

## CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 05/04/2021

Contract/Lease Control #: C16-2413-PW

Procurement#: NA

Contract/Lease Type: CONTRACT

Award To/Lessee: BLUEWATER BAY MSBU

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 06/07/2016

Expiration Date: 12/31/2021

Description of: MSBU HAZARD MITIGATION GRANT PROJECT

Department: PW

Department Monitor: AUTREY

Monitor's Telephone #: 850-689-5772

Monitor's FAX # or E-mail: JAUTREY@MYOKALOOSA.COM

Closed:

Cc: BCC RECORDS

**AGREEMENT FOR IMPLEMENTATION OF BLUEWATER BAY MSBU  
HAZARD MITIGATION GRANT PROJECT PHASE II**

This AGREEMENT ("Agreement") is entered into this 21<sup>st</sup> day of August, 2018, by and between Okaloosa County, Florida through its Board of County Commissioners (the "County") and the Board of the Bluewater Bay Municipal Services Benefit Unit (the "MSBU") for the purpose of administering Phase II of the Hazard Mitigation Grant Agreement Number 18HM-H4-01-56-01-XXX, Project 4177-06-A ("Grant Agreement").

**RECITALS**

**WHEREAS**, the County has entered into a Federally Funded Subaward and Grant Agreement (Grant Agreement 18HM-H4-01-56-01-XXX, Project Number 4177-06-A) for Phase II of the Hazard Mitigation Grant related to the upgrading of the storm water drainage system and to mitigate the possibility for future flooding, in the area of the Bluewater Bay Municipal Service Area ("MSBU") more particularly located in an area bound by Southwind Drive, Dominica Way, Aruba Way and Curacao Way in Niceville, Florida 32578 (the "Project"); and

**WHEREAS**, as provided in Grant Agreement 18HM-H4-01-56-01-XXX, Project 4177-06-A, the total project cost for Phase II is \$249,888.00 for which the Federal share is \$187,416.00 (75%) and the required local match requirement is \$62,472.00 (25%); and

**WHEREAS**, FDEM has indicated that it will reallocate the amount of \$22,000 that was unused in Phase I and apply it to Phase II of the Project. As a result, the total Project cost will increase to \$271,888 of which the Federal share would increase to \$203,916.00 (75%) and the local match would be \$67,972.00 (25%); and

**WHEREAS**, of the local match, \$46,222.00 or 17% of the total Project Costs shall be derived from the MSBU and the County will provide the remaining \$21,750.00 or 8% of the total Project Costs which will be provided through in-kind services from the County Public Works Department; and

**WHEREAS**, the MSBU does not have the funding immediately available to meet its obligations under the local match and seeks to set up an agreement as to how that funding will be obtains; and

**WHEREAS**, the County's approval was conditioned on entering into an agreement with the MSBU concerning the administration of the Grant Agreement prior to encumbering any staff time for local match; and

**WHEREAS**, this Agreement memorializes the understanding as between the County and the MSBU as to the funding of the Project and the contribution of the local share from the MSBU.

**NOW THEREFORE**, in consideration of the mutual covenants expressed herein, the County and MSBU do hereby agree as follows:

CONTRACT#: C16-2413-PW  
BLUEWATER BAY MSBU  
MSBU HAZARD MITIGATION GRANT PROJECT  
EXPIRES: 12/31/2021

**Section 1. Recitals.** All of the above recitals are true and correct and incorporated herein as essential terms of this Agreement.

**Section 2. Generally.** The project shall be as described in the Scope of Work of the fully executed subgrant agreement attached hereto as Attachment "A".

**Section 3. MSBU Responsibilities.**

A. Unless otherwise provided in Section 4 below, the MSBU shall be responsible for all Tasks and Deliverables described in Attachment "A". Any engineers, surveyors, or other contractors hired by the MSBU in fulfillment of this responsibility shall possess all the requisite state and local licenses and insurance.

B. All procurement, including contract award(s), shall be in compliance with the Okaloosa County Purchasing Manual and the laws of the State of Florida in effect at the time of such procurement.

C. The MSBU agrees to comply with and shall be bound by all terms of Hazard Mitigation Grant Agreement 18HM-H4-01-56-01-XXX, Project 4177-06-A.

D. The MSBU shall retain records and provide copies thereof to the County for any procurement done in performance of the project described in Attachment "A".

E. All invoices submitted by the MSBU for payment for any materials or services obtained pursuant to the Scope of Work provided in Attachment "A" shall be accompanied by appropriate backup documentation sufficient to verify status (or completion, if appropriate) of activities and deliverables.

F. Any record created in accordance with this Agreement shall be retained and maintained by the MSBU in accordance with the public records law, Florida Statutes Chapter 119.

G. The local cash match of \$46,222.00 or 17% of the total Project Costs shall initially be funded by the County and repaid by the MSBU in the following manner:

1) The County shall initially fund the MSBU's local match of \$46,222.00 through the use of its Surplus Funds for Special County Purposes and Projects as set forth in Ordinance 2016-21, as amended by Ordinance 2108-02.

2) Annually beginning with the special assessment levied on behalf of the MSBU by the Board of County Commissioners for Fiscal Year 2018-19, one third of the MSBU's local match due plus interest at a rate of 2.65% per annum, shall be withheld from the special assessments levied on behalf of the MSBU and reimbursed to the County for the funding of the MSBU's local match.

3) For Fiscal Year 2019-2020, one third of the MSBU's local match due plus interest shall be withheld from the special assessments levied on behalf of the MSBU for that year and reimbursed to the County for the funding of the second third of the MSBU's local match plus interest plus interest at a rate of 2.65% per annum.

4) For Fiscal Year 2020-2021, the final amount remaining of the MSBU's local match due plus interest shall be withheld from the special assessments levied on behalf of the MSBU for that year and reimbursed to the County for the funding of the final amounts due as the MSBU's local match plus interest plus interest at a rate of 2.65% per annum.

5) To the extent that there are additional grant proceeds available which would alleviate the need for the cash local match, then the County shall explore those possibilities to the extent that it would not impact on the ability to comply with the terms of the Grant Agreement.

#### **Section 4. County Responsibilities**

A. The County shall provide survey, engineering, and other work supporting the Scope of Work identified in Attachment "A" in an amount not to exceed \$21,750.00 or 8% of the total Project Costs, as an in-kind match in fulfillment of the local match required for this project.

B. The County shall process all invoices received for materials or services obtained pursuant to the Scope of Work provided in Attachment "A" in a timely manner and in accordance with all applicable laws and regulations.

C. The County shall notify the MSBU of any pending reporting deadlines no fewer than twenty-one (21) business days prior to a reporting deadline.

D. The County shall complete all quarterly and other reports required for under the Grant Agreement.

E. All reports shall include appropriate backup documentation as referenced in the subgrant agreement (Attachment A) to verify completion of activities and deliverables.

#### **Section 5. Audits and Inspections**

A. Both the County and Clerk of Courts reserve the right to audit and inspect the records of the MSBU as well as any vendors, contractors, subcontractors, recipients, or sub-recipient performing work under this Grant Agreement. Such audit or inspection shall be conducted with adequate notice and at shall be available at all reasonable times. Records shall be made available at a site located within the County.

B. These requirements shall apply to all contractors, vendors, subcontractors, second tier vendors and contractors, recipients and sub-recipients.

**Section 6. Records Retention.** All original copies of records pertaining to the work performed under this Grant Agreement shall be retained for a period of three (3) years or one (1) year after the applicable County audit has been published, whichever is later.

**Section 7.** It is agreed neither the County nor the MSBU assumes any liability and shall not be held responsible for the acts, omissions, and negligence of the officers, agents and employees of the other.

**Section 8. Termination.** This Agreement may be terminated by the County upon ninety (90) days written notice to the MSBU. The MSBU may not terminate this Agreement until all amounts paid by the County toward the MSBU's local match due plus interest have been reimbursed. Once all funds have been reimbursed to the County, then the MSBU may terminate this Agreement upon ninety (90) days written notice to the County.

**Section 9. Entire Agreement.** This Agreement and Attachment "A" as incorporated herein, contain the entire agreement between the parties and supersedes all prior oral or written agreements. The MSBU acknowledges that it has not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements or warranties, except such as are expressed herein. The terms and conditions of this Agreement can only be amended in writing upon mutual agreement of the parties and signed by both parties.

**Section 10. Waiver.** The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the County to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the County thereafter to enforce such provisions.

**Section 11. Notices.** Any notice, demand, communication, or request required or permitted herein shall be in writing and delivered in person or sent by first class mail, postage prepaid as follows:

As to County: Okaloosa County  
Attn: Director  
Public Works Department  
1759 S. Ferdon Boulevard  
Crestview, FL 32536

As to MSBU: Bluewater Bay MSBU  
Attn: Felix Beukenkamp  
c/o Progressive Management  
970 Gulf Shore Dr., Destin, FL 32541

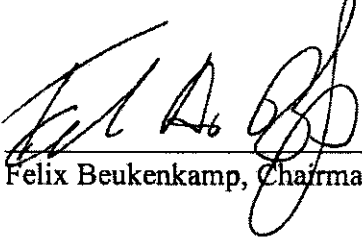
Any party shall have the right, from time-to-time, to change the address to which notices shall be sent by giving the other party at least five (5) business days prior notice of the address change.

**Section 12.** This Agreement shall be construed in accordance with the applicable laws of the State of Florida and venue for enforcement of any provision under this Agreement shall be in Okaloosa County, Florida. If any provision of this Agreement violates any statute or rule of the State of Florida, it is considered modified to conform to that statute or rule of law. Further, in the event that a portion of this Agreement is found to be invalid, illegal or unenforceable, then that provision shall be severed from the Agreement and shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.

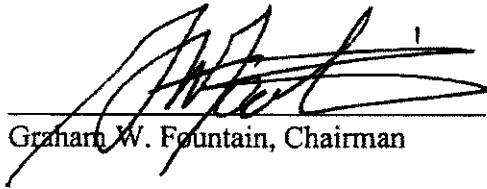
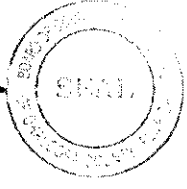
**Section 13.** It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damages pursuant to the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties to this agreement have caused their names to be affixed by the proper officer thereof.


