

STATE OF ALABAMA                    )  
MONTGOMERY, ALABAMA            )

(AMENDMENT NO. 1  
to AGREEMENT Number  
DR-21-001)

### AMENDMENT

THIS AMENDMENT to Agreement Number **DR-21-001** is effective as of the **1st** day of **June, 2024**, between the **Baldwin County Commission** (herein and in the original Agreement referred to as the Subrecipient) and the Alabama Department of Economic and Community Affairs (herein called ADECA or the Grantee).

The parties hereto do mutually agree to amend and replace the sections of Agreement Number DR-21-001 dated October 17th, 2023, listed below as follows:

#### III. SCOPE OF SERVICE, A. Eligible Use of Funds, Program Administration Costs (PAC) and Activity Delivery Costs (ADC)

The Subrecipient shall not expend CDBG-DR funds for Program Administration Costs (PACs) subject to the five percent cap of each grant award plus up to five percent of program income generated by the grants allowed for in Federal Register Notices 87 FR 6364 dated February 3, 2022, and 87 FR 31636 dated May 24, 2022. The Subrecipient may expend CDBG-DR funds for Activity Delivery Costs (ADCs) if allowed for in the budget table in **Attachment B**. ADCs are those allowable costs incurred for implementing and carrying out eligible CDBG-DR activities. All ADCs are allocable to a CDBG-DR activity, including direct and indirect costs integral to the delivery of the final CDBG-DR assisted activity. More information about classifying costs as PACs and ADCs is contained in Office of Community Planning and Development Notice CPD-23-06 on the HUD Exchange.

#### III. SCOPE OF SERVICE, B. National Objectives

All activities except for planning and administration activities funded with CDBG-DR funds must meet the criteria for one of the CDBG-DR program's National Objectives established in 24 C.F.R. § 570.483, including all applicable waivers and alternative requirements to the National Objective requirements published in Federal Register Notice 87 FR 6364 dated February 3, 2022, and subsequent applicable Federal Register Notices, including:

- Benefit Low-and Moderate- Income (LMI) Persons (24 C.F.R. § 570.483(b));
- Benefit Urgent Need (UN) activities (24 C.F.R. § 570.483(d)); and
- Aid in Prevention or Elimination of Slums or Blight (SB) (24 C.F.R. § 570.483(c)).

The Subrecipient certifies that the activities carried out under this Agreement shall meet one of the National Objectives, as applicable, associated with the activities in **Attachment A**.

#### III. SCOPE OF SERVICE, C. Levels of Accomplishment – Performance Goals and Timelines

The Subrecipient shall complete the activities in **Attachment A** required under this Agreement in accordance with the timeframes and performance goals detailed in the "Local Program Implementation Schedule".

#### IV. PERFORMANCE MONITORING & REPORTING. A. Monitoring

The Grantee shall monitor the performance of the Subrecipient as necessary and in accordance with regulations on Subrecipient Monitoring and Management, see 2 C.F.R. §§ 200.331–33 and 24 CFR 570.503, to ensure Subrecipient compliance with all of the requirements of this Agreement, including the timeframes and performance goals associated with the activities. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within the timeframe stated in the Grantee's Monitoring Plan, the Grantee may impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 C.F.R. § 200.208, suspend or terminate this Agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 C.F.R. § 200.339.

#### VI. BUDGET

The Subrecipient shall complete all activities in this Agreement in accordance with the budget contained in **Attachment B**. In addition, the Subrecipient shall maintain a more detailed budget breakdown than the one contained in **Attachment B** in compliance with 2 C.F.R. § 200.302, referred to as the "CDBG-DR Budget/Final Financial Report", and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any indirect costs charged must be consistent with the conditions of Section VI.A. of this Agreement.

#### VIII. AMENDMENT AND TERMINATION. A. Amendments

The Grantee and Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are approved by the Grantee and Subrecipient's governing body, and are signed in writing by duly-authorized representatives of the Grantee and the Subrecipient. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement. The Grantee may, in its discretion, amend this Agreement to conform with Federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons.

##### 1. Formal Amendments

Formal amendments are required when any of the following occur:

- (i) Material changes to the scope of work in **Attachment A** of the Agreement, including the addition or deletion of activities;
- (ii) Changes to the budget in **Attachment B** of the Agreement if the amount of the change equals more than 10 percent of the Total Amount of Federal Funds Obligated to the Subrecipient in Section I of this Agreement;
- (iii) Additional criteria contained in **Attachment B** of the Agreement necessitates a formal amendment;
- (iv) To change the Total Amount of Federal Funds Obligated to the Subrecipient in Section I of this Agreement;
- (v) Addition of expenditures on items for which applicable cost principles require prior approval (see 24 C.F.R. § 570.200(h) for pre-award/pre-agreement costs); and
- (vi) To extend the Period of Performance of this Agreement.

##### 2. Informal Amendments

The Grantee and Subrecipient may informally amend this Agreement if the criteria for a formal amendment are not met. In such instances, informal amendments must be agreed upon in writing by both the Grantee and the Subrecipient, and reflected in the Local Program Implementation Schedule and/or CDBG-DR Budget/Final Financial Report.

**IX. OTHER REQUIREMENTS TO COMPLY WITH FEDERAL STATUTES, REGULATIONS, AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD**

**G. Documentation and Record Keeping**

**5. Authorized Use of Data Shared through the U.S. Department of Housing and Urban Development (HUD) Data Sharing/Computer Matching Agreement (CMA)**

Authorized users of the Grantee's CDBG-DR funds are employees, agents (including contractors or subcontractors), or recipients (including an agent or employee of the recipient) who the Grantee or the Subrecipient has determined need access to matched data to perform official duties in connection with the scope of services outlined in this Agreement.

The Subrecipient shall comply with all of the requirements on the use of data contained in the executed HUD Data Sharing/CMA. The Subrecipient acknowledges that under the Privacy Act, unlawful disclosure of Personally Identifiable Information (PII) data is a misdemeanor and subject to a fine of up to \$5,000. When given access to the subject HUD database or file, the Subrecipient will not:

- (i) Use or reveal any individually identifiable information furnished, acquired, retrieved, or assembled in connection with uses authorized in the executed HUD Data Sharing/CMA for any purpose other than to perform official duties in connection with the uses of the data authorized in the executed HUD CMA,
- (ii) Make any disclosure or publication whereby an individual or household could be identified, or the data furnished by or related to any particular person could be identified, or
- (iii) Permit anyone other than the Grantee's authorized users to access the data.

**P. Nondiscrimination**

**4. Affirmative Action**

**(i) Approved Plan**

The Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 41 C.F.R. Chapter 60. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval in alignment with the Local Program Implementation Plan.

The parties hereto do mutually agree, also, to amend and replace **Attachments A and B** of Agreement Number DR-21-001, dated October 17th, 2023, as follows:

**Attachment A**

**Program Description and Scope of Work**

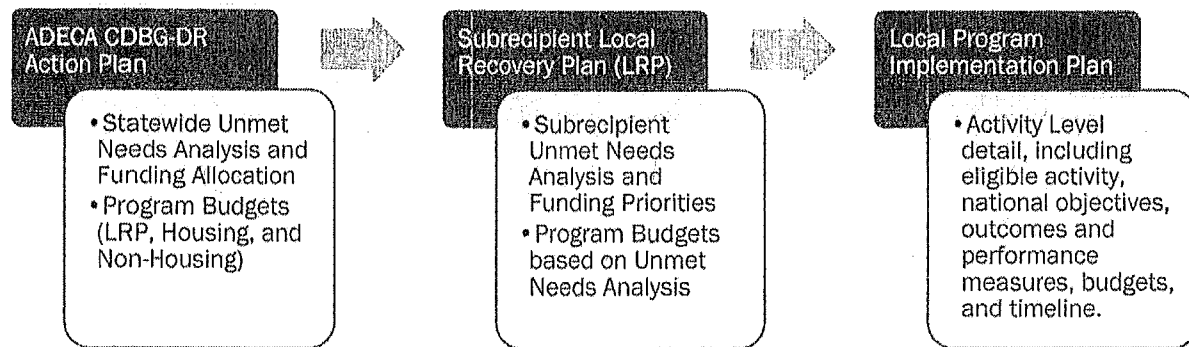
**Local Recovery Planning Program (LRPP):** The Grantee will provide funding to the Subrecipient as a Hardest Hit Most Impacted and Distressed (HHMID) area to develop a Local Recovery Plan (LRP), with the intent of developing a plan that describes the intended uses of funds for review and acceptance by the Grantee. The LRP must demonstrate extensive local outreach; ensure collaboration with local governments, non-profits, and other stakeholders; and adequately demonstrate the Subrecipient's capacity to administer programs or activities described in the LRP. The successful development and acceptance of the LRP is required prior to the implementation of Subrecipient recovery activities.

