADCNR:

Alabama Department of Conservation and Natural Resources  
Atten: Christopher M. Blankenship, Commissioner  
64 N. Union St., Suite 468  
Montgomery, AL 36130

To Subrecipient:

City of Orange Beach  
Atten: Nicole Woerner, Project Manager  
P. O. Box 2432 | 4101 Orange Beach Blvd  
Orange Beach, AL 36561

35. NONDISCRIMINATION: Subrecipient shall not discriminate on the basis of race, color, religion, age, sex, pregnancy, national origin, genetic information, veteran status, or disability in its hiring or employment practices nor in relation to admission to, access to, or operations of its programs, services, or activities. Further, Subrecipient shall comply with all Council regulations and policies prohibiting discrimination as well as all other applicable federal, state and local nondiscrimination laws including but not limited to, the following: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Americans with Disabilities Act of 1990; Section 504 of the Rehabilitation Act of 1973; Revised ADA Standards for Accessible Design for Construction Awards; and Age Discrimination Act of 1975; Public Health Service Act of 1912 and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970.



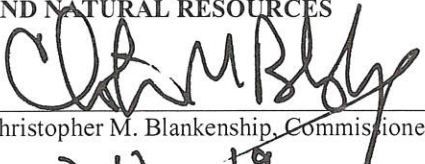
36. ASSIGNABILITY/AMENDMENTS: Subrecipient shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of ADCNR. Any amendment to this Agreement must be in writing and approved by all signatory/authorities prior to becoming effective.
37. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon the successors and assigns of the respective parties hereto.
38. ENFORCEMENT OF RIGHTS AND OBLIGATIONS: Failure of ADCNR to strictly or promptly enforce the rights and obligations herein shall not operate as a waiver thereof.
39. NO AGENCY RELATIONSHIP: By entering into this Agreement, Subrecipient is not an agent of ADCNR, its officers, employees, agents or assigns. Nothing in this agreement creates an agency relationship between the Parties.
40. NOT ENTITLED TO MERIT SYSTEM: Subrecipient understands and agrees that nothing in this Agreement entitles Subrecipient to any benefits of the Alabama State Merit System.
41. PRORATION: In the event of the proration of the fund from which payment under this Agreement is to be made, the Contract will be subject to termination.
42. NOT TO CONSTITUTE A DEBT OF THE STATE: It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Contract shall contravene any statute or constitutional provision or amendment, either now in effect or which may, during the course of this Contract, be enacted, then that conflicting provision in the Contract shall be deemed null and void
43. CLAIMS FOR LIENS: Subrecipient shall be solely liable for and shall hold the State of Alabama, all State Agencies, Boards and Commissions, along with the respective officers, agents, servants, employees, and volunteers of each, harmless from any and all claims or liens for labor, services or material furnished to Subrecipient in connection with the performance of its obligations under this Agreement.
44. TAX RESPONSIBILITY: Subrecipient hereby agrees that the responsibility for payment of any taxes from the funds received under this Agreement shall be the Subrecipient's obligation and shall be identified under the appropriate Tax Identification Number. In the event any tax refund is received by Subrecipient, it shall immediately notify ADCNR in writing and comply with all Council requirements associated therewith.
45. ALTERNATIVE DISPUTE: In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center For Dispute Resolution of the Alabama State Bar.
46. VENUE: Subrecipient agrees that the laws of the State of Alabama shall govern and be controlling and binding over the provisions of the rights herein granted, and that, notwithstanding any provision to the contrary, the venue of any legal action brought in connection herewith shall be the circuit court of Montgomery County, Alabama.

47. NO BOYCOTT: In compliance with Act 2016-312, Subrecipient hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which the State can enjoy open trade
48. IMMIGRATION COMPLIANCE: By signing this Agreement, Subrecipient affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, if found to be in violation of this provision, Subrecipient shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.
49. COUNTERPARTS: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
50. PARTIES REPRESENT THAT THIS AGREEMENT SUPERSEDES ALL PROPOSALS, ORAL AND WRITTEN, ALL PREVIOUS CONTRACTS, AGREEMENTS, NEGOTIATIONS AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF.

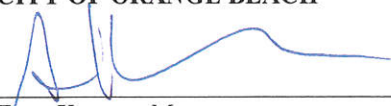
[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date entered below (herein referred to as "Effective Date").

STATE OF ALABAMA  
DEPARTMENT OF CONSERVATION  
AND NATURAL RESOURCES

  
\_\_\_\_\_  
Christopher M. Blankenship, Commissioner  
Date: 7-12, 2019

APPROVES LEGAL  
  
\_\_\_\_\_

CITY OF ORANGE BEACH  
  
\_\_\_\_\_  
Tony Kennon, Mayor



FUNDS AVAILABLE  
FUND \_\_\_\_\_  
  
\_\_\_\_\_  
DCNR Acctg. Director