BLUEWATER BAY MSBU

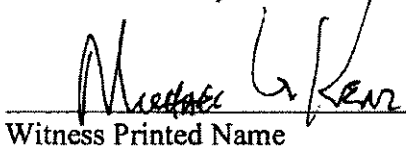
  
Felix Beukenkamp, Chairman

OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS

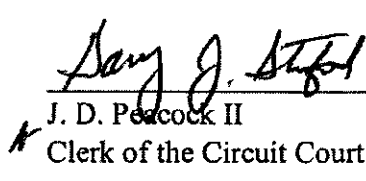

  
Graham W. Fountain, Chairman 

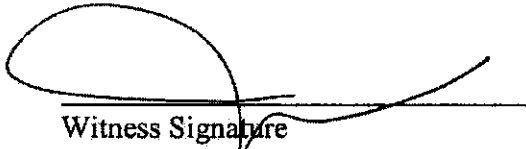
As to the MSBU:

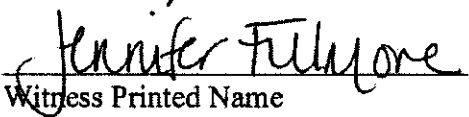
  
Witness Signature

  
Witness Printed Name

Attest:

  
J. D. Peacock II  
Clerk of the Circuit Court 

  
Witness Signature

  
Witness Printed Name

**Attachment A**  
**(1<sup>st</sup> Revision)**  
**Budget and Scope of Work**

**STATEMENT OF PURPOSE:**

The purpose of this Scope of Work (SOW) is to improve drainage in Niceville, Okaloosa County, Florida, 32578, funded through the Hazard Mitigation Grant Program (HMGP) **DR-4177-06-A**, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Sub-Recipient, Okaloosa County, agrees to administer and complete the project per sealed engineering designs and construction plans as submitted by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall complete the work in accordance with all applicable Federal, State and Local Laws, Regulations and Codes.

**PROJECT OVERVIEW:**

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to upgrade the storm-water drainage system and to mitigate the possibility for future flooding, in the area bound by Southwind Drive, Dominica Way, Aruba Way and Curacao Way in Niceville, Florida 32578. Coordinates: (30.471937, -86.422883), (30.474685, -86.424374), and (30.476477, -86.425075)

The Phase II – Construction scope of work for this project includes a series of pipe improvements in one base location. It shall include the removal of existing piping and drainage structures as necessary, followed by the installation of new Advance Drainage System (ADS) piping and associated drainage structures consistent with the upgraded designs.

When completed, the project shall provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

**TASKS & DELIVERABLES:**

**A) Tasks**

- 1) The Sub-Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the scope of work as approved by the Division and FEMA. The Sub-Recipient shall select the qualified, licensed Florida contractor in accordance with the Sub-Recipient's procurement policy as well as all federal and state laws and regulations. All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

The Sub-Recipient shall be responsible for furnishing or contracting all labor, materials, equipment, tools, transportation and supervision and for performing all work per sealed engineering designs and construction plans presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA.

The Sub-Recipient and contractor shall be responsible for maintaining a safe and secure worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.



The Sub-Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects.

The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed.

The Sub-Recipient shall provide documentation demonstrating the results of the procurement process. This shall include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Sub-Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Sub-Recipient.

The Sub-Recipient shall provide copies of professional licenses for contractors selected to perform services. The Sub-Recipient shall provide a copy of a current and valid occupational license or business tax receipt issued for the type of services to be performed by the selected contractor.

- 2) The Sub-Recipient shall monitor and manage the installation to improve the drainage and provide flood protection.

The project shall be implemented in accordance with sealed engineering designs and construction plans previously presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall ensure that all applicable state, local and federal laws and regulations are followed and documented, as appropriate.

The project consists of the general construction and furnishing of all materials, equipment, labor and fees to minimize recurring flooding and reduce repetitive flood loss to structures and roadways.

The Sub-Recipient shall fully perform the approved project, as described in the submitted documents, in accordance with the approved scope of work, budget line item, allocation of funds and applicable terms and conditions indicated herein. The Sub-Recipient shall not deviate from the approved project terms and conditions.

Construction activities shall be completed by a qualified and licensed Florida contractor. All construction activities shall be monitored by the professional of record. The Sub-Recipient shall complete the project in accordance with all required permits. All work shall be completed in accordance with applicable codes and standards.

Upon completion of the work, the Sub-Recipient shall schedule and participate in a final inspection of the completed project by the local municipal or county official, or other approving official, as applicable. The official shall inspect and certify that all installation was in accordance with the manufacturer's specifications. Any deficiencies found during this final inspection shall be corrected by the Sub-Recipient prior to Sub-Recipient's submittal of the final inspection request to the Division.

Upon completion of Task 2, the Sub-Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary of all contract scope of work and scope of work changes, if any. Additional documentation for closeout shall include:

- a) Copy of permits(s), notice of commencement.
  - b) Local Building Official Inspection Report and Final Approval.
  - c) Signed and Sealed As-built project plans (drawings) by the Professional of Record, two hard copies and an electronic version (via email or CD).
  - d) Letter of Completion:
    - 1. Affirming that the project was completed in conformance with the approved project drawings, specifications and scope; and
    - 2. Certifying Compliance with all applicable codes.
  - e) Letter verifying compliance with the National Historic Preservation Act, to include if archaeological materials or human remains were encountered during project activities, if so, how they were handled.
  - f) Letter verifying compliance with Executive Orders 11988 and 11990 that no staging of equipment occurred in wetland areas.
  - g) Proof of compliance with Project Conditions and Requirements contained herein.
- 3) During the course of this agreement, the Sub-Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, all project activities may not be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Sub-Recipient shall submit an Affidavit signed by the Sub-Recipient's project personnel with each reimbursement request attesting to the completion of the work, that disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Sub-Recipient shall maintain accurate time records. The Sub-Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

**Construction Expense:** The Sub-Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills, invoices, and/or charges. Sub-Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

**Project Management Expenses:** The Sub-Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The

Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the Division in coordination with the Sub-Recipient. Quarterly reports shall be submitted by the Sub-Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Sub-Recipient shall submit to the Division requests for reimbursement of actual construction and managerial costs related to the project as identified in the project application, sealed engineering designs, and construction plans. The requests for reimbursement shall include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Sub-Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount.

The Sub-Recipient's final request for reimbursement shall include the final construction project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

**B) Deliverables:**

Mitigation Activities consist of drainage improvements to the storm-water drainage system and to mitigate the possibility for future flooding in Niceville, Florida, 32578. The proposed project shall include the removal of existing piping and drainage structures as necessary, followed by the installation of new ADS piping and associated drainage structures consistent with the upgraded designs.

The completed project shall provide protection against a 100-year storm event.

Provided the Sub-Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Sub-Recipient based on the percentage of overall project completion.

**PROJECT CONDITIONS AND REQUIREMENTS:**

**C) Engineering:**

- 1) The Sub-Recipient shall submit to the Division an official letter stating that the project is 100% complete and ready for the Division's Final Inspection of the project.
- 2) The Sub-Recipient shall submit a signed and sealed final copy of the completed project's As-built drawings and all necessary supporting documentation, and provide a summary of all contract scope of work changes, if any.
- 3) The Sub-Recipient shall provide a copy of the Notice of Commencement, and any local official Inspection Report and/or Final Approval, as applicable.

- 4) The Sub-Recipient shall submit a certified letter of completion from Engineer of Record. The Sub-Recipient's Engineer of Record shall provide a formal certificate or letter affirming that the project has been completed in conformance with the approved project drawings, specifications, scope, and applicable codes.
- 5) All installations shall be done in strict compliance with the Florida Building Code or any local codes and ordinances. All materials shall be certified to exceed the wind and impact standards of the current local codes.
- 6) The Sub-Recipient shall follow all applicable State, Local and Federal Laws, Regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate Federal, State, and Local permits and clearances may jeopardize federal funding.

**D) Environmental:**

- 1) Sub-Recipient shall follow all applicable state, local and federal laws, regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding. If project work is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies shall be redone.
- 2) Any change, addition or supplement to the approved Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, shall require re-submission of the application to FEMA through the Division for National Environmental Policy Act (NEPA) re-evaluation before starting project work.
- 3) The Sub-Recipient shall monitor ground disturbing activities during construction, and if any potential archeological resources are discovered, shall immediately cease construction in that area and notify the Division and FEMA.

If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the project shall cease all activities involving subsurface disturbance in the immediate vicinity of the discovery. The applicant shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.

The Sub-Recipient's contractor shall provide immediate notice of such discoveries to the Sub-Recipient. The Sub-Recipient shall notify the Florida Division of Historic Resources, the Division's State Environmental Liaison Officer and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA and the Division have completed consultation with SHPO, Tribes, and other consulting parties as necessary.

In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with **Florida Statutes, Section 872.05**.

- 4) Per Executive Orders 11988 and 11990: The proposed project is located in a wetland. There will be no staging of equipment in the wetland areas.
- 5) Construction vehicles and equipment used for this project shall be maintained in good working order to minimize pollutant emissions.

**E) Programmatic:**

- 1) A change in the scope of work *must* be approved by the Division and FEMA in advance regardless of the budget implications.
- 2) The Sub-Recipient must notify the Division as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 3) The Sub-Recipient must "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 4) Project is approved with the condition that the enclosed list of deliverables shall be submitted, 30 days prior to the Period of Performance date, for review and approval by the Division, for submittal to FEMA for closeout.
- 5) Any extension of the Period of Performance shall be submitted to FEMA sixty (60) days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall be in writing and submitted, along with substantiation of the new expiration date and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing.
- 6) A copy of the executed subcontract agreement must be forwarded to the Division within ten (10) days of execution.
- 7) The Sub-Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.
- 8) If the Sub-Recipient is not the current title holder of the affected properties, the Sub-Recipient shall provide documentation confirming the property acquisition and easement rights were obtained voluntarily. If condemnation or eminent domain is used to obtain easement rights, FEMA shall not pay for any associated costs or payments to the property owner. Furthermore, FEMA shall not consider it an eligible contribution to the non-Federal cost share requirement and shall not financially participate in that component of a project if land or easements are obtained involuntarily.

This is FEMA project number **4177-06-R**, and shall be reported under **4177-06-A**. It is funded under HMGP, FEMA-4177-DR-FL and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster DR-4177 (Severe Storms, Tornadoes, Straight-line Winds & Flooding).

FEMA awarded this project on **January 4, 2018**; the Agreement was executed on **June 8, 2018**; and the Period of Performance for this project shall end on **December 30, 2021**.

**F) FINANCIAL CONSEQUENCES:**

If the Sub-Recipient fails to comply with any term of the award, the Division shall take one or more of the following actions, as appropriate in the circumstances:

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;
- 2) Disallow all or part of the cost of the activity or action not in compliance;
- 3) Wholly or partly suspend or terminate the current award for the Sub-Recipient's program;
- 4) Withhold further awards for the program; or
- 5) Take other remedies that may be legally available.

**SCHEDULE OF WORK**

**Phase II-**

State / Local Contracting:	3 Months
Construction Plan/Technical Specifications:	4 Months
Bidding:	6 Months
Construction:	12 Months
State / Local Inspections & Closeout:	3 Months
<b>Total Period of Performance:</b>	<b>28 Months</b>

**BUDGET**

**Line Item Budget\***

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Non-Federal Share</u>
Materials:	\$94,888.00	\$71,166.00	\$23,722.00
Labor:	\$150,000.00	\$112,500.00	\$37,500.00
Fees:	\$7,000.00	\$5,250.00	\$1,750.00
Management Cost:	\$20,000.00	\$15,000.00	\$5,000.00
<b>Initial Agreement Amount:</b>	<b>\$271,888.00</b>	<b>\$203,916.00</b>	<b>\$67,972.00</b>
***Contingency Funds:	\$0.00	\$0.00	\$0.00
<b>Project Total:</b>	<b>\$271,888.00</b>	<b>\$203,916.00</b>	<b>\$67,972.00</b>

*\*Any line item amount in this Budget may be increased or decreased 10% or less, with the Division's approval, without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

**\*\*\* This project has an estimated \$0.00 in contingency funds.** Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.