**Recovery Activities:** To respond to the needs of the HHMID areas and ensure recovery dollars are expended in geographic areas with the highest storm impacts, the Grantee has chosen to allocate funding directly to the HHMID areas. These allocations will be available for a wide range of eligible

activities to address unmet housing, infrastructure, economic development, mitigation, and other eligible unmet needs, as described in each HHMID's LRP. HHMIDs must align local recovery budgets by recovery category with unmet needs described in the Grantee's CDBG-DR Action Plan, as amended. Examples of eligible activities include, but are not limited to, affordable multifamily rental housing, first-time homebuyer assistance, voluntary buyout, rental assistance, construction or rehabilitation of storm water management systems, resilience measures for critical facilities, public facility improvements, and workforce training and development. Single-family rehabilitation activities are ineligible.

### Eligible Activities, National Objectives and Accomplishments

The Subrecipient shall complete activities in accordance with the Grantee's CDBG-DR Action Plan, as amended, the Subrecipient's LRP, as amended and accepted by the Grantee, and the Local Program Implementation Schedule, which combined, provide sufficient detail for the Grantee to monitor the Subrecipient's performance and adherence to this Agreement, compliance, and to determine cost reasonableness, among other oversight responsibilities. All activities must be completed within the Agreement Period of Performance and as detailed in the Local Program Implementation Schedule.



## Attachment B

### Budget

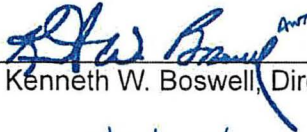
The Subrecipient shall complete all activities in this Agreement in accordance with the budgets in the table below and further detailed in the Subrecipient's CDBG-DR Budget/Final Financial Report. Any revision to the budgets for project costs and activity delivery costs per activity must be submitted in writing by the Subrecipient via the Subrecipient's CDBG-DR Budget/Final Financial Report and approved by the Grantee, but will not necessitate a formal amendment to the Agreement as long as the amount of the change does not equal more than 10 percent of the Total Amount of Federal Funds Obligated to the Subrecipient. A formal amendment is required to change the overall budgeted amount per activity, including reallocating funds between activities.

Activity	Project Costs	Activity Delivery Costs	Total
Local Recovery Plan	\$1,000,000.00		\$1,000,000.00
Housing Recovery Activities	\$0.00	\$0.00	\$0.00
Non-Housing Recovery Activities	\$0.00	\$0.00	\$0.00
<b>Total Amount Budgeted</b>	<b>\$1,000,000.00</b>	<b>\$0.00</b>	<b>\$1,000,000.00</b>

Total Grant funds shall remain at \$1,000,000.00. All other provisions of the original Agreement shall remain in full force and effect.

ADECA

Alabama Department of Economic and  
Community Affairs

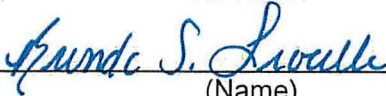


Kenneth W. Boswell, Director

8/29/2024

(Date)

ATTEST:



(Name)

Executive Assistant

(Title)

8/29/2024

(Date)

This contract/grant has been reviewed for content, legal form, and complies with all applicable laws, rules and regulations of the State of Alabama governing these matters.

  
Meg Williams Fiedler  
General Counsel for ADECA

SUBRECIPIENT

Baldwin County Commission

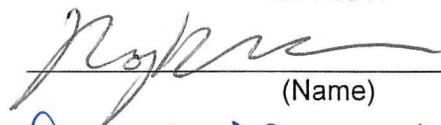


Madam Chairman

September 17, 2024

(Date)

ATTEST:



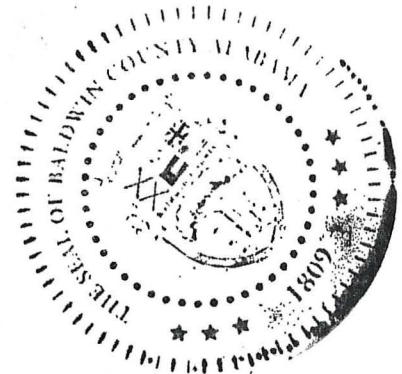
(Name)

County Administrator

(Title)

September 17, 2024

(Date)



STATE OF ALABAMA )  
MONTGOMERY, ALABAMA)

AGREEMENT NO. DR-21-001

## SUBRECIPIENT AGREEMENT

This Agreement is entered this 17<sup>th</sup> day of October, 2023, by and between the Alabama Department of Economic and Community Affairs (ADECA or Grantee) and Baldwin County Commission (Subrecipient).

### I. GENERAL AWARD INFORMATION

The subaward from the Grantee to the Subrecipient, which is described below, is for the purpose of carrying out a portion of a Federal award described in section I of this Agreement and creates a Federal assistance relationship with the Subrecipient. This Agreement must be updated to reflect any changes to the Federal award and the following award information:

#### Contact Information:

Grantee: Alabama Department of Economic and Community Affairs (ADECA)

Grantee Name: Kenneth W. Boswell Title: Director

401 Adams Avenue, Suite 580

Montgomery, Alabama 36103-5690

(334) 242-5100

Subrecipient: Baldwin County Commission

Subrecipient Name: ~~Charles F. Gruber~~ <sup>BJU</sup> Billie Jo Underwood Title: County Commission Chairman

312 Courthouse Square, Suite 3

Bay Minette, AL 36507

(251) 937-0264

Federal Award Identification Number: B-21-DZ-01-0001

Assistance Listings Number and Title: 14.228 Community Development Block Grant/State's Program

Federal Award Date: February 3, 2022, and May 24, 2022

Grantee Indirect cost rate for the Federal award: 3.98%

Federal award project description: The United States Department of Housing and Urban Development (HUD) awarded \$501,252,000 in Community Development Block Grant - Disaster Recovery (CDBG-DR) funds to the State of Alabama for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCD Act) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed (MID) areas resulting from Hurricanes Sally and Zeta in 2020. ADECA was designated as the lead entity to administer the CDBG-DR award on behalf of the State of Alabama.

Is this award for research and development? No

Subrecipient's unique entity identifier: MMDHCQ2E82J5

Subaward Period of Performance: Start Date: 06/01/2023 End Date: 05/31/2026

Subaward Budget Period: Start Date: 06/01/2023 End Date: 05/31/2026

Total Amount of the Federal Award Committed to the Subrecipient by the Grantee: \$44,361,686

Amount of Federal funds obligated by this Agreement: \$1,000,000

Total Amount of Federal Funds Obligated to the Subrecipient: \$1,000,000

Indirect cost rate applicable to the Subaward to the Subrecipient: N/A

## II. RECITALS

WHEREAS, pursuant to Public Law 117-43 (the Appropriations Act) and the Federal Register Notices dated February 3, 2022, at 87 FR 6364 and May 24, 2022, at 87 FR 31636, the United States Department of Housing and Urban Development (HUD) has awarded a combined total of \$501,252,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to ADECA, for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), codified in 42 U.S.C. § 5301 et seq., as modified or waived by the Federal Register notices, and described in the Grantee's Action Plan (Action Plan); and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds to carry out a part of the Grantee's Federal award by committing \$1,000,000 of the Grantee's Federal award, pursuant to this Subrecipient Agreement (Agreement); and

WHEREAS, the CDBG-DR funds made available for use by the Subrecipient under this Agreement constitute a subaward of the Grantee's Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of the Grantee's Federal award; and

WHEREAS, this allocation will be available for a wide range of eligible activities to address unmet housing, infrastructure, economic development, mitigation, and other eligible unmet needs, as described in each subrecipient's Local Recovery Plan. Baldwin County Commission must align local recovery budgets by recovery category with unmet needs described in the Action Plan, unless a Local Recovery Plan proposes an alternative unmet needs analysis and budget allocation that is adequately supported by the best available local data; and

NOW, THEREFORE, in consideration of the need for recovery from Hurricanes Sally and Zeta and the premises and mutual covenants described herein, the parties mutually agree to the terms described in this Agreement.