*Project Management costs are included for this project in the amount of \$0.00*

**Funding Summary**

Federal Share:	\$203,916.00	(75%)
Non-Federal Share:	\$67,972.00	(25%)
<b>Total Project Cost:</b>	<b>\$271,888.00</b>	<b>(100.00%)</b>

## CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 06/16/2016

Contract/Lease Control #: C16-2413-PW

Bid #: N/A

Contract/Lease Type: CONTRACT

Award To/Lessee: BLUEWATER BAY MSBU

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 06/07/2016

Term: COMPLETION OF PHASE II

Description of Contract/Lease: MSBU HAZARD MITIGATION GRANT PROJECT

Department: PW

Department Monitor: AUTREY

Monitor's Telephone #: 850-689-5772

Monitor's FAX # or E-mail: JAUTREY@CO.OKALOOSA,FL.US

Closed: \_\_\_\_\_

cc: Finance Department Contracts & Grants Office



**AGREEMENT FOR IMPLEMENTATION OF BLUEWATER BAY MSBU  
HAZARD MITIGATION GRANT PROJECT**

This AGREEMENT ("Agreement") is entered into this 7<sup>th</sup> day of June, 2016, by and between Okaloosa County, Florida through its Board of County Commissioners (the "County") and the Board of the Bluewater Bay Municipal Services Benefit Unit (the "MSBU") for the purpose of administering Hazard Mitigation Grant Agreement Number 16HM-H4-01-56-01-300, Project 4177-06-R ("Grant Agreement").

**RECITALS**

**WHEREAS**, on December 16, 2014, the Board of County Commissioners authorized submittal of an application to the Florida Division of Emergency Management on behalf of the Bluewater Bay Municipal Services Benefit Unit (the "MSBU") to receive funds through the Hazard Mitigation Grant Program to perform surveys, engineering analyses, and physical improvements to alleviate drainage problems within the Curacao Bay/Southwind Drive area of the Bluewater Bay development; and

**WHEREAS**, the application was timely submitted to the Florida Division of Emergency Management (the "FDEM") which approved the project in two phases, Phase I consisting of a topographic survey of the drainage basin to confirm the basin boundaries, pipe invert elevations, inlet top elevations, and other drainage features, a hydraulic study and recommended improvements to the drainage system to mitigate future flooding, and designs and permitting, while Phase II is expected to include a series of pipe replacement improvements in a number of locations as required by the results of Phase I; and

**WHEREAS**, as provided in Grant Agreement 16HM-H4-01-56-01-300, Project 4177-06-R, the total project cost for Phase I is \$130,240 for which the Federal share is \$97,680 (75%) and the required local match requirement is \$32,560 (25%); and

**WHEREAS**, during its regular meeting of December 15, 2015, the Board of County Commissioners approved Grant Agreement 16HM-H4-01-56-01-300, Project 4177-06-R and agreed to provide \$10,000 of the local match through in-kind surveying and engineering services, with the MSBU being responsible for the remainder of the local match; and

**WHEREAS**, the County's approval was conditioned on entering into an agreement with the MSBU concerning the administration of the Grant Agreement prior to encumbering any staff time for local match; and

**WHEREAS**, the cost and match requirements for Phase II will depend on the results of Phase I and will be subject to a subsequent agreement.

**NOW THEREFORE**, in consideration of the mutual covenants expressed herein, the County and MSBU do hereby agree as follows:

**CONTRACT # C16-2413-PW  
BLUEWATER BAY MSBU  
HAZARD MITIGATION GRANT PROJECT  
EXPIRES: COMPLETION OF PHASE II**

**Section 1.** Recitals. All of the above recitals are true and correct and incorporated herein as essential terms of this Agreement.

**Section 2.** Generally. The project shall be as described in the Scope of Work of the fully executed subgrant agreement attached hereto as Attachment "A".

**Section 3.** MSBU Responsibilities.

A. Unless otherwise provided in Section 4 below, the MSBU shall be responsible for all Tasks and Deliverables described in Attachment "A". Any engineers, surveyors, or other contractors hired by the MSBU in fulfillment of this responsibility shall possess all the requisite state and local licenses and insurance.

B. All procurement, including contract award(s), shall be in compliance with the Okaloosa County Purchasing Manual and the laws of the State of Florida in effect at the time of such procurement.

C. The MSBU agrees to comply with and shall be bound by all terms of Hazard Mitigation Grant Agreement Number 16HM-H4-01-56-01-300 Project 4177-06-R.

D. The MSBU shall retain records and provide copies thereof to the County for any procurement done in performance of the project described in Attachment "A".

E. The MSBU shall provide to the County no later than thirty (30) days prior to the termination of Hazard Mitigation Grant Agreement Number 16HM-H4-01-56-01-300 Project 4177-06-R an amount no less than \$22,560 in order to provide its share of the local match requirement. This amount may change based on funds provided by the County pursuant to Section 4. A., below.

F. All invoices submitted by the MSBU for payment for any materials or services obtained pursuant to the Scope of Work provided in Attachment "A" shall be accompanied by appropriate backup documentation sufficient to verify status (or completion, if appropriate) of activities and deliverables.

G. Any record created in accordance with this Agreement shall be retained and maintained by the MSBU in accordance with the public records law, Florida Statutes Chapter 119.

**Section 4.** County Responsibilities

A. The County shall provide survey, engineering, and other work supporting the Scope of Work identified in Attachment "A" in an initial amount not-to-exceed \$10,000 as an in-kind match in fulfillment of the local match required for this project, provided, however, that the Board of County Commissioners may authorize additional funds or in-kind service such that the County's contribution exceeds \$10,000 by separate action subsequent to the effective date of this

Agreement. Such authorization shall be by vote of the Board of County Commissioners and shall not necessitate an amendment to this Agreement..

B. The County shall process all invoices received for materials or services obtained pursuant to the Scope of Work provided in Attachment "A" in a timely manner and in accordance with all applicable laws and regulations.

C. The County shall notify the MSBU of any pending reporting deadlines no fewer than twenty-one (21) business days prior to a reporting deadline.

D. The County shall administer all aspects of Hazard Mitigation Grant Agreement Number 16HM-H4-01-56-01-300 Project 4177-06-R that are not specifically assigned to the MSBU pursuant to this agreement.

**Section 5. Audits and Inspections**

A. Both the County and Clerk of Courts reserve the right to audit and inspect the records of the MSBU as well as any vendors, contractors, subcontractors, recipients, or sub-recipient performing work under this Grant Agreement. Such audit or inspection shall be conducted with adequate notice and at shall be available at all reasonable times. Records shall be made available at a site located within the County.

B. These requirements shall apply to all contractors, vendors, subcontractors, second tier vendors and contractors, recipients and sub-recipients.

**Section 6. Records Retention.** All original copies of records pertaining to the work performed under this Grant Agreement shall be retained for a period of three (3) years or one (1) year after the applicable County audit has been published, whichever is later.

**Section 7.** It is agreed neither the County nor the MSBU assumes any liability and shall not be held responsible for the acts, omissions, and negligence of the officers, agents and employees of the other.

**Section 8.** This Agreement may be terminated by either party hereto upon ninety (90) days written notice to the other. This Agreement and Attachment "A" as incorporated herein, contain the entire agreement between the parties and supersedes all prior oral or written agreements. The MSBU acknowledges that it has not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements or warranties, except such as are expressed herein. The terms and conditions of this Agreement can only be amended in writing upon mutual agreement of the parties and signed by both parties.

The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the County to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the County thereafter to enforce such provisions.

**Section 9.** Any notice, demand, communication, or request required or permitted herein shall be in writing and delivered in person or sent by first class mail, postage prepaid as follows:

As to County: Okaloosa County  
Attn: Director  
Public Works Department  
1759 S. Ferdon Boulevard  
Crestview, FL 32536

As to MSBU: Bluewater Bay MSBU  
Attn: Felix Beukenkamp  
P. O. Box 5291  
Niceville, FL 32578-5291

Any party shall have the right, from time-to-time, to change the address to which notices shall be sent by giving the other party at least five (5) business days prior notice of the address change.

**Section 10.** This Agreement shall be construed in accordance with the applicable laws of the State of Florida and venue for enforcement of any provision under this Agreement shall be in Okaloosa County, Florida. If any provision of this Agreement violates any statute or rule of the State of Florida, it is considered modified to conform to that statute or rule of law. Further, in the event that a portion of this Agreement is found to be invalid, illegal or unenforceable, then that provision shall be severed from the Agreement and shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.


**Section 11.** It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damages pursuant to the terms or provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties to this agreement have caused their names to be affixed by the proper officer thereof.

For the MSBU BOARD

For the COUNTY:


  
Debbie Stretch, Chairman

  
Charles K. Windes, Jr., Chairman  
Board of County Commissioners




Attest:

  
Witness Signature

  
J. D. Peacock II  
Clerk of the Circuit Court



  
Witness Printed Name

  
Witness Signature

  
Witness Printed Name

Agreement Number: 16HM-H4-01-56-01-300

Project Number: 4177-06-R

### FEDERALLY-FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Division") and Okaloosa County, (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

- A. The Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and
- B. The Division has received these grant funds from the State of Florida, and has the authority to subgrant these funds to the Recipient upon the terms and conditions below; and
- C. The Division has statutory authority to disburse the funds under this Agreement.

THEREFORE, the Division and the Recipient agree to the following:

(1) SCOPE OF WORK

The Recipient shall perform the work in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS, AND POLICIES

The Recipient and the Division shall be governed by applicable State and Federal laws, rules and regulations, including those identified in Attachment B.

(3) PERIOD OF AGREEMENT

This Agreement shall begin upon execution by both parties, and shall end June 23, 2016, unless terminated earlier in accordance with the provisions of Paragraph (12) of this Agreement.

(4) MODIFICATIONS OF CONTRACT

Either party may request modification of the provisions of this Agreement. Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.

(5) RECORDKEEPING

(a) As applicable, Recipient's performance under this Agreement shall be subject to the Federal OMB Circular No. A-102, "Common Rule: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (53 Federal Register 8034) or OMB Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Educations, Hospitals, and Other Non-Profit Organizations," and either OMB Circular No. A-87, "Cost

Principles for State, Local and Indian Tribal Governments," OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Non-Profit Organizations."