## III. SCOPE OF SERVICE

### A. Eligible Use of Funds

As a condition of receiving this subaward, the Subrecipient shall administer and perform all work described in Attachment A. The Subrecipient shall complete the activities in a manner satisfactory to the Grantee and consistent with the terms of conditions of this Agreement and applicable Federal statutes and regulations.

#### **Prohibited Activities**

The Subrecipient may only carry out the activities described in this Agreement. The Subrecipient is prohibited from charging to the subaward the costs of CDBG ineligible activities, including those described at 24 C.F.R. § 570.207, and from using funds provided herein for personnel employed in the administration of activities under this Agreement for political activities, inherently religious activities, or lobbying.

#### **Pre-Award Costs**

Subrecipients may charge eligible "pre-award" costs incurred prior to the effective date of this agreement if the costs meet the following criteria:

- Comply with all requirements for pre-award costs contained in the Federal Register Notice at 87 FR 6364 dated February 3, 2022, and any other applicable requirements;
- Are pre-approved by ADECA prior to the execution of this Agreement; and
- Are consistent with the scope of work contained in Attachment A of this Agreement, and the Budget in Attachment B of this Agreement includes a specific line-item and budget for the pre-award costs eligible for reimbursement.

#### **Program Administration Costs (PAC) and Activity Delivery Costs (ADC)**

The Subrecipient shall not expend CDBG-DR funds for Program Administration Costs (PACs) subject to the five percent cap of each grant award plus up to five percent of program income generated by the grants allowed for in Federal Register Notices 87 FR 6364 dated February 3, 2022, and 87 FR 31636 dated May 24, 2022. The Subrecipient may expend CDBG-DR funds for Activity Delivery Costs (ADCs) if allowed for in the budget table in Attachment B. ADCs are those allowable costs incurred for implementing and carrying out eligible CDBG-DR activities. All ADCs are allocable to a CDBG-DR activity, including direct and indirect costs integral to the delivery of the final CDBG-DR assisted activity. More information about classifying costs as PACs and ADCs is contained in Office of Community Planning and Development Notice CPD-13-07 on the HUD Exchange.

#### **B. National Objectives**

All activities except for planning and administration activities funded with CDBG-DR funds must meet the criteria for one of the CDBG-DR program's National Objectives established in 24 C.F.R. § 570.483, including all applicable waivers and alternative requirements to the National Objective requirements published in Federal Register Notice 87 FR 6364 dated February 3, 2022, and subsequent applicable Federal Register Notices, including:

- Benefit Low-and Moderate- Income (LMI) Persons (24 C.F.R. § 570.483(b));
- Benefit Urgent Need (UN) activities (24 C.F.R. § 570.483(d)); and
- Aid in Prevention or Elimination of Slums or Blight (SB) (24 C.F.R. § 570.483(c)).

The Subrecipient certifies that the activities carried out under this Agreement shall meet one of the National Objectives, as applicable, and satisfy the criteria in Attachment A.



C. Levels of Accomplishment – Performance Goals and Timelines

The Subrecipient shall complete the activities required under this Agreement in accordance with the timeframes and performance goals associated with each activity identified in Attachment A.

D. Staffing

The Subrecipient shall supervise and direct the completion of all activities under this Agreement. In accordance with Section X.A.(v) of this Agreement, the Subrecipient shall identify Key Personnel, including their roles and time dedication to the activities under this Agreement. Any changes in the Key Personnel assigned or their responsibilities under the activities are subject to the prior approval of the Grantee.

IV. PERFORMANCE MONITORING & REPORTING

A. Monitoring

The Grantee shall monitor the performance of the Subrecipient as necessary and in accordance with regulations on Subrecipient Monitoring and Management, see 2 C.F.R. §§ 200.330–32, to ensure Subrecipient compliance with all of the requirements of this Agreement, including the timeframes and performance goals associated with the activities. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within the timeframe stated in the ADECA Monitoring Plan, the Grantee may impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 C.F.R. § 200.207, suspend or terminate this Agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 C.F.R. § 200.338.

B. Reporting

The Subrecipient shall submit, at a minimum, regular quarterly progress reports describing the progress toward completing the Scope of Work contained in Attachment A and expending funds for allowable costs incurred in accordance with the budget in Attachment B. Additionally, the Subrecipient shall submit reports necessary to comply with other Federal reporting requirements.

V. PERIOD OF PERFORMANCE AND TERM

The period of performance for Subrecipient, meaning the time during which the Subrecipient may incur new obligations to carry out activities under this Agreement, shall start on the 1st day of June, 2023 and end on the 31st day of May 2026.

This Agreement and its terms and conditions shall remain in effect during any period that the Subrecipient has control over CDBG-DR funds provided through this Agreement, including program income as defined in Federal Register Notice 87 FR 6364 dated February 3, 2022.

VI. BUDGET

The Subrecipient shall complete all activities in this Agreement in accordance with the budget contained in Attachment B. Any revision to the budget must be approved in writing by both the Grantee and the Subrecipient, but will not trigger a formal amendment to the Agreement as long as the amount of the change does not equal more than 10 percent of grant award amount.

Any indirect costs charged must be consistent with the conditions of Section VI.A. of this Agreement. In addition, the Subrecipient shall maintain a more detailed budget breakdown than the one contained in Attachment B in compliance with 2 C.F.R. § 200.302, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient.

A. Indirect Costs

In accordance with 2 C.F.R. § 200.332(a)(4) and § 200.414, subrecipients of Federal awards may charge indirect costs to the award unless statutorily prohibited by the Federal program and in accordance with any applicable administrative caps on Federal funding. ADECA will accept a Federally-negotiated indirect cost rate. If no approved rate exists, ADECA will collaborate with the Subrecipient to determine an appropriate rate. This rate will be either a negotiated rate, which can be based on a prior negotiated rate between a different pass-through entity and the same subrecipient, or the 10% de minimis rate of the modified total direct cost as defined in 2 C.F.R. § 200.1. If basing the rate on a previously negotiated rate, ADECA is not required to collect information justifying this rate but may elect to do so. Subrecipients can allocate and charge direct costs through cost allocation. However, in accordance with 2 C.F.R. § 200.403, costs must be consistently charged as either indirect or direct costs but not charged as both or inconsistently charged to the Federal award. Once chosen, the method must be used consistently for all Federal awards until such time as a negotiated rate is approved by the Subrecipients' Federal cognizant agency.

B. Program Income

The Subrecipient shall remit to the Grantee all program income as defined in 24 C.F.R. § 570.500(a) or in Federal Register Notice 87 FR 6364 dated February 3, 2022, and subsequent Federal Register Notices generated by activities carried out with CDBG-DR funds made available under this Agreement. Any interest earned on cash advances from the United States Treasury and from funds held in a revolving fund account is not program income and shall also be remitted promptly to the Grantee.

VII. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed \$1,000,000.

The Subrecipient will be paid on a reimbursement basis consistent with 2 C.F.R. § 200.305. Payment of funds is subject to the availability of Federal funds awarded to ADECA for the program purposes herein stated.

The Subrecipient must submit invoices electronically for costs incurred to carry out the scope of work contained in Attachment A of this Agreement, and within the budget caps contained in Attachment B of this Agreement. Invoices must include adequate supporting documentation to enable the review of costs for allowability and adherence to the cost principles and other provisions of 2 C.F.R. Part 200, and the terms and conditions of this Agreement and the Federal award. Payments for allowable costs will be made to the Subrecipient no less than 30 calendar days after the receipt of the invoice and adequate supporting documentation.

The Subrecipient may be paid in advance, in certain circumstances and at the discretion of the Grantee, provided that it maintains a cash management plan and maintains or demonstrates the willingness and ability to maintain both written procedures that minimize the time elapsing between

the transfer of funds and disbursement by the Subrecipient and financial management systems that meet the standards for fund control and accountability in accordance with 2 C.F.R. § 200.305. If the requested advance exceeds thirty (30) days, the Subrecipient must provide a written explanation with the invoice requesting advance funds and is subject to approval by ADECA. Source documentation and a follow-up invoice must be submitted to account for the actual expenditures made against advances.