(b) The Recipient shall retain sufficient records to show its compliance with the terms of this Agreement, and the compliance of all sub-contractors and consultants paid from funds under this Agreement, for a period of five years from the date the audit report is issued, and shall allow the Division or its designee, the State Chief Financial Officer or the State Auditor General access to the records upon request. The Recipient shall ensure that audit working papers are available to them upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Division. The five year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the five year period expires, and extends beyond the five year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for five years after final disposition.
3. Records relating to real property acquired shall be retained for five years after the closing of the transfer of title.

(c) The Recipient shall maintain all records for the Recipient and for all subcontractors of consultants to be paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work – Attachment A – and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this agreement, shall allow access to its records at reasonable times to the Division, its employees, and agents. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 pm., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Division.

#### (6) AUDIT REQUIREMENTS

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at reasonable times for inspection, review, or audit by state personnel and other personnel authorized by the Division. "Reasonable" shall ordinarily mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall provide the Division with records, reports and financial statements upon request for the purpose of auditing and monitoring the funds awarded under this Agreement.

(d) If the Recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends \$500,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in

accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement shows the Federal resources awarded through the Division by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal resources received from the Division. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph.

In connection with the audit requirements addressed in this Paragraph (6)(d) above, the Recipient shall fulfill the requirements for auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Recipient expends less than \$500,000 in Federal awards in its fiscal year and chooses to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds.

(e) Send copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above, when required by Section .320(d) OMB Circular A-133, as revised, by or on behalf of the Recipient to:

The Division at the following address:

Division of Emergency Management  
Office of Inspector General  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

Send the Single audit reporting package and Form SF-SAC to the Federal Audit Clearinghouse by submission online at

<http://harvester.census.gov/fac/collect/ddeindex.html>

And to any other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f) OMB Circular A-133, as revised.

(f) Pursuant to Section .320(f), OMB Circular A-133, as revised, the Recipient shall send a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letter issued by the auditor to the Division at the following address:

Division of Emergency Management  
Office of Inspector General  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

(g) By the date due, send any reports, management letter, or other information required to be submitted to the Division pursuant to this Agreement in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local government entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General, as applicable.



(h) Recipients should state the date that the reporting package was delivered to the Recipient when submitting financial reporting packages to the Division for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local government entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General.

(i) If the audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty days after the Division has notified the Recipient of such non-compliance.

(j) The Recipient shall have all audits completed by an independent certified public Accountant (IPA), either a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The IPA shall state that the audit complied with the applicable provisions noted above. The audit must be received by the Division no later than nine months from the end of the Recipient's fiscal year.

#### (7) REPORTS

(a) The Recipient shall provide the Division with quarterly reports and a close-out report. These reports shall include the current status and progress by the Recipient and all sub-recipients and subcontractors in completing the work described in the Scope of Work and the expenditures of funds under this Agreement, in addition to any other information requested by the Division.

(b) Quarterly reports are due to the Division no later than 15 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates of each quarter of the program year are March 31, June 30, September 30, and December 31.

(c) The close-out report is due 60 days after termination of this Agreement or 60 days after completion of the activities contained in this Agreement, whichever first occurs.

(d) If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, the Division may withhold further payments until they are completed or may take other action as stated in Paragraph (11) REMEDIES. "Acceptable to the Division" means that the work product was completed in accordance with the Budget and Scope of Work.

(e) The Recipient shall provide additional program updates or information that may be required by the Division.

(f) The Recipient shall provide additional reports and information identified in Attachment D.

#### (8) MONITORING

The Recipient shall monitor its performance under this Agreement, as well as that of its subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that time schedules are being met, the Schedule of Deliverables and Scope of Work are being accomplished within the specified time periods, and other performance goals are being achieved. A review shall be done for each function or activity in Attachment A to this Agreement, and reported in the quarterly report.

In addition to reviews of audits conducted in accordance with Paragraph (6) above, monitoring procedures may include, but not be limited to, on-site visits by Division staff, limited scope audits, and/or other procedures. The Recipient agrees to comply and cooperate with any monitoring procedures/ processes deemed appropriate by the Division. In the event that the Division determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Division to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Florida Chief Financial Officer or Auditor General. In addition, the Division will monitor the performance and financial management by the Recipient throughout the contract term to ensure timely completion of all tasks.

(9) LIABILITY

(a) Unless Recipient is a State agency or subdivision, as defined in Section 768.28, Florida Statutes; the Recipient is solely responsible to parties it deals with in carrying out the terms of this Agreement, and shall hold the Division harmless against all claims of whatever nature by third parties arising from the work performance under this agreement. For purposes of this Agreement, Recipient agrees that it is not an employee or agent of the Division, but is an independent contractor.

(b) Any Recipient which is a state agency or subdivision, as defined in Section 768.28, Florida Statutes, agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts of omissions to the extent set forth in Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(10) DEFAULT

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make further payment of funds shall, if the Division elects, terminate and the Division has the option to exercise any of its remedies set forth in Paragraph (11). However, the Division may make payments or partial payments after any Events of Default without waving the right to exercise such remedies, and without becoming liable to make any further payment:

(a) If any warranty or representation made by the Recipient in this Agreement or any previous agreement with the Division is or becomes false or misleading in any respect, or if the Recipient fails to keep or perform any of the obligations, terms or covenants in this Agreement of any previous agreement with the Division and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;

(b) If material adverse changes occur in the financial condition of the Recipient at any time during the term of this Agreement and the Recipient fails to cure this adverse change within thirty days from the date written notice is sent by the Division;

(c) If any reports required by this Agreement have not been submitted to the Division or have been submitted with incorrect, incomplete or insufficient information;

(d) If the Recipient has failed to perform and complete on time any of its obligations under this Agreement.

(11) REMEDIES

If an Event of Default occurs, then the Division shall, after thirty calendar days written notice to the Recipient and upon the Recipient's failure to cure within those thirty days, exercise any one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement, provided that the Recipient is given at least thirty days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in Paragraph (13) herein;

(b) Begin an appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Require that the Recipient refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds;

(e) Exercise any corrective or remedial actions, to include but not limited to:

1. Request additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance,

2. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected,

3. Advise the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question, or

4. Require the Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible.

(f) Exercise any other rights or remedies which may be available under law;

(g) Pursuing any of the above remedies will not stop the Division from pursuing any other remedies in this Agreement or provided at law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Recipient, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Recipient.

(12) TERMINATION

(a) The Division may terminate this Agreement for cause after thirty days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Florida Statute, as amended.

(b) The Division may terminate this Agreement for convenience or when it determines, in its sole discretion that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Recipient with thirty calendar days prior written notice.

(c) The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

(d) In the event that this Agreement is terminated, the Recipient will not incur new obligations for the termination portion of the Agreement after the Recipient has received the notification of termination. The Recipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Recipient shall not be relieved of liability to the Division because of any breach of Agreement by the Recipient. The Division may, to the extent authorized by law, withhold payments to the Recipient for the purpose of set-off until the exact amount of damages due to the Division from the Recipient is determined.

(13) NOTICE AND CONTACT

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative named below, at the address below, and this notification attached to the original of this Agreement.

(b) The name and address of the Division contract manager for this Agreement is:

Ms. Velma Noel, Project Manager  
Bureau of Mitigation  
Division of Emergency Management  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
Telephone: (850) 487-4910  
Fax: (850) 922-1259  
Email: [velma.noel@em.myflorida.com](mailto:velma.noel@em.myflorida.com)

(c) The name and address of the Representatives of the Recipient responsible for the administration of this Agreement is:

Ms. Marcella B. Eubanks  
Contracts and Grants Manager  
Okaloosa County  
101 James Lee Blvd. Suite 104  
Crestview, Florida 32536  
[meubanks@okaloosaclerk.com](mailto:meubanks@okaloosaclerk.com)

(d) In the Event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as outlined in (13)(a) above.

(14) SUBCONTRACTS

If the Recipient subcontracts any of the work required under this Agreement, a copy of the unsigned subcontract must be forwarded to the Division for review and approval before it is executed by the Recipient. The Recipient agrees to include in the subcontract that (i) the subcontract is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the division and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Recipient shall document in the quarterly report the subcontractor's progress in performing its work under this Agreement.

For each subcontract, the Recipient shall provide a written statement to the Division as to whether that subcontractor is a minority business enterprise, as defined in Section 288.703, Florida Statutes.

(15) TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the parties.

(16) ATTACHMENTS

(a) All attachments to this Agreement are incorporated as if set out fully.

(b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(c) This Agreement has the following attachments:

Exhibit 1 – Funding Sources

Attachment A – Budget and Scope of Work

Attachment B – Program Statutes and Regulations

Attachment C – Statement of Assurances

Attachment D – Request for Advance or Reimbursement

Attachment E – Justification of Advance

Attachment F – Quarterly Report Form

Attachment G – Warranties and Representations

Attachment H – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Attachment I – Federal Funding Accountability and Transparency Act Instruction and Worksheet

(17) FUNDING/CONSIDERATION

(a) This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder in an amount not to exceed **\$97,680.00**, subject to the availability of funds.

(b) Any advance payment under this Agreement is subject to Section 216.181 (16), Florida Statutes, and is contingent upon the Recipient's acceptance of the rights of the Division under Paragraph (12)(b) of this Agreement. The amount which may be advanced may not exceed the expected cash needs of the Recipient within the first three (3) months of the contract term. For a federally funded contract, and advance payment is also subject to federal OMB Circulars A-87, A-110, A-122 and the Cash Management Improvement Act of 1990. All advances are required to be held in an interest-bearing account. If an advance payment is requested, the budget data on which the request is based and a justification statement shall be included in the Agreement as Attachment E. Attachment E will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds. No advance shall be accepted for processing if a reimbursement has been paid prior to the submittal of a request for advance payment.

(c) After the initial advance, if any, payment shall be made on a reimbursement basis as needed. The Recipient agrees to expend funds in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

(d) Invoices shall be submitted at least quarterly and shall include the supporting documentation for all costs of the project or services. Invoices shall be accompanied by a statement signed and dated by an authorized representative of the Recipient certifying that "all disbursements made in accordance with conditions of the Division agreement and payment is due and has not been previously requested for these amounts." The supporting documentation must comply with the documentation requirements of applicable OMB Circular Cost Principles. The final invoices shall be submitted within sixty (60) days after the expiration date of the Agreement. An explanation of any circumstances prohibiting the submittal of quarterly invoices shall be submitted to the Division contract manager as part of the Recipient's quarterly reporting as referenced in Paragraph (7) of this Agreement.

If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budgeting, the State Chief Financial Officer or under subparagraph (19) (h) of this Agreement, all obligations on the part of the Division to make any further payment of funds shall terminate, and the Recipient shall submit its closeout report within thirty days of receiving notice from the Division.

(18) REPAYMENTS

All refunds or repayments due to the Division under this Agreement are to be made payable to the order of "Division of Emergency Management" and mailed directly to the following address:

Division of Emergency Management  
Cashier  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

In accordance with Section 215.34(2), Florida Statutes, if a check or other draft is returned to the Division for collection, Recipient shall pay the Division a service fee of \$15.00 or 5% of the face amount of the returned check or draft, whichever is greater.