## **VIII. AMENDMENT AND TERMINATION**

### **A. Amendments**

The Grantee and Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are approved by the Grantee's governing body, and are signed in writing by duly-authorized representatives of the Grantee and the Subrecipient. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement. Amendments will generally be required when any of the following are anticipated: i) revision to the scope or objectives of the Program, including purpose or beneficiaries; ii) need to extend the availability of Grant Funds; iii) revision that would result in the need for additional funding; and iv) expenditures on items for which applicable cost principles require prior approval (see 24 C.F.R. § 570.200(h) for pre-award/pre-agreement costs).

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding amount, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

### **B. Suspension or Termination**

#### **1. Termination**

The following provisions apply to termination under this Agreement, whether termination by the Grantee or by the Subrecipient. The performance of work under this Agreement may be terminated in whole or in part for the following circumstances:

**Termination for Convenience.** This Agreement may be terminated by either party with thirty (30) days written notice. Said notice shall specify the reasons for requesting such termination. If the Grantee determines that continuation of the work will serve no useful public purpose, this Agreement may be terminated by the Grantee and the Subrecipient shall be entitled to necessary expenses incurred through the date of termination or the date services are last provided, whichever occurs first.

**Termination for Cause.** If, through any cause, the Subrecipient shall fail to fulfill in a timely manner its obligations under this Agreement, or if the Subrecipient shall violate any of the covenants, agreements or stipulations of this Agreement, and such failure or violation is not corrected within fifteen (15) days after such notice is given by the Grantee to the Subrecipient, the Grantee shall thereupon have the right to immediately terminate or suspend this Agreement by giving written notice to the Subrecipient of such termination or suspension and specifying the effective date thereof.

In the event of termination, for either convenience or cause, all property, finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, computer tapes, computer programs, and reports prepared by the Subrecipient under this Agreement shall, at the option of the

Grantee, and if in accordance with applicable State and Federal regulations, become the property of the Grantee. The Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

## 2. Hearing on Appeal

The Subrecipient shall have the right to appeal any determination to terminate made by the Grantee; however, if the Subrecipient has failed to submit its appeal, in writing, within ten (10) calendar days from written notice of the termination and/or has failed to request and receive approval from the Grantee for extension of such, then the Subrecipient shall have no further right of appeal.

A hearing shall be conducted at the Grantee's offices in Montgomery, Alabama, or any other appropriate location at the Grantee's discretion, with a written notification of the time, place, and subject matter by the Grantee to the Subrecipient.

## 3. Suspension of Payments

Payments under this Agreement may be suspended in the event that there is an outstanding audit exception under any program administered by any division of ADECA, or in the event there is an amount owing to any division of ADECA, or an amount owing to the Federal government under any program administered by any division of ADECA that is not received in a reasonable and timely manner.

Should the Subrecipient incur an unresolved audit exception or have unresolved questioned costs or finding of fiscal inadequacy as a result of any project monitoring by any division of ADECA, then ADECA shall not enter into any other contract, agreement, grant, etc., with said Subrecipient until the audit exception or questioned cost or finding of fiscal inadequacy has been resolved.

ADECA shall not enter into another contract, agreement, grant, etc., with any individual, agency, company, or government under any program administered by any division of ADECA that has not arranged a repayment schedule.

## IX. OTHER REQUIREMENTS TO COMPLY WITH FEDERAL STATUTES, REGULATIONS, AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD

The CDBG-DR funds available to the Subrecipient through this Agreement constitute a subaward of the Grantee's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which includes but is not limited to, subpart B, General Provisions; subpart C, Pre-Federal Awards Requirements and Contents of Federal Awards; subpart D, Post Federal Award Regulations; subpart E, Cost Principles; subpart F, Audit Requirements; and all accompanying appendices. This Agreement includes terms and conditions of the Grantee's Federal award that are imposed on the Subrecipient, and the Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this Agreement.

### A. General Compliance

The Subrecipient shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 C.F.R. Part 570, as modified by the Federal Register Notices that govern the use of CDBG-DR funds available under this Agreement. These Federal Register Notices include, but are not limited to, Federal Register Notice 87 FR 6364 dated February 3, 2022. Notwithstanding the foregoing, the Subrecipient does not assume the any of Grantee's responsibilities for: (1) environmental review, decision-making, and action, described in 24

C.F.R. Part 58; or (2) initiating the review process under the provisions of 24 C.F.R. Part 52. The Subrecipient shall also comply with all other applicable Federal, state, and local laws, regulations, and policies that govern the use of the CDBG-DR funds in complying with its obligations under this Agreement, regardless of whether CDBG-DR funds are made available to the Subrecipient on an advance or reimbursement basis.

B. Duplication of Benefits

The Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (codified in 42 U.S.C. § 5155) and described in the Appropriations Act. The Subrecipient must comply with HUD's requirements for duplication of benefits, imposed by Federal Register Notice 84 FR 28836 and 84 FR 28848 dated June 20, 2019, and any other applicable Federal Register Notices.

C. Tobacco Smoke

Public Law 103-227, Title X, Part C, also known as the Pro-Children Act of 1994 (20 U.S.C. § 6083) prohibits smoking in any portion of any indoor facility owned or leased or contracted for by an entity used routinely or regularly for the provision of health, daycare, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through state or local governments by Federal grant, contract, loan or loan guarantee.

D. Drug-Free Workplace

In accordance with provisions of Title V, Subtitle D of Public Law 100-690 or Public Law 111-350 (41 U.S.C. § 8101 et seq.), the Drug-Free Workplace Act of 1988, all subrecipients must maintain a drug-free workplace and must publish a statement informing employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and establishing the actions that will be taken against employees violating these prohibitions. Failure to comply with these requirements may be cause for debarment.

E. Insurance & Bonding

The Subrecipient shall comply with all applicable state and federal bonding and insurance requirements, including, but not limited to the requirements of 24 C.F.R. § 200.326 and § 200.310. The Subrecipient shall carry sufficient insurance coverage to protect CDBG-acquired assets from loss due to theft, fraud and/or undue physical damage, and acquire a blanket fidelity bond covering all employees in an amount equal to CDBG-DR funds provided through ADECA.

F. Uniform Administrative Requirements and Cost Principles for Federal Awards

The Subrecipient shall comply with the applicable provisions in 2 C.F.R. Part 200, Uniform Administrative Requirements and Cost Principles for Federal Awards, 2 C.F.R. Part 200, except as provided in 24 C.F.R. § 570.502. These provisions include:

1. Financial & Program Management

The Subrecipient shall expend and account for all CDBG-DR funds received under this Agreement in accordance with 2 C.F.R. Part 200 (and particularly 2 C.F.R. § 200.302 titled "Financial Management"), and include the following:

- (i) Accurate, current, and complete disclosure of the financial results of this project or program.
- (ii) 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.
- (iii) Effective control over and accountability for all funds, property, and other assets. The Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.
- (iv) Comparison of expenditures with budget amounts for each Payment Request. Whenever appropriate, financial information should be related to performance and unit cost data.
- (v) Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 C.F.R. Part 200 (and particularly 2 C.F.R. Part 200, subpart E titled "Costs Principles") and the terms and conditions of this Agreement.
- (vi) Cost accounting records that are supported by backup documentation.

## 2. Cost Principles

Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 C.F.R. Part 200, subpart E. All items of cost listed in 2 C.F.R. Part 200, subpart E, that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in 2 C.F.R. Part 200, subpart E and are otherwise eligible under this Agreement, except for the following:

- (i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.
- (ii) Fines penalties, damages, and other settlements are unallowable costs to the CDBG program.
- (iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 C.F.R. § 200.445).
- (iv) Organization costs (2 C.F.R. § 200.455).
- (v) Pre-Award Costs, as limited by this Agreement.

## G. Documentation and Recordkeeping

### 1. Records to be Maintained

The Subrecipient shall establish and maintain records sufficient to enable the Grantee to: (1) determine whether the Subrecipient has complied with this Agreement, applicable Federal statutes and regulations, and the terms and conditions of the Grantee's Federal award; and (2) satisfy recordkeeping requirements applicable to the Grantee. These records include the records described in Section III. of this Agreement, Scope of Service.