(19) MANDATED CONDITIONS

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions or any material changes shall, at the option of the Division and with thirty days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision shall be null and void to the extent of the conflict, and shall be severable, but shall not invalidate any other provision of this Agreement.

(c) Any power of approval or disapproval granted to the Division under the terms of this Agreement shall survive the term of this Agreement.

(d) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 United States Code (U.S.C.), Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

(f) Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of \$25,000 for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

(g) Any Recipient which is not a local government of state agency, and which receives funds under this Agreement from the federal government, certifies, to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
2. Have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph (19)(g)2 of this certification; and
4. Have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

If the Recipient is unable to certify to any of the statements in this certification, then the Recipient shall attach an explanation to this Agreement.

**In addition, the Recipient shall send to the Division (by email or by facsimile transmission) the completed "Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion" (Attachment H) for each intended subcontractor which Recipient plans to fund under this Agreement. The form must be received by the Division before the Recipient enters into a contract with any subcontractor.**

(h) The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Florida Statutes or the Florida Constitution.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(j) Any bills for travel expenses shall be submitted in accordance with Section 112.061, Florida Statutes.

(k) The Division reserves the right to unilaterally cancel this Agreement if the Recipient refuses to allow public access to all documents, papers, letters or other material subject to the provisions of chapter 119, Florida Statutes, which the Recipient created or received under this Agreement.

(l) If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Division or be applied against the Division's obligation to pay the contract amount.



(m) The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA)]. The Division shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A (e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A (e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Division.

(n) The Recipient is subject to Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings shall be publicly noticed, open to the public, and the minutes of all meetings shall be public records, available to the public in accordance with Chapter 119, Florida Statutes.

(o) All unmanufactured and manufactured articles, material and supplies which are acquired for public use under this Agreement must have been produced in the United States as required under 41 U.S.C. 10a, unless it would not be in the public interest or unreasonable in cost.

#### (20) LOBBYING PROHIBITION

(a) No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and 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 Recipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities."

3. The Recipient shall require that this certification be included in the award documents for all sub-awards (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(21) COPYRIGHT, PATENT AND TRADEMARK

**ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA. ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE RECIPIENT TO THE STATE OF FLORIDA.**

(a) If the Recipient has a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with it, the Recipient shall refer the discovery or invention to the Division for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Division. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Recipient to the State of Florida.

(c) Within thirty days of execution of this Agreement, the Recipient shall disclose all intellectual properties relating to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under subparagraph (b), have the right to all patents and copyrights which accrue during performance of the Agreement.

(22) LEGAL AUTHORIZATION


The Recipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Recipient also certifies that the undersigned person has the authority to legally execute and bind Recipient to the terms of this Agreement.

(23) ASSURANCES

The Recipient shall comply with any Statement of Assurances incorporated as Attachment C.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

**RECIPIENT: OKALOOSA COUNTY**

By:   
Name and Title: Charles K. Windes, Jr. Chairman  
Date: 1-19-16  
FEID#: 59-6000765



**STATE OF FLORIDA  
DIVISION OF EMERGENCY MANAGEMENT**

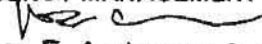
By:   
**Miles E. Anderson, for**  
Name and Title: Bryan W. Koon, Director  
Date: 2/11/2016

EXHIBIT – 1

THE FOLLOWING FEDERAL RESOURCES ARE AWARDED TO THE RECIPIENT UNDER THIS AGREEMENT:

**Federal Program: Federal Emergency Management Agency: Hazard Mitigation Grant**  
**Catalog of Federal Domestic Assistance Number: 97.039**  
**Amount of Federal Funding: \$97,680.00**

THE FOLLOWING COMPLIANCE REQUIREMENTS APPLY TO THE FEDERAL RESOURCES AWARDED UNDER THIS AGREEMENT:

- OMB Circular A-110 Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments
- OMB Circular A-87 Cost Principles for State and Local Governments
- OMB Circular A-21 Cost Principles for Educational Institutions
- OMB Circular A-133 Audits of State, Local Governments, and Non Profit Organizations

Commonly Applicable Statutes and Regulations

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- Sections 1361(A) of the National Flood Insurance Act of 1968 (NFIA, or "the Act"), 42 U.S.C. 4104c, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264
- Title 44 of the Code of Federal Regulations (CFR)
- 44 CFR Part 80 Property Acquisition and Relocation of Open Space
- 44 CFR Part 10 Environmental Considerations
- 44 CFR Part 13 Uniform Administrative Requirements for Grants and cooperative Agreements to State and Local Governments
- 31 CFR Part 205 Rules and Procedures for Funds Transfers

**Federal Program:**

*List applicable compliance requirements as follows:*

1. Recipient is to use funding to perform the following eligible activities:
  - Acquisition of hazard prone properties
  - Localized Minor Drainage Improvement
  
2. Recipient is subject to all administrative and financial requirements as set forth in this Agreement, or will be in violation of the terms of the Agreement.

*NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the Recipient.*

## Attachment A

### Budget and Scope of Work

#### **STATEMENT OF PURPOSE:**

The purpose of this Scope of Work (SOW) is to improve drainage for Okaloosa County, Florida; funded through the Hazard Mitigation Grant Program (HMGP), DR-4177-06-R, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Recipient, Okaloosa County shall conduct Phase I of this project, which includes the preliminary engineering designs and calculations, surveys, permitting, and notices. No construction activities are approved at this time. The Recipient shall complete the Phase I work in accordance with all applicable federal, state and local laws, regulations and codes.

All Phase I activities and deliverables shall be completed and submitted to the Division prior to **June 23, 2016**.

#### **PROJECT OVERVIEW:**

As a Hazard Mitigation Grant Program project, the Recipient proposes to improve the drainage for the areas Southwind Drive, Dominica Way, Aruba Way and Curacao Way in Niceville, Florida 32578. The Phase I design shall implement measures to determine modifications needed to improve the drainage and alleviate flooding. Mitigation activities for phase I shall include:

- A topographic survey of the drainage basin to confirm the basin boundaries, pipe invert elevations, inlet top elevations, and other drainage features.
- A hydraulic study and recommended improvements to the drainage system to mitigate future flooding.
- Designs and permitting.

Phase II is expected to include a series of pipe replacement improvements in four separate locations. The work shall include removal of existing pipe and drainage structures as necessary, followed by the installation of new reinforced concrete pipes and inlets consistent with the upgrade recommendations of the hydraulic study.

The improvements, when completed, shall minimize or eliminate future structural damage and provide protection to the surrounding properties in the area; minimize recurring flooding and reduce repetitive flood loss to properties. The completed project shall provide protection against a 25-year storm event.

#### **TASKS & DELIVERABLES:**

##### **A) Tasks**

- 1) The Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the Phase I Scope of Work as approved by the Division and FEMA. The Recipient shall select the qualified, licensed Florida contractor in accordance with the Recipient's procurement policy as well as all federal and state laws and regulations.

All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

The Recipient shall ensure that no contractors or subcontractors are debarred or suspended from

participating in federally funded projects.

The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed. The Recipient shall provide documentation demonstrating the results of the procurement process. This shall include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this Agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Recipient.

- 2) The Recipient shall provide copies of professional licenses for contractors selected to perform services. The Recipient shall provide a copy of a current and valid occupational license or business tax receipt issued for the type of services to be performed by selected contractor.

The Recipient shall monitor and manage the Phase I portion of this project in accordance with the Hazard Mitigation Grant Program application and supporting documentation as submitted to the Division and subsequently approved by the Division and FEMA. The Division and FEMA shall render a Phase II determination upon completion of the review of Phase I deliverables. No construction activities are approved at this time. The Recipient shall ensure that all applicable state, local and federal laws and regulations are followed and documented, as appropriate.

Phase I consists of fees; for conducting survey, drainage study, engineering, design, public notices, and/or permitting associated with the modification(s) needed to upgrade the drainage. Verification of upstream and downstream impacts shall be necessary for determining project eligibility.

All Phase I work shall be completed in accordance with all applicable state, local and federal laws and regulations and documented, as appropriate.

Notify the public of the intent to locate the proposed action in the floodplain or/and wetland. The notice shall be published at least once in a local newspaper of general circulation. The public shall be given at least fifteen (15) days to comment. The Recipient shall meet federal requirements of notification. Compliance shall be submitted with deliverables.

Upon completion of Task 2, the Recipient shall submit a final copy of the below documents and any necessary supporting documentation, and provide a summary of all contract Scope of Work changes, if any.

- a) Two sets of engineering Signed/Sealed final design and analysis, surveying, and Hydrologic and Hydraulic (H&H) Studies;
- b) Construction Plans and bid documents;
- c) Revised cost estimate for Phase II – construction (include Phase I costs), to implement the design project;
- d) Design documents shall provide a detailed description which includes specifics on project Scope of Work, depth and extent of ground disturbance at all construction locations of the project.
- e) An H&H study shall be completed. If impacts to waters of the United States (US) or wetlands are identified in the study, coordination with U.S Army Corps of Engineers (USACE) shall be required. Any conditions imposed by the USACE shall be included in the final design plans, narrative and project implementation actions.

- f) Color areal map shall be provided with the project location and staging areas clearly marked on map. The full extent of the project footprint and depth of ground disturbance shall be clearly indicated, including area in square feet and depth in feet.
- g) Information regarding past, present and future land use, and a detailed narrative on all proposed actions is required.
- h) Copy of all environmental permits obtained from the Florida Department of Environmental Protection (FDEP), Northwest Florida Water Management District (NFWFMD), USACE, and any conditions for compliance shall be included in the final design plans, narrative and project implementation actions.
- i) Any other documentation requested by the Division, not limited to Project conditions and requirements herein.

If any work is proposed to be conducted around/in the water, due to the proximity to the water and potential for listed species and protected areas/sanctuaries in the project area, the Recipient shall contact the USACE, for scoping assistance. Any conditions imposed by the USACE shall be included in the final design plans, narrative and project implementation actions.

- 3) During the course of this Agreement the Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, all project activities may not be fully complete prior to requesting reimbursement of costs incurred in completion of this Scope of Work; however, a partial reimbursement may be requested.

The Recipient shall submit an Affidavit signed by the Recipient's project personnel with each reimbursement request attesting to the completion of the work, disbursements or payments were made in accordance with all Agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Recipient shall maintain accurate time records. The Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this Agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

**Direct Expenses:** The Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills, invoices, and/or charges. Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

**Project Management Expenses:** The Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved Scope of Work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the

Division in coordination with the Recipient.

Quarterly reports shall be submitted by the Recipient and received by the Division at the times provided in this Agreement prior to the processing of any reimbursement.