At a minimum, the Subrecipient shall maintain records required by 24 C.F.R. § 570.493 and any waivers and alternative requirements required by Federal Register Notice 87 FR 6364 dated February 3, 2022, and subsequent applicable Federal Register Notices. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the state shall be sufficient to: (a) Enable HUD to make the applicable determinations described at 24 C.F.R. § 570.493; (b) make compliance determinations for activities carried out directly by the state; and (c) show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan and/or HUD's Disaster Recovery Grant Reporting System. For fair housing and equal opportunity purposes, and as applicable, such records shall include

data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

The Subrecipient must maintain the following records to meet recordkeeping requirements imposed by applicable Federal statutes, regulations, and this Agreement, and to assist the Grantee in meeting its recordkeeping and reporting requirements, including:

- (i) Records providing a full description of each activity undertaken.
- (ii) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR program.
- (iii) Records required to determine the eligibility of activities.
- (iv) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance.
- (v) Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG program regulations.
- (vi) Financial records as required by 24 C.F.R. § 570.502, and 2 C.F.R. Part 200, including records necessary to demonstrate compliance with all applicable procurement requirements.
- (vii) Other records necessary to document compliance with this Agreement, any other applicable Federal statutes and regulations, and the terms and conditions of Grantee's Federal award.

## 2. Access to Records

In accordance with 24 C.F.R. § 570.490(c), representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt, and use of CDBG funds and necessary to facilitate such reviews and audits. Subrecipients must also provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with state or local requirements concerning the privacy of personal records.

As required by 2 C.F.R. § 200.331(a)(5), the Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statements as necessary for the Grantee to meet its audit requirements under the Federal award.

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records, and accounts by the Grantee, the Alabama Department of the Examiners of Public Accounts, HUD or its agent, or other authorized Federal or state officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

## 3. Record Retention and Transmission of Records to the Grantee

Prior to closeout of this Agreement, the Subrecipient must transmit to the Grantee records sufficient for the Grantee to demonstrate that all costs under this Agreement met the requirements of the Federal award.

Notwithstanding the term of this Agreement, in compliance with 2 C.F.R. § 200.334, all records the Subrecipient is required to maintain, including supporting documentation, shall be retained for the greater of three years from closeout of the Federal award to the Grantee, or the period required by other applicable laws and regulations as described in 24 C.F.R. § 570.487 and § 570.488.

#### 4. Client Data and Other Sensitive Information

The Subrecipient is required to maintain data demonstrating client eligibility for activities provided under this Agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided.

The Subrecipient must comply with 2 C.F.R. § 200.303(e) and take reasonable measures to safeguard protected personally identifiable information and other information HUD or the Grantee designates as sensitive or the Subrecipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality including, but not limited to, Ala. Code § 8-38-1, et seq.

#### H. Closeout

The Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 C.F.R. § 200.344. Activities during this closeout period may include, but are not limited to making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

Notwithstanding the terms of 2 C.F.R. § 200.344, upon the expiration of this Agreement, the Subrecipient shall transfer to the Grantee any CDBG-DR funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-DR funds, further, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 C.F.R. § 570.503(b)(7).

#### I. Audits, Inspections, and Monitoring

All subrecipients of Federal funds must follow the Audit Requirements in the Office of Management and Budget Uniform Administrative Requirements (2 C.F.R. Part 200, subpart F). Subrecipients that expend \$750,000 or more during their fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200. All entities that have a single audit must submit the reporting package and data collection form to the Federal Audit Clearinghouse in accordance with 2 C.F.R. § 200.512. Additionally, if any subrecipient receives more than \$500,000, collectively, in State General Fund appropriations in its fiscal year, from ADECA, it must have an audit in accordance with Government Auditing Standards (the Yellow Book) and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants.

Nothing contained in this Agreement shall be construed to mean that ADECA cannot utilize its auditors regarding limited scope audits of various ADECA funds. Audits of this nature shall be planned and carried out in such a way as to avoid duplication or not to exceed the audit coverage limits as stated in the said Uniform Administrative Requirements.

Copies of all required audits must be submitted to ADECA and the Alabama Department of Examiners of Public Accounts. Copies may be transmitted by email or traditional mail, at the following addresses:



audit@adeca.alabama.gov

Alabama Department of Economic and Community Affairs  
ATTENTION: Chief Auditor  
401 Adams Avenue  
P.O. Box 5690  
Montgomery, AL 36103-5690

central.records@examiners.alabama.gov

Alabama Department of Examiners of Public Accounts  
ATTENTION: Audit Report Repository  
P.O. Box 302251  
Montgomery, AL 36130-2251

1. Audit Exceptions, Unresolved Questioned Costs, and Outstanding Debts

The Subrecipient certifies by signing this Agreement that it does not have any unresolved audit exceptions, unresolved questioned costs, or findings of fiscal inadequacy as a result of project monitoring. It further certifies that no money is owed to any division of ADECA or to the Federal government under any program where it has not arranged a repayment plan.

2. Single Audit

The Subrecipient must be audited as required by 2 C.F.R. Part 200, subpart F when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501.

3. Inspections and Monitoring

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

The Subrecipient must submit to monitoring of its activities by the Grantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement.

This review must include: (1) reviewing financial and performance reports required by the Grantee; (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the Subrecipient from the Grantee as required by 2 C.F.R. § 200.521.

4. Corrective Actions

The Grantee may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits, onsite reviews, and other means. The Grantee may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the pass-through entity detected through audits, on-site reviews, and other means. In response to audit deficiencies or other findings of noncompliance with this Agreement, Grantee may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

The Grantee shall conduct reviews and audits, including on-site reviews of Subrecipient, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCDA, as amended, and as modified by Federal Register Notice 87 FR 6364 dated February 3, 2022, and subsequent applicable Federal Register Notices. In the case of noncompliance with these requirements, the

Grantee shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence.

J. Procurement and Contractor Oversight

When procuring goods or services with CDBG-DR funds, the Subrecipient must follow ADECA's Procurement Policies and Procedures based on open and fair competition in accordance with 24 C.F.R. § 570.489(g), the Federal Register Notice 87 FR 6364 dated February 3, 2022, and Alabama procurement law, including, but not limited to, Ala. Code § 41-16-1 et seq. and § 41-4-110 et seq.

The Subrecipient shall impose the Subrecipient's obligations under this Agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities at 24 C.F.R. § 570.609 or 24 C.F.R. § 570.489(i) as appropriate. CDBG-DR funds may not be provided to excluded or disqualified persons.

The Subrecipient shall maintain oversight of all activities under this Agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Agreement.

The Subrecipient must perform an independent cost estimate of the product or service being procured with CDBG-DR funds prior to receiving bids and evaluate the cost or price of the product or service being procured with CDBG-DR funds prior to awarding a contract. All procurement actions must be based on full and open competition consistent with the requirements of 24 C.F.R. § 570.489(g). Additionally, all contracts with contractors used to provide goods and services must meet the following requirements:

- (i) The contract must clearly state the period of performance or date of completion in all contracts.
- (ii) The contract must incorporate performance requirements and liquidated damages into each procured contract. Contracts that describe work performed by general management consulting services need not adhere to the requirement on liquidated damages but must incorporate performance requirements.
- (iii) The subrecipient may contract for administrative support, in compliance with 2 C.F.R. § 200.459, but may not delegate or contract to any other party any inherently governmental responsibilities related to oversight of the grant, including policy development, fair housing and civil rights compliance, recordkeeping, and financial management.

K. Debarment and Suspension

The Subrecipient is prohibited from using any contractor or subcontractor that has been debarred, suspended, or otherwise excluded from participation in Federal Assistance programs (Executive Orders 12549 and 12689).

The Subrecipient shall require participants in lower tier covered transactions to include the certification on Government-wide Debarment and Suspension (Non-Procurement) for it and its principals in any proposal submitted in connection with such lower tier covered transactions (see 2 C.F.R. § 180.300). The Excluded Parties List System is available for access from the System of Award Management website at <https://www.sam.gov>.

The Subrecipient certifies, by entering into this Agreement, that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any Federal agency or by any Grantee, agency, or political subdivision of the State. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Subrecipient.

The Subrecipient certifies that it has verified the suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupments or penalties that might arise from noncompliance. Subrecipients shall immediately notify the Grantee if any subcontractor becomes debarred or suspended, and shall, at the Grantee's request, take all steps required by the Grantee to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

L. Property Standards

Real property acquired by the Subrecipient under this Agreement shall be subject to 24 C.F.R. § 570.489(j) and § 570.200(j).

The Subrecipient shall also comply with the Property Standards in 2 C.F.R. § 200.310 et seq., except to the extent they are inconsistent with 24 C.F.R. § 570.200(j) and § 570.489(j), in which case Subrecipient shall comply with 24 C.F.R. § 570.200(j) and § 570.489(j), and except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this Agreement, pursuant to 24 C.F.R. § 570.489(e)(1)(ii).

M. Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance of experimental, developmental, or research work under that "funding agreement," the recipient or Subrecipient must comply with the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

N. Federal Funding Accountability and Transparency Act (FFATA)

The Subrecipient shall comply with the requirements of 2 C.F.R. Part 25 Universal Identifier and System for Award Management (SAM). The grantee must have an active registration in SAM in accordance with 2 C.F.R. Part 25, appendix A, and must have a Data Universal Numbering System (DUNS) number. The grantee must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information.

Under this statute, the State is required to report information regarding executive compensation and all subawards, contracts, and subcontracts in excess of \$25,000 through the Federal Subaward Reporting System (<https://www.fsrs.gov>) and in accordance with the terms found in Federal regulations at 2 C.F.R. Part 170, including Appendix A. Therefore, all Subrecipients, who meet this threshold, and are not otherwise exempt from the requirements at 2 C.F.R. Part 170, will be required to furnish this information to the division within ADECA which is funding the Subrecipient agreement. Specific reporting processes will be provided by the applicable ADECA division to Subrecipients.

O. Relocation, Real Property Acquisition, and One-for-One Housing Replacement

The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, codified in 42 U.S.C. § 4601-55; 49 C.F.R. Part 24; 24 C.F.R. Part 42; and 24 C.F.R. § 570.606.

In addition to other URA requirements, 49 C.F.R. § 24.403(d) implements Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, codified at 42 U.S.C. § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [URA] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act." Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disasters and who would have otherwise been displaced as a direct result of any acquisition, rehabilitation, or demolition of real property for a Federally funded program or project may become eligible for a replacement housing payment notwithstanding their inability to meet occupancy requirements prescribed in the URA. Section 414 of the Stafford Act and its implementing regulation at 49 C.F.R. § 24.403(d)(1) are waived to the extent that they would apply to real property acquisition, rehabilitation, or demolition of real property for a CDBG-DR funded project commencing more than one year after the date of the latest applicable Presidentially declared disaster undertaken by the grantees, or subrecipients, provided that the project was not planned, approved, or otherwise underway before the disaster. For purposes of this waiver, a CDBG-DR funded project shall be determined to have commenced on the earliest of: (1) the date of an approved Request for Release of Funds and certification; (2) the date of completion of the site-specific review when a program utilizes tiering; or (3) the date of sign-off by the approving official when a project converts to exempt under 24 C.F.R. § 58.34(a)(12).

One-for-one replacement requirements at sections 104(d)(2)(A)(i)-(ii) and 104(d)(3) of the HCDA and 24 C.F.R. § 42.375 are waived for owner-occupied lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. The section 104(d) one-for-one replacement housing requirements apply to occupied and vacant-occupiable lower-income dwelling units demolished or converted in connection with a CDBG-DR assisted activity. This waiver exempts all disaster-damaged, owner-occupied, lower-income dwelling units that meet the Grantee's definition of "not suitable for rehabilitation," from the one-for-one replacement housing requirements of 24 C.F.R. § 42.375. Before carrying out activities that may be subject to the one-for-one replacement housing requirements, the Grantee must define "not suitable for rehabilitation" in its action plan or in policies/procedures governing these activities. Grantees are reminded that tenant-occupied and vacant-occupiable lower income dwelling units demolished or converted to another use other than lower income housing in connection with a CDBG-DR assisted activity are generally subject to one-for-one replacement requirements at 24 C.F.R. § 42.375 and that these provisions are not waived.

P. Nondiscrimination

1. 24 C.F.R. Part 6

The Subrecipient will comply with 24 C.F.R. Part 6, which implements the provisions of section 109 of HCDA, codified in 42 U.S.C. § 5309. Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity funded in whole or in part with Federal financial assistance.

The Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, codified in 42 U.S.C. § 6101 et seq., and the prohibitions against

discrimination on the basis of disability under Section 504 of the Rehabilitation Act of 1973 (Section 504), codified in 29 U.S.C. § 794. Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, the Subrecipient shall comply with regulations of 24 C.F.R. Part 8, which implement Section 504 for HUD programs, and the regulations of 24 C.F.R. Part 146, which implement the Age Discrimination Act for HUD programs.

2. Architectural Barriers Act and the Americans with Disabilities Act

The Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968, codified in 42 U.S.C. § 4151 et seq., requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people.

The Americans with Disabilities Act (ADA), codified in 42 U.S.C. § 12131 et seq., provides comprehensive civil rights to individuals with disabilities in the areas of employment public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

3. Title VI of the Civil Rights Act of 1964 (24 C.F.R. Part 1)

(i) General Compliance

The Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964, as amended, and 24 C.F.R. § 570.601–02. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Agreement. The specific nondiscrimination provisions at 24 C.F.R. § 1.4 apply to the use of these funds. The Subrecipient shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Title VI of the Civil Rights Act of 1964 or 24 C.F.R. Part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 C.F.R. Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 24 C.F.R. Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(ii) Assurances and Real Property Covenants

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to 24 C.F.R. Part 1.

If the Federal financial assistance under this Agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient's assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the

recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application.

This assurance gives the Grantee and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to the Subrecipient under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of 24 C.F.R. § Part 1 shall extend to any facility located wholly or in part in such space.

#### 4. Affirmative Action

##### (i) Approved Plan

The Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 41 C.F.R. Chapter 60. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this Agreement.

##### (ii) Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended, codified in 15 U.S.C. § 632, and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### Q. Equal Employment Opportunity

In accordance with 41 C.F.R. § 60-1.4(b) and Executive Order 11246 (as amended by Executive Order 11375), for any Federally assisted construction contract as defined by 41 C.F.R. § 60-1.3, the contractor, during the performance of this Agreement, hereby agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor

will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 so that such provisions will be binding upon each subcontractor.

The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, subpart D of the Executive order.

In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this Agreement; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Grantee of Justice for appropriate legal proceedings.

R. Labor and Employment

1. Labor Standards

The Subrecipient shall comply with the in labor standards in Section 110 of the HCDA, as amended, and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis- Bacon Act, as amended, codified in 40 U.S.C. § 3141 et seq., and 29 C.F.R. Parts 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains no fewer than eight (8) units.

2. Davis-Bacon Act and Copeland "Anti-Kickback" Act

In the event this Agreement or grant award is for an amount which exceeds \$2,000 and is a prime



construction contract, the Subrecipient shall comply with the Davis-Bacon Act, 40 U.S.C. § 3141 et seq., as supplemented by Department of Labor regulations at 29 C.F.R. Part 5, which includes provisions providing for the payment of mechanics and laborers at a rate not less than the prevailing wages specified in a wage determination issued by the United States Secretary of Labor, and provides for the payment of wages to mechanics and laborers not less than once a week. Additionally, for all prime construction contracts in excess of \$2,000, the contractor or subrecipient shall comply with the Copeland "Anti-Kickback" Act, codified at 40 U.S.C. § 3145, as supplemented by Grantee of Labor regulations (29 C.F.R. Part 3), which prohibits a contractor or subrecipient from inducing any person employed in the construction, completion, or repair of a public work from giving up any compensation to which he or she is entitled to receive. In the event of a suspected or reported violation of either the Davis-Bacon Act or the Copeland "Anti-Kickback" Act, the Grantee shall report such violation to the Federal awarding agency.