The Recipient shall submit to the Division requests for reimbursement of actual Phase I costs related to the project as identified in the project application and this Scope of Work. The Requests for Reimbursement (RFR) shall include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount;

The Recipient's RFR shall include the final Phase I project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

#### **B) Deliverables:**

Mitigation activities consist of:

- Project designs that shall implement measures to upgrade drainage system.
- A hydraulic study and recommended improvements to the drainage system to mitigate future flooding in the area bound by Southwind Drive, Dominica Way, Aruba Way and Curacao Way.
- The completed improvements for the project shall be designed to provide a 25-year protection.
- The Recipient shall provide designs and calculations for Phase II review, including verification that there shall not be any upstream or downstream impact, and obtain required permits.

Provided the Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Recipient based on the percentage of overall project completion.

#### **PROJECT CONDITIONS AND REQUIREMENTS:**

##### **C) Engineering:**

- 1) The Recipient shall submit Engineering plans that clearly shows the engineer's estimate of the pre and post-mitigation effects of the proposed project and the relationship of the damages to be mitigated (commensurate with the level of funding requested). This includes, but is not limited to, the existing and proposed Hydrologic and Hydraulic (H&H) for the level of event being mitigated.
- 2) Design documents shall provide a detailed description which includes specifics on project Scope of Work, depth and extent of ground disturbance at all construction locations of the project.
- 3) An H&H study shall be completed; if impacts to waters of the United States or wetlands are identified in the study, coordination with USACE shall be required. Any conditions imposed by the USACE shall be included in the final design plans, narrative and project implementation actions.



- 4) Provide a set of Community Approved, State reviewed construction plans (sealed) for review and comment including milestones and timelines for completion of the final phase of the project and bid documents/awards.
- 5) Demonstrate mitigation effectiveness, in part, by showing the physical location(s) and elevation(s) of the infrastructure/structures that is being damaged and FEMA Special Flood Hazard Areas on the same plan.
- 6) Submit a refined cost estimate, to include Phase I Fees and Phase II Construction materials and Labor. A new Benefit Cost Analysis shall be performed using the revised information.

**D) Environmental:**

- 1) The Recipient shall follow all applicable State, Local and Federal Laws Regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate Federal, State, and Local environmental permits and clearances may jeopardize federal funding. If project work is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies shall be redone.
- 2) Any change, addition or supplement to the approved Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, will require re-submission of the application to FEMA through the Division for National Environmental Policy Act (NEPA) re-evaluation before starting project work.
- 3) If any ground disturbance activities occur during construction, the Recipient will monitor those activities, and if any potential archeological resources are discovered, shall immediately cease construction in that area and notify the Division and FEMA.
- 4) Color map shall be provided with the project location and staging areas clearly marked on the map. Color project maps that show the full extent of the project footprint and depth of ground disturbance shall be provided.
- 5) Copy of all environmental permits including an Environmental Resource Permit (ERP) from the NFWFMD and USACE permit shall be submitted. Any conditions for compliance shall be included in the final design plans, narrative and project implementation actions. If not permit is require, the Recipient shall submit notification of no permit required (NPR) form the NFWFMD and/or the USACE.
- 6) Tribal Consultation shall be required for proposed ground disturbing activities. Following documents shall be required and submitted as part of deliverables:
  - a) Horizontal limits and vertical depths of ground disturbance in feet and square feet (mapped) with locations of staging areas marked;
  - b) Geographic latitude/longitude of the proposed construction areas;
  - c) Previous and current use of proposed project area;
  - d) Any known site work or historic uses for the proposed location;
  - e) Proposed future use of project location;
  - f) Any available studies that may have taken place on the property.
  - g) Indicate if project site is located within designated historic district or historic neighborhood
- 7) Phase I of this project is approved with the condition that the above list of deliverables shall be submitted for review and approval by the Division and FEMA before Phase II is considered. No construction work may begin until Phase II is approved by the Division and FEMA.

**D) Programmatic:**

- 1) Demonstrate mitigation effectiveness, in part, by showing the physical location(s) and elevation(s) of the infrastructure/structures that is being damaged and the Federal Emergency Management Agency (FEMA) Special Flood Hazard Areas on the same plan.
- 2) A change in the Scope of Work shall be approved by the Division and FEMA in advance regardless of the budget implications.
- 3) The Recipient shall notify the Division as soon as significant developments becomes known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 4) The Recipient shall "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 5) Any extension of the Period of Performance (POP) shall be submitted to FEMA, 60 days prior to the expiration date. Therefore, any request for a POP extension shall be in writing and submitted along with substantiation of new expiration date, and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.
- 6) The Recipient shall avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.

**FINANCIAL CONSEQUENCES:**

- 1) If the Recipient fails to comply with any term of the award, the Division shall take one or more of the following actions, as appropriate in the circumstances:
  - a) Temporarily withhold cash payments pending correction of the deficiency by the Recipient;
  - b) Disallow all or part of the cost of the activity or action not in compliance;
  - c) Wholly or partly suspend or terminate the current award for the Recipient's program;
  - d) Withhold further awards for the program; or
  - e) Take other remedies that may be legally available.

This is FEMA project number **4177-6-R**, funded under HMGP 4177-DR-FL.

FEMA approved this project June 23, 2015 and the project shall begin upon execution. The POP for Phase I end **June 23, 2016**.

**Schedule of Work:**

State Contracting:	3	Months
Engineering, Design & Permitting Document Preparation:	3	Months
Topographic/Existing Conduct Survey:	1	Month

H&H Assessment:	3	Months
<u>Agency Coordination &amp; Permits</u>	2	Months
<b>Total:</b>	<b>12</b>	<b>Months</b>

**BUDGET**

**Line Item Budget\***

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Local Share**</u>
Design, Eng, Surveys & Permits:	\$120,240.00	\$90,180.00	\$30,060.00
Topographic Survey	<u>\$10,000.00</u>	<u>\$7,500.00</u>	<u>\$2,500.00</u>
<b>Total:</b>	<b>\$130,240.00</b>	<b>\$97,680.00</b>	<b>\$32,560.00</b>

\* Any line item amount in this Budget may be increased or decreased 10% or less without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.

\*\*Local Share in the amount of \$10,000.00 will be met by the Recipient through In-Kind (In-House) services.

**Funding Summary**

Federal Share:	\$97,680.00	(75%)
<u>Local Share:</u>	<u>\$32,560.00</u>	<u>(25%)</u>
<b>Total Project Cost:</b>	<b>\$130,240.00</b>	<b>(100%)</b>

The project cost is inclusive of administrative cost.

## Attachment B

### Program Statutes and Regulations

The parties to this Agreement and the Hazard Mitigation Grant Program (HMGP) are generally governed by the following statutes and regulations:

- (1) The Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- (2) 44 CFR Parts 7, 9, 10, 13, 14, 17, 18, 25, 206, 220, and 221, and any other applicable FEMA policy memoranda and guidance documents;
- (3) State of Florida Administrative Plan for the Hazard Mitigation Grant Program;
- (4) Hazard Mitigation Long-term Recovery Guidance; and
- (5) All applicable laws and regulations delineated in Attachment C of this Agreement.

In addition to the above statutes and regulations, the Recipient must comply with the following:

The Recipient shall fully perform the approved hazard mitigation project, as described in the Application and Attachment A (Budget and Scope of Work) attached to this Agreement, in accordance with approved scope of work indicated therein, the estimate of costs indicated therein, the allocation of funds indicated therein, and the terms and conditions of this Agreement. The Recipient shall not deviate from the approved project and the terms and conditions of this Agreement. The Recipient shall comply with any and all applicable codes and standards in performing work funded under this Agreement, and shall provide any appropriate maintenance and security for the project.

Any development permit issued by, or development activity undertaken by, the Recipient and any land use permitted by or engaged in by the Recipient, shall be consistent with the local comprehensive plan and land development regulations prepared and adopted pursuant to Chapter 163, Part II, Florida Statutes. Funds shall be expended for, and development activities and land uses authorized for, only those uses which are permitted under the comprehensive plan and land development regulations. The Recipient shall be responsible for ensuring that any development permit issued and any development activity or land use undertaken is, where applicable, also authorized by the Water Management District, the Florida Department of Environmental Protection, the Florida Department of Health, the Florida Game and Fish Commission, and any Federal, State, or local environmental or land use permitting authority, where required. The Recipient agrees that any repair or construction shall be in accordance with applicable standards of safety, decency, and sanitation, and in conformity with applicable codes, specifications and standards.

The Recipient will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the completed work conforms with the approved plans and specifications and will furnish progress reports and such other information to HMGP as may be required.

If the hazard mitigation project described in Attachment A includes an acquisition or relocation project, then the Recipient shall ensure that, as a condition of funding under this Agreement, the owner of the affected real property shall record in the public records of the county where it is located the following covenants and restrictions, which shall run with and apply to any property acquired, accepted, or from which a structure will be removed pursuant to the project.

- (1) The property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

- (2) No new structure will be erected on property other than:
  - a. a public facility that is open on all sides and functionally related to a designed open space;
  - b. a restroom; or
- (3) A structure that the Director of the Federal Emergency Management Agency approves in writing before the commencement of the construction of the structure;
- (4) After the date of the acquisition or relocation no application for disaster assistance for any purpose will be made to any Federal entity and no disaster assistance will be provided for the property by any Federal source; and
- (5) If any of these covenants and restrictions is violated by the owner or by some third party with the knowledge of the owner, fee simple title to the Property described herein shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida without further notice to the owner, its successors and assigns, and the owner, its successors and assigns shall forfeit all right, title and interest in and to the property.

HMGP Contract Manager will evaluate requests for cost overruns and submit to the regional Director written determination of cost overrun eligibility. Cost overruns shall meet Federal regulations set forth in 44 CFR 206.438(b).

The National Environmental Policy Act (NEPA) stipulates that additions or amendments to a HMGP Recipient Scope of Work (SOW) shall be reviewed by all State and Federal agencies participating in the NEPA process. **You are reminded that no construction may occur in this phase that a full environmental review must be completed prior to funding Phase II.**

As a reminder, the Recipient must obtain prior approval from the State, before implementing changes to the approved project Scope of Work (SOW). Per the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments:

- (1) For Construction projects, the grantee must "obtain prior written approval for any budget revision which result in a need for additional funds" (44 CFR 13(c));
- (2) A change in the Scope of Work must be approved by FEMA in advance regardless of the budget implications; and
- (3) The Recipient must notify the State as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower cost or earlier completion. Any extensions of the period of performance must be submitted to FEMA sixty days prior to the project expiration date.