### 3. Contract Work Hours and Safety Standards Act

In the event this Agreement or grant award is for an amount in excess of \$100,000 and involves the employment of mechanics and laborers, the Subrecipient shall comply with the Contract Work Hours and Safety Standards Act, codified in 40 U.S.C. § 3701 et seq., specifically §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Said Act includes provisions which provide that a contractor must compute the wages of mechanics and laborers on the basis of a standard 40-hour work week. If an employee works in excess of 40 hours during a work week, the employee must be compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours. Further, neither a laborer nor a mechanic can be required to work in unsanitary, hazardous, or dangerous conditions.

### S. The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance (Section 3)

The Subrecipient and the Subrecipient's Contractors and Developers shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u), and implementing regulation at 24 C.F.R. Part 75. The responsibilities outlined in 24 C.F.R. § 75.19 include:

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

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

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

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

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

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

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in 24 C.F.R. § 75.25(b), as appropriate, to reach the goals set forth in 24 C.F.R. § 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. The minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

T. Conduct

1. Hatch Act

The Subrecipient shall comply with the Hatch Act, codified at 5 U.S.C. § 1501 et seq., and shall ensure that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Federal law. None of the funds, materials, property, or services contributed by the Subrecipient or the Grantee under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate in public office.

2. Conflict of Interest

In the procurement of supplies, equipment, construction, and services pursuant to this Agreement, the Subrecipient shall comply with the conflict of interest provisions in 2 C.F.R. § 200.317-18 or 24 C.F.R. § 570.611, whichever is applicable under the circumstances.

A conflict of interest, real or apparent, will arise when any of the following has a financial or other interest in the firm or organization selected for award: (1) the individual, (2) any member of the individual's immediate family, (3) the individual's partner, or (4) an organization which employs or is about to employ any of the above. The Subrecipient certifies by signing this Agreement that no person under its employ or control who presently performs functions, duties, or responsibilities in connection with the Grantee of grant-funded projects or programs has any personal and/or financial interest, direct or indirect, in this Agreement. Nor will the Subrecipient hire any person having such conflicting interest. The Subrecipient further certifies that it will maintain a written code of standards governing the performance of persons engaged in the award and administration of contracts and subawards.

3. Lobbying Certification

The Subrecipient hereby certifies that:

- (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (iii) It shall require that the language of paragraphs (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by

31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

U. Religious Activities

The Subrecipient agrees that funds provided under this Agreement shall not be utilized for religious activities prohibited by 24 C.F.R. § 570.200(j) and will comply with the regulations found in 24 C.F.R. § 5.109.

V. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 C.F.R. § 58.22 even though the Subrecipient is not delegated the requirement under Section 104(g) of the HCDA for environmental review, decision-making, and action (see 24 C.F.R. Part 58) and is not delegated the Grantee's responsibilities for initiating the review process under the provisions of 24 C.F.R. Part 52. 24 C.F.R. § 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity.

2. Air and Water

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

- The Clean Air Act, as amended, codified in 42 U.S.C. § 7401 et seq., particularly § 7506(c) and (d); and 40 C.F.R. Parts 6, 51, and 93.
- The Federal Water Pollution Control Act, as amended, codified in 33 U.S.C. § 1251 et seq., and all regulations and guidelines issued thereunder.
- Environmental Protection Agency regulations in 40 C.F.R. Part 50.

3. Flood Disaster Protection

The Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, codified in 42 U.S.C. § 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, codified in 42 U.S.C. § 5154a, which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register Notices governing the CDBG-DR award.

4. Lead-Based Paint

The Subrecipient shall comply with the Lead-Based Paint Poisoning Prevention Act, codified in 42 U.S.C. § 4821-46; the Residential Lead-Based Paint Hazard Reduction Act of 1992, codified in 42 U.S.C. § 4851-56; and implementing regulations at 24 C.F.R. Part 35, subparts A, B, J, K, and R, which apply to activities under this Agreement.

5. Historic Preservation

The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in Title 54, Subtitle III, Division A of the United States Code; and the procedures set forth in 36 C.F.R. Part 800 insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the Alabama Historical Commission, in accordance with all applicable Federal, state, and local laws concerning rehabilitation and demolition of historic properties.

X. OTHER REQUIREMENTS IMPOSED BY GRANTEE

A. Other Requirements

In addition to the above clauses, the Subrecipient agrees with, and shall adhere to, the following:

1. The Subrecipient shall be responsible for its, and its contractors and subcontractors', compliance with any and all other applicable laws, ordinances, codes and regulations of the Federal, state, and local governments, including, but not limited to the Alabama Public Works Law (Ala. Code § 39-1-1 et seq.), any state permitting requirements, the Alabama Open Meetings Act (Ala. Code § 36-25a-1 et seq.), and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Ala. Code § 31-13-1 et seq.). ADECA shall not be liable for the Subrecipient's, or its contractors' or subcontractors', failure to comply with said laws or this Agreement.
2. In compliance with Alabama Act 2016-312, the Subrecipient hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.
3. By signing this Agreement, the parties affirm that for the duration of this Agreement they will not violate Federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized immigrant within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of this Agreement and shall be responsible for all damages resulting therefrom.
4. This Agreement is subject to HUD regulations, including, but not limited to, 24 C.F.R. Part 570, subpart I.
5. In accordance with 2 C.F.R. § 200.332(c) and § 200.208(b)(1), the Subrecipient shall complete the following within the required timeframe:
  - Attend Training Curriculum: Within 90 days after this Agreement is executed, Subrecipient shall participate in capacity building training events to develop and

improve knowledge of requirements and responsibilities of the CDBG-DR award in compliance with Federal laws, statutes, regulations, policy, and other requirements.

- **Implementation Plan:** Within 120 days after this Agreement is executed, Subrecipient shall work with ADECA to develop and submit a Capacity and Risk Assessment Implementation Plan outlining the actions that the Subrecipient will complete, and a timeline to complete each action, in response to the results of the Capacity and Risk Assessment performed by ADECA.
- **Staffing and Training Plan:** Within 60 days after this Agreement is executed, Subrecipient shall work with ADECA to develop or update and submit a staffing and training plan that identifies specific personnel responsible for implementation and compliance of key requirements, including citizen complaints, financial management, internal controls, procurement, monitoring and other requirements.
- **Policies and Procedures:** Within 120 days after this Agreement is executed, the Subrecipient shall develop, update, and implement all policies and procedures in compliance with ADECA CDBG-DR policies and state and Federal regulations.

**B. Human Trafficking Provisions**

This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, codified in 22 U.S.C. § 7104.

**C. Purchases of American-Made Equipment and Products**

As stated in Section 507 of Public Law 103-333, it is the sense of Congress that, to the extent practicable, all equipment and product purchases with funds from this Agreement should be American-made.

**D. Mandatory Disclosures**

Pursuant to 2 C.F.R. § 200.113, the Subrecipient must disclose, in a timely manner, in writing to the Grantee all violations of Federal criminal law involving fraud, bribery, or gratuity violations.

**E. Not to Constitute a Debt by the State**

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Ala. Const. art. XI, § 213.

**F. Conflicting Provision**

If any provision of this Agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then that conflicting provision in the Agreement shall be deemed null and void.

**G. Immunity and Dispute Resolution**

The parties to this Agreement recognize and acknowledge that ADECA is an instrumentality of the State of Alabama, and as such, is immune from suit pursuant to Ala. Const. art. I, § 14. It is further

acknowledged and agreed that none of the provisions and conditions of this Agreement shall be deemed to be or construed to be a waiver by ADECA of such Constitutional Immunity.

In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, the parties' sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama.

For any and all other disputes arising under the terms of this Agreement which are not resolved by negotiation, the parties agree to utilize appropriate forms of nonbinding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

H. Disclaimer

ADECA specifically denies liability for any claim arising out of any act or omission by any person or agency receiving funds from ADECA whether by contract, grant, loan, or by any other means.

No subrecipient, contractor, or agency performing services under any agreement, contract, grant or any other understanding, oral or written, other than an actual employee of ADECA, shall be considered an agent or employee of the State of Alabama or ADECA or any division thereof. The State of Alabama, ADECA, and their agents and employees assume no liability to any subrecipient, contractor or agency, or any third party, for any damages to property, both real and personal, or personal injuries, including death, arising out of or in any way connected with the acts or omissions of any subrecipient, contractor or agency, or any other person.

I. Assignability

The Subrecipient shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the Grantee thereto. Provided, however, that claims for money due, or to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, a trust company, or other financial institution through a valid court order and without such approval. Notice of such assignment or transfer shall be furnished promptly to the Grantee.

J. Contingency Clause

It is expressly understood and mutually agreed that any commitment of funds herein shall be contingent upon receipt and availability by the Grantee of funds under the program for which this Agreement is made. If this Agreement involves Federal funds, the amount of this Agreement will be adjusted by the amount of any Federal recessions and/or deferrals.

Payments made by the Grantee under the terms of this Agreement shall not constitute final approval of documents submitted by the Subrecipient or of procedures used in formulating requests for payment to the Subrecipient.

K. Disclosure Statement

Unless otherwise exempt under Ala. Code § 41-16-82, a disclosure statement must be submitted to ADECA for any and all proposals, bids, contracts, or grant proposals in excess of \$5,000.

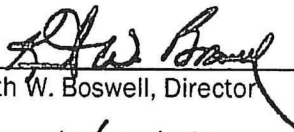
THE UNDERSIGNED, as authorized officials on behalf of the parties, have executed this Agreement for CDBG-DR Assistance, which shall be effective as of the date of execution hereof on behalf of the Grantee.

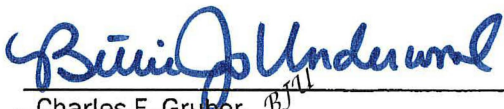
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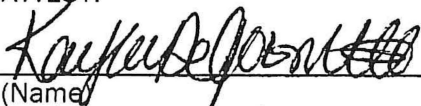
SUBRECIPIENT

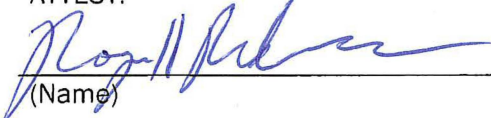
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Community Affairs

Baldwin County Commission

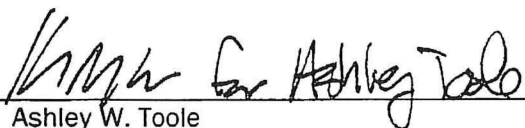
  
Kenneth W. Boswell, Director  
11/6/23  
(Date)

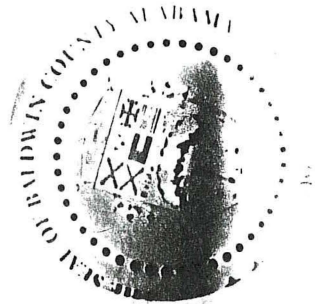
  
Charles F. Gruber, BJ  
Billie Jo Underwood, Madam Chairman  
December 19, 2023  
(Date)

ATTEST:  
  
(Name)  
ASA III  
(Title)  
11/6/23  
(Date)

ATTEST:  
  
(Name)  
County Administrator  
(Title)  
December 19, 2023  
(Date)

This contract/grant has been reviewed for  
content, legal form, and complies with all  
applicable laws, rules and regulations of the  
State of Alabama governing these matters.

  
Ashley W. Toole  
General Counsel for ADECA  
11/3/23





## **Attachment A**

### **Scope of Work**

#### **Project Description and Scope of Work**

As a requirement before implementing local recovery programs and projects, subrecipients of ADECA must develop a Local Recovery Plan (LRP) to identify local unmet needs through outreach and coordination with impacted stakeholders. The plan should aim to target the most vulnerable populations and create corresponding programs and or projects within Baldwin County. Baldwin County Commission will implement the local recovery planning program as a subrecipient of the Alabama Department of Economic and Community Affairs (ADECA).

Baldwin County, classified as one of the Hardest Hit and Most Impacted and Distressed Areas (HHMID), will work with local Municipalities and Tribes within Baldwin County and work collaboratively across the district to serve the target populations in the planning and recovery.

This Scope of Work assigns the following responsibilities to Baldwin County Commission, with a two (2) year period of performance beginning June 1<sup>st</sup>, 2023, and ending May 31<sup>st</sup>, 2025.

#### **Task Descriptions**

##### **Task 1: Communication and Outreach**

1. Develop a comprehensive communications and outreach plan that outlines the goals, objectives, and key HHMID stakeholders of the LRP.
2. Conduct initial outreach and communications with all participating local Municipalities and Tribes to introduce the LRP and its objectives.
3. Coordinate with all participating local Municipalities and Tribes to establish the LRP and ensure their intent to participate in the LRP.

##### **Task 2: Local Recovery Plan (LRP) Development**

1. Collaborate and share planning resources and information to develop a Local Recovery Plan (LRP) for Baldwin County and their respective communities which defines urgent need and priority recovery actions addressing unmet needs of impacted stakeholders.
2. Ensure the LRPP is presented to Baldwin County Commission prior to submission to ADECA for review and acceptance by ADECA, by working with the participating Municipalities and Tribes to ensure that their LRP is comprehensive, feasible, and meets the requirements of the program guidelines and applicable rules and regulations governing HUD's CDBG-DR program.
3. Submit the LRP to ADECA.

##### **Task 3: Administration and Compliance**

1. Baldwin County Commission will provide regular reports to ADECA on implementation. Baldwin County Commission will also ensure that all required deliverables are submitted on time, including the LRP, progress reports, financial reports, and other relevant documentation.
2. Ensure compliance with all Federal and state statutes, regulations, CDBG-DR program requirements, and ADECA's policies and procedures, as applicable.
3. Ensure compliance with all terms and conditions of this Subrecipient Agreement (SRA).
4. Meet established performance goals and timeliness requirements.
5. Perform any additional and reasonable tasks assigned by ADECA for the implementation of the LRPP or other disaster recovery programs administered by ADECA.

### Eligible Activities and National Objectives

Task Number	Eligible Activities	National Objectives
Task #1	Section 105(a)(12) - Planning Activities	N/A
Task #2	Section 105(a)(12) - Planning Activities	N/A
Task #3	Section 105(a)(12) - Planning Activities	N/A

### Performance Reporting

The Subrecipient shall complete the tasks in accordance with the timeframes and performance goals associated with each task shown below:

#### Task #1

Goals and Subgoals	Performance Measure and Quantity	Timeframe for Completion
Develop a comprehensive communications and outreach plan that outlines the goals, objectives, and Key HHMID Stakeholders.	Create and submit one (1) LRPP Communications and Outreach Plan.	Within 30-days of SRA execution.
Conduct initial outreach and communications with all participating local municipalities and local tribes to introduce the LRPP and its objectives.	Schedule one (1) meeting with Local Municipalities and Tribes to determine their intent to participate in the LRPP.	Within 60 days of SRA execution.

#### Task #2

Goals and Subgoals	Performance Measure and Quantity	Timeframe for Completion
Identify qualified planning resources, at minimum procure a planning vendor, issue a planning vendor RFP, and/or recruit necessary personnel	Issue one (1) RFP for a planning vendor or hire necessary personnel.	Within 60 days of SRA execution.
Ensure the timely development and submission of the LRPP to ADECA that meets all program guidelines and requirements and is approved by the Baldwin County Commission before submission to ADECA.	Submit one (1) Local Recovery Plan (LRP).	Within 9-months or less from SRA execution.

#### Task #3

Goals and Subgoals	Performance Measure and Quantity	Timeframe for Completion
Submit required SRA reporting to ADECA on the progress and status of the LRPP implementation.	One (1) performance report per month.	No later than 10 days after reporting period.
Submit Baldwin County Commission invoices for review and processing.	One (1) invoice per month.	No later than 10 days after the previous month's billing cycle.

## Attachment B

### Budget

The Subrecipient shall complete all tasks in this Agreement in accordance with budget herein.

Line Item	Cost Type	Total
Salaries and Fringe Benefits	Planning	\$63,360.00
Operating Costs	Planning	\$644.40
Professional Services	Planning	\$935,000.00
Construction/Program Costs	Planning	\$0.00
Equipment	Planning	\$0.00
Other	Planning	\$995.60
Indirect costs	Planning	\$0.00
Total	Planning	\$1,000,000.00