#### STATEMENT OF ASSURANCES

The Recipient assures that it will comply with the following statutes and regulations to the extent applicable:

- (1) 53 Federal Register 8034
- (2) Federal Acquisition Regulations 31.2
- (3) Section 1352, Title 31, US Code
- (4) OMB Circulars A-21, A-87, A-110, A-122
- (5) Chapter 473, Florida Statutes
- (6) Chapter 215, Florida Statutes
- (7) Section 768.28, Florida Statutes
- (8) Chapter 119, Florida Statutes
- (9) Section 216.181(6), Florida Statutes
- (10) Cash Management Improvement Act Of 1990

- (11) American with Disabilities Act
- (12) Section 112.061, Florida Statutes
- (13) Immigration and Nationality Act
- (14) Section 286.011, Florida Statutes
- (15) E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements 28 CFR, Part 66, Common Rule
- (16) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970
- (17) Title I of the Omnibus Crime Control and Safe Streets Act of 1968
- (18) Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act
- (19) 28 CFR applicable to grants and cooperative Agreements
- (20) Omnibus Crime Control and Safe Streets Act of 1968, as amended
- (21) 42 U.S.C. 3789(d) or Victims of Crime Act (as appropriate)
- (22) Section 504 of the Rehabilitation Act of 1973, as amended
- (23) Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990)
- (24) 28 CFR, Part 42, Subparts C, D, E, and G
- (25) Department of Justice regulations on disability discrimination, 28 CFR, Part 35 and Part 39
- (26) 42 U.S.C. 5154a
- (27) 44 CFR, Part 60.3 and City/County Ordinance

## Attachment C

### Statement of Assurances

To the extent the following provisions apply to this Agreement, the Recipient certifies that:

- (a) It possesses legal authority to enter into this Agreement and to carry out the proposed program;
- (b) Its governing body has duly adopted or passed as an official act of resolution, motion or similar action authorizing the execution of the hazard mitigation agreement with the Division of Emergency Management (DEM), including all understandings and assurances contained in it, and directing and authorizing the Recipient's chief administrative officer or designee to act in connection with the application and to provide such additional information as may be required;
- (c) No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall receive any share or part of this Agreement or any benefit. No member, officer, or employee of the Recipient or its designees or agents, no member of the governing body of the locality in which this program is situated, and no other public official of the locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year after, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds, for work to be performed in connection with the program assisted under this Agreement. The Recipient shall incorporate, in all contracts or subcontracts a provision prohibiting any interest pursuant to the purpose stated above;
- (d) All Recipient contracts for which the State Legislature is in any part a funding source, shall contain language to provide for termination with reasonable costs to be paid by the Recipient for eligible contract work completed prior to the date the notice of suspension of funding was received by the Recipient. Any cost incurred after a notice of suspension or termination is received by the Recipient may not be funded with funds provided under this Agreement unless previously approved in writing by the Division. All Recipient contracts shall contain provisions for termination for cause or convenience and shall provide for the method of payment in such event;
- (e) It will comply with:
  - (1) Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327 et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week; and
  - (2) Federal Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., requiring that covered employees be paid at least minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
- (f) It will comply with
  - (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Recipient, this assurance shall obligate the Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is

used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;

- (2) Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualified handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973;
  - (3) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship;
- (g) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties pursuant to Section 112.313 and Section 112.3135, Florida Statutes;
- (h) It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Section 51 which outlaws and prescribes penalties for "kickbacks" of wages in federally financed or assisted construction activities;
- (i) It will comply with the provisions of 18 U.S.C. 594, 598, 600-605 (further known as the Hatch Act) which limits the political activities of employees;
- (j) It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4002-4107, including requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;

For sites located within Special Flood Hazard Areas (SFHA), the Recipient must include a FEMA Model Acknowledgement of Conditions of Mitigation of Property in a Special Flood Hazard Area with FEMA Grant Funds executed by the title holder with the closeout request verifying that certain SFHA requirements were satisfied on each of the properties. The Model Acknowledgement can be found at [www.fema.gov/governmenta/grant/sfha\\_conditions.shtml](http://www.fema.gov/governmenta/grant/sfha_conditions.shtml)

- (k) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the "Uniform Federal Accessibility Standards," (AS) which is Appendix A to 41 CFR Section 101-19.6 for general type buildings and Appendix A to 24 CFR, Part 40 for residential structures. The Recipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor;
- (l) It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (U.S.C. 470), Executive Order 11593, 24 CFR, Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et seq.) by:
- (1) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR, Section 800.8) by the proposed activity; and



- (2) Complying with all requirements established by the State to avoid or mitigate adverse effects upon such properties.
- (3) Abiding by the terms and conditions of the "**Programmatic Agreement Among the Federal Emergency Management Agency, the Florida State Historic Preservation Office, the Florida Division of Emergency Management and the Advisory Council on Historic Preservation, (PA)**" which addresses roles and responsibilities of Federal and State entities in implementing Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470(f), and implementing regulations in 36 CFR, Part 800.
- (4) When any of the Recipient's projects funded under this Agreement may affect a historic property, as defined in 36 CFR, Part 800 (2)(e), the Federal Emergency Management Agency (FEMA) may require the Recipient to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the recommended approaches set out in the **Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards)**, the **Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines)** (48 Federal Register 44734-37), or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the **Standards**, the Recipient agrees to participate in consultations to develop, and after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.
- (5) The Recipient agrees to notify FEMA and the Division if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation of footings and foundations, and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise the Recipient on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery or archeological data from the property.
- If the Recipient is unable to avoid the archeological property, develop, in consultation with SHPO, a treatment plan consistent with the **Guidelines** and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties". The Recipient shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do not object within 15 calendar days of receipt of the treatment plan, FEMA may direct the Recipient to implement the treatment plan. If either the Council or the SHPO object, Recipient shall not proceed with the project until the objection is resolved.
- (6) The Recipient shall notify the Division and FEMA as soon as practicable: (a) of any changes in the approved scope of work for a National Register eligible or listed property; (b) of all changes to a project that may result in a supplemental DSR or modify a HMGP project for a National Register eligible or listed property; (c) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner. The Recipient acknowledges that FEMA may require the Recipient to stop construction in the vicinity of the discovery of a previously unidentified property that may be eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. The Recipient further acknowledges that FEMA may require the Recipient to take all reasonable measures to avoid or minimize harm to such property until FEMA concludes

consultation with the SHPO. The Recipient also acknowledges that FEMA will require, and the Recipient shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.

- (7) The Recipient acknowledges that, unless FEMA specifically stipulates otherwise, it shall not receive funding for projects when, with intent to avoid the requirements of the PA or the NHPA, the Recipient intentionally and significantly adversely affects a historic property, or having the legal power to prevent it, allowed such significant adverse affect to occur.
- (m) It will comply with Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;
  - (n) It will comply with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (42 U.S.C. 4521-45-94) relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (o) It will comply with 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - (p) It will comply with Lead-Based Paint Poison Prevention Act (42 U.S.C. 4821 et seq.) which prohibits the use of lead based paint in construction of rehabilitation or residential structures;
  - (q) It will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. 6201-6422), and the provisions of the State Energy Conservation Plan adopted pursuant thereto;
  - (r) It will comply with the Laboratory Animal Welfare Act of 1966, (7 U.S.C. 2131-2159), pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by an award of assistance under this Agreement;
  - (s) It will comply with Title VIII of the Civil Rights Act of 1968, (42 U.S.C 2000c and 42 U.S.C. 3601-3619), as amended, relating to non-discrimination in the sale, rental, or financing of housing, and Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or national origin;
  - (t) It will comply with the Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7642;
  - (u) It will comply with the Clean Water Act of 1977, as amended, 42 U.S.C. 7419-7626
  - (v) It will comply with the endangered Species Act of 1973, 16 U.S.C. 1531-1544;
  - (w) It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4728-4763;
  - (x) It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 270;
  - (y) It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347;
  - (z) It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 469a, et seq.;
  - (aa) It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination;

- (bb) It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j, regarding the protection of underground water sources;
- (cc) It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs;
- (dd) It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting components or potential components of the national wild and scenic rivers system;
- (ee) It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 12898 (Environmental Justice);
- (ff) It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3510;
- (gg) It will assure project consistency with the approved State program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1464; and
- (hh) It will comply with the Fish and Wildlife Coordination Act of 1958, 16 U.S.C. 661-666.
- (ii) With respect to demolition activities, it will:
  - (1) Create and make available documentation sufficient to demonstrate that the Recipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.
  - (2) Return the property to its natural state as though no improvements had ever been contained thereon.
  - (3) Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in the Recipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection and the County Health Department.
  - (4) Provide documentation of the inspection results for each structure to indicate:
    - a. Safety Hazard Present
    - b. Health Hazards Present
    - c. Hazardous Materials Present
  - (5) Provide supervision over contractors or employees employed by the Recipient to remove asbestos and lead from demolished or otherwise applicable structures.
  - (6) Leave the demolished site clean, level and free of debris.
  - (7) Notify the Division promptly of any unusual existing condition which hampers the contractor's work.
  - (8) Obtain all required permits.
  - (9) Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.

- (10) Comply with mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).
- (11) Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR, Part 15 and 61). This clause shall be added to any subcontracts.
- (12) Provide documentation of public notices for demolition activities.

**Attachment D**

**DIVISION OF EMERGENCY MANAGEMENT**

**REQUEST FOR ADVANCE OR REIMBURSEMENT OF  
HAZARD MITIGATION GRANT PROGRAM FUNDS**

RECIPIENT NAME: \_\_\_\_\_

REMIT ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP CODE: \_\_\_\_\_

PAYMENT #: \_\_\_\_\_ CONTRACT #: 16HM-H4-01-56-01-300

FEMA TRACKING #: 4177-06-R INVOICE PERIOD: \_\_\_\_\_ to \_\_\_\_\_

Eligible Amount 100%	Obligated Federal %	Obligated Non-Federal %	Previous Payments	Current Request	DEM Use Only	
					Approved	Comments

TOTAL CURRENT REQUEST: \$ \_\_\_\_\_

I certify that to the best of my knowledge and belief the above accounts are correct, and that all disbursements were made in accordance with all conditions of the Division agreement and payment is due and has not been previously requested for these amounts.

RECIPIENT SIGNATURE: \_\_\_\_\_

NAME AND TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

APPROVED PROJECT TOTAL	\$ _____	GOVERNOR'S AUTHORIZED REPRESENTATIVE
ADMINISTRATIVE COST	\$ _____	
APPROVED FOR PAYMENT	\$ _____	
		DATE _____



**Attachment E**

**JUSTIFICATION OF ADVANCE PAYMENT**

**RECIPIENT:** \_\_\_\_\_

If you are requesting an advance, indicate same by checking the box below.

<input type="checkbox"/> <b>ADVANCE REQUESTED</b>  Advance payment of \$ _____ is requested. Balance of payments will be made on a reimbursement basis. These funds are needed to pay staff, award benefits to clients, duplicate forms and purchase start-up supplies and equipment. We would not be able to operate the program without this advance.
---

If you are requesting an advance, complete the following chart and line item justification below.

**ESTIMATED EXPENSES**

<b>BUDGET CATEGORY/LINE ITEMS (list applicable line items)</b>	<b>20__-20__ Anticipated Expenditures for the First Three Months of Contract</b>
For Example <b>ADMINISTRATIVE COSTS</b> (Include Secondary Administration)	
For Example <b>PROGRAM EXPENSES</b>	
<b>TOTAL EXPENSES</b>	

**LINE ITEM JUSTIFICATION** (For each line item, provide a detailed justification explaining the need for the cash advance. The justification must include supporting documentation that clearly shows the advance will be expended within the first ninety (90) days of the contract term. Support documentation should include quotes for purchases, delivery timelines, salary and expense projections, etc. to provide the Division reasonable and necessary support that the advance will be expended within the first ninety (90) days of the contract term. Any advance funds not expended within the first ninety (90) days of the contract term shall be returned to the Division Cashier, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399, within thirty (30) days of receipt, along with any interest earned on the advance).

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Attachment F

DIVISION OF EMERGENCY MANAGEMENT  
HAZARD MITIGATION GRANT PROGRAM  
QUARTERLY REPORT FORM

RECEIPT \_\_\_\_\_ PROJECT #: 4177-06-R \_\_\_\_\_

PROJECT TYPE: Drainage \_\_\_\_\_ CONTRACT#: 16HM-H4-01-56-01-300 \_\_\_\_\_

DISASTER NUMBER: 4177-06-R, FL \_\_\_\_\_ QUARTER ENDING: \_\_\_\_\_

Provide amount of advance funds disbursed for period (if applicable): \$ \_\_\_\_\_

Provide reimbursement projections for this project:

July-Sep 20 \$ \_\_\_\_\_ Oct-Dec 20 \$ \_\_\_\_\_ Jan-Mar 20 \$ \_\_\_\_\_ Apr-June 20 \$ \_\_\_\_\_  
July-Sep 20 \$ \_\_\_\_\_ Oct-Dec 20 \$ \_\_\_\_\_ Jan-Mar 20 \$ \_\_\_\_\_ Apr-June 20 \$ \_\_\_\_\_

Percentage of Work Completed (may be confirmed by state inspector's): \_\_\_\_\_ %

Project Proceeding on Schedule:  Yes  No

Describe milestones achieved during this quarter:

\_\_\_\_\_  
\_\_\_\_\_

Provide a schedule for the remainder of work to project completion:

\_\_\_\_\_  
\_\_\_\_\_

Describe problems or circumstances affecting completion date, milestones, scope of work, and cost:

\_\_\_\_\_  
\_\_\_\_\_

Cost Status:  Cost Unchanged  Under Budget  Over Budget

Additional Comments/Elaboration:

\_\_\_\_\_  
\_\_\_\_\_

NOTE: Division of Emergency Management (DEM) staff may perform interim inspections and/or audits at any time. Events may occur between quarterly reports, which have significant impact upon your project, such as, anticipated overruns, changes in scope of work, etc. Please contact the Division as soon as these conditions become known, otherwise you may be found non-compliant with your subgrant award.

Name and Phone Number of Person Completing This Form \_\_\_\_\_



## Attachment G

### Warranties and Representations

#### Financial Management

Recipient's financial management system must provide for the following:

- (1) Accurate, current and complete disclosure of the financial results of this project or program.
- (2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
- (3) Effective control over and accountability for all funds, property and other assets. Recipient shall safeguard all such assets and assure that they are used solely for authorized purposes.
- (4) Comparison of expenditures with budget amounts for each Request For Payment. Whenever appropriate, financial information should be related to performance and unit cost data.
- (5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the applicable OMB cost principles and the terms and conditions of this Agreement.
- (6) Cost accounting records that are supported by backup documentation.

#### Competition

All procurement transactions shall be done in a manner to provide open and free competition. The Recipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure excellent contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Recipient, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Recipient. Any and all bids or offers may be rejected when it is in the Recipient's interest to do so.

#### Codes of Conduct

The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by public grant funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subcontracts. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Recipient.

#### Business Hours

The Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site, from 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

#### Licensing and Permitting

All subcontractors or employees hired by the Recipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Recipient.

Attachment H

**Certification Regarding  
Debarment, Suspension, Ineligibility  
And Voluntary Exclusion**

**Contractor Covered Transactions**

- (1) The prospective subcontractor of the Recipient, \_\_\_\_\_, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

**CONTRACTOR**

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

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recipient's Name

\_\_\_\_\_  
**16HM-H4-01-56-01-300**  
DEM Contract Number

\_\_\_\_\_  
4177-06-R  
FEMA Project Number

Attachment I

**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
INSTRUCTIONS AND WORKSHEET**

**PURPOSE:** The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of this legislation is to empower every American with the ability to hold the government accountable for each spending decision. The FFATA legislation requires information on federal awards (federal assistance and expenditures) be made available to the public via a single, searchable website, which is <http://www.usaspending.gov/>.

The FFATA Sub-award Reporting System (FSRS) is the reporting tool the Florida Division of Emergency Management ("FDEM" or "Division") must use to capture and report sub-award and executive compensation data regarding first-tier sub-awards that obligate \$25,000 or more in Federal funds (excluding Recovery funds as defined in section 1512(a) (2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5).

Note: This "Instructions and Worksheet" is meant to explain the requirements of the FFATA and give clarity to the FFATA Form distributed to sub-awardees for completion. All pertinent information below should be filled out, signed, and returned to the project manager.

**ORGANIZATION AND PROJECT INFORMATION**

The following information must be provided to the FDEM prior to the FDEM's issuance of a sub-award (Agreement) that obligates \$25,000 or more in federal funds as described above. Please provide the following information and return the signed form to the Division as requested.

PROJECT #: 4177-06-R

FUNDING AGENCY: Federal Emergency Management Agency

AWARD AMOUNT: \$97,680.00

OBLIGATION/ACTION DATE: June 23, 2015

SUBAWARD DATE (if applicable): \_\_\_\_\_

DUNS#: 613277649

DUNS# +4: \_\_\_\_\_

\*If your company or organization does not have a DUNS number, you will need to obtain one from Dun & Bradstreet at 866-705-5711 or use the web form (<http://fedgov.dnb.com/webform>). The process to request a DUNS number takes about ten minutes and is free of charge.

BUSINESS NAME: Okaloosa, County of  
DBA NAME (IF APPLICABLE): \_\_\_\_\_  
PRINCIPAL PLACE OF BUSINESS ADDRESS: \_\_\_\_\_  
ADDRESS LINE 1: 101 East James Blvd., Rm 104, Crestview, FL 32536-3552  
ADDRESS LINE 2: 101 East James Blvd., Room 104  
ADDRESS LINE 3: \_\_\_\_\_  
CITY Crestview STATE FL ZIP CODE+4\*\* 32536-3552

PARENT COMPANY DUNS# (if applicable): \_\_\_\_\_

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA#): 97.039

DESCRIPTION OF PROJECT (Up to 4000 Characters)

The purpose of this Scope of Work (SOW) is to improve drainage for Okaloosa County, Florida; funded through the Hazard Mitigation Grant Program (HMGP), DR-4177-06-R, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Recipient, Okaloosa County shall conduct Phase I of this project, which includes the preliminary engineering designs and calculations, surveys, permitting, and notices. No construction activities are approved at this time. The Recipient shall complete the Phase I work in accordance with all applicable federal, state and local laws, regulations and codes.

All Phase I activities and deliverables shall be completed and submitted to the Division prior to **June 23, 2016**.

**PROJECT OVERVIEW:**

As a Hazard Mitigation Grant Program project, the Recipient proposes to improve the drainage for the areas Southwind Drive, Dominica Way, Aruba Way and Curacao Way in Niceville, Florida 32578. The Phase I design shall implement measures to determine modifications needed to improve the drainage and alleviate flooding. Mitigation activities for phase I shall include:

- A topographic survey of the drainage basin to confirm the basin boundaries, pipe invert elevations, inlet top elevations, and other drainage features.
- A hydraulic study and recommended improvements to the drainage system to mitigate future flooding.
- Designs and permitting.

Phase II is expected to include a series of pipe replacement improvements in four separate locations. The work shall include removal of existing pipe and drainage structures as necessary, followed by the installation of new reinforced concrete pipes and inlets consistent with the upgrade recommendations of the hydraulic study.

The improvements, when completed, shall minimize or eliminate future structural damage and provide protection to the surrounding properties in the area; minimize recurring flooding and reduce repetitive flood loss to properties. The completed project shall provide protection against a 25-year storm event.

Verify the approved project description above, if there is any discrepancy, please contact the project manager.

**PRINCIPAL PLACE OF PROJECT PERFORMANCE (IF DIFFERENT THAN PRINCIPAL PLACE OF BUSINESS):**

ADDRESS LINE 1: This project will occur at various places throughout the drainage basin at locations  
ADDRESS LINE 2: to be determined in the course of the study. It is not possible to provide discreet  
ADDRESS LINE 3: Address locations.  
CITY Unincorporated Niceville Area STATE FL ZIP CODE+4\*\* \_\_\_\_\_

**CONGRESSIONAL DISTRICT FOR PRINCIPAL PLACE OF PROJECT PERFORMANCE:**

\*\*Providing the Zip+4 ensures that the correct Congressional District is reported.

**EXECUTIVE COMPENSATION INFORMATION:**

1. 1. In your business or organization's previous fiscal year, did your business or organization (including parent organization, all branches, and all affiliates worldwide) receive (a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act, as defined at 2 CFR 170.320; , (b) \$25,000,000 or more in annual gross revenues from U.S. Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act?

Yes  No

***If the answer to Question 1 is "Yes," continue to Question 2. If the answer to Question 1 is "No", move to the signature block below to complete the certification and submittal process.***

2. Does the public have access to information about the compensation of the executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) Section 6104 of the Internal Revenue Code of 1986?

Yes  No

***If the answer to Question 2 is "Yes," move to the signature block below to complete the certification and submittal process. [Note: Securities Exchange Commission information should be accessible at <http://www.sec.gov/answers/execomp.htm>. Requests for Internal Revenue Service (IRS) information should be directed to the local IRS for further assistance.]***

***If the answer to Question 2 is "No" FFATA reporting is required. Provide the information required in the "TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR" appearing below to report the "Total Compensation" for the five (5) most highly compensated "Executives", in rank order, in your organization. For purposes of this request, the following terms apply as defined in 2 CFR Ch. 1 Part 170 Appendix A:***

***"Executive" is defined as "officers, managing partners, or other employees in management positions".***

***"Total Compensation" is defined as the cash and noncash dollar value earned by the executive during the most recently completed fiscal year and includes the following:***

- i. Salary and bonus.

- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR**

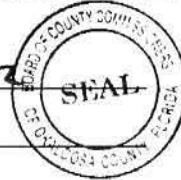
(Date of Fiscal Year Completion \_\_\_\_\_)

Rank (Highest to Lowest)	Name (Last, First, MI)	Title	Total Compensation for Most Recently Completed Fiscal Year
1			
2			
3			
4			
5			

THE UNDERSIGNED CERTIFIES THAT ON THE DATE WRITTEN BELOW, THE INFORMATION PROVIDED HEREIN IS ACCURATE.

SIGNATURE:

*Charles K. Windes, Jr.*



NAME AND TITLE: Charles K. Windes, Jr., Chairman

DATE:

1-19-16