



A G E N D A

**REGULAR MEETING OF THE STUART CITY COMMISSION
TO BE HELD January 23, 2017
AT 5:30 PM ADDENDUM
121 SW FLAGLER AVE.
STUART, FLORIDA 34994**

CITY COMMISSION

**Mayor Eula R. Clarke
Vice Mayor Tom Campenni
Commissioner Kelli Glass Leighton
Commissioner Jeffrey A. Krauskopf
Commissioner Troy A. McDonald**

ADMINISTRATIVE

**City Manager, Paul J. Nicoletti
City Attorney, Michael J. Mortell
City Clerk, Cheryl White**

Agenda items are available on our website at <http://www.cityofstuart.us>

Phone: (772) 288-5306 .Fax: (772) 288-5305 .E-mail: cwhite@ci.stuart.fl.us

Special Needs: Participants with special needs can be accommodated by calling the City Clerk at least 5 working days prior to the Meeting excluding Saturday and Sunday. We can be reached by phone at (772)288-5306, by fax at (772)288-5305, or by email at cwhite@ci.stuart.fl.us. If you are hearing impaired, please contact us using the Florida Relay Service, Customer Service: Dial 711 or English: (V) 800-682-8706, (TTY) 800-682-8786 Spanish: (V, TTY) 1-800-855-2886 If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

(RC) next to an item denotes there is a City Code requirement for a Roll Call vote.

(QJ) next to an item denotes that it is a quasi-judicial matter or public hearing.

ROLL CALL

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

COMMENTS BY CITY COMMISSIONERS

COMMENTS BY CITY MANAGER

APPROVAL OF AGENDA

COMMENTS FROM THE PUBLIC (5 min. max)

WHAT IS CIVILITY?: *Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.* **PUBLIC COMMENT:** *If a member of the public wishes to comment upon ANY subject matter, including quasi-judicial matters, please submit a Request to Speak form. These forms are available in the back of the Commission Chambers, and should be given to the City Clerk prior to introduction of the item number you would like to address.*

QUASI-JUDICIAL HEARINGS: *Some of the matters on the Agenda may be "quasi-judicial" in nature. City Commissioners will disclose all ex-parte communications, and may be subject to voir dire by any interested party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment without being sworn. Unsworn testimony will be given appropriate weight and credibility by the City Commission.*

CONSENT CALENDAR: *Those matters included under the Consent Calendar are self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by one motion. If discussion on an item is desired by any City Commissioner that item may be removed by a City Commissioner from the Consent Calendar and considered separately. If an item is quasi-judicial it may be removed by a Commissioner or any member of the public from the Consent Calendar and considered separately.*

CONSENT CALENDAR

1. RESOLUTION No. 18-2017 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE FEDERALLY FUNDED PUBLIC ASSISTANCE FUNDING AGREEMENT AND FURTHER DELEGATE THE CITYMANAGER TO SIGN ALL FUTURE AGREEMENTS BETWEEN THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT AND THE CITY OF STUART; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (RC)

END OF CONSENT CALENDAR

COMMISSION ACTION

ORDINANCE FIRST READING

ORDINANCE SECOND READING

DISCUSSION AND DELIBERATION

ADJOURNMENT

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 1/23/2017

Prepared by: Judy Browning

Title of Item:

RESOLUTION No. 18-2017 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE FEDERALLY FUNDED PUBLIC ASSISTANCE FUNDING AGREEMENT AND FURTHER DELEGATE THE CITYMANAGER TO SIGN ALL FUTURE AGREEMENTS BETWEEN THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT AND THE CITY OF STUART; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (RC)

Summary Explanation/Background Information on Agenda Request:

Requesting City Commission approval to authorize City Manager to sign and execute the PA Funding Agreement FEMA-4283-DR-FL, and all other FEMA related documents current and future.

Funding Source:

N/A

Recommended Action:

Approve Resolution No. 18-2017

ATTACHMENTS:

Description	Upload Date	Type
❑ R18-2017 Resolution	1/19/2017	Resolution add to Y drive
❑ Funding Agreement	1/19/2017	Resolution add to Y drive

**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 18-2017

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE THE FEDERALLY FUNDED PUBLIC ASSISTANCE FUNDING AGREEMENT AND FURTHER DELEGATE THE CITY MANAGER TO SIGN ALL FUTURE AGREEMENTS BETWEEN THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT AND THE CITY OF STUART; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, as a means of providing relief to the city, the State of Florida is granting federal Disaster Relief Funds to jurisdictions that expended funds for storm related issues incurred during Hurricane Matthew on October 6, 2016.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City Commission of the City of Stuart, Florida hereby approves the Federally Funded Public Assistance State Agreement between the State of Florida, Division of Emergency Management and the City of Stuart and further delegates the City Manager to execute the agreement subsequent to review and approval by the City Attorney. A copy of the Agreement is attached hereto as Exhibit "A."

SECTION 2: This resolution shall take effect upon adoption.

ADOPTED this 23RD day of January, 2017.

Resolution 18-2017

Commissioner _____ offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

EULA R. CLARKE, MAYOR
TOM CAMPENNI, VICE MAYOR
JEFFREY KRAUSKOPF, COMMISSIONER
TROY MCDONALD, COMMISSIONER
KELLI GLASS LEIGHTON, COMMISSIONER

YES	NO	ABSENT

ATTEST:

CHERYL WHITE
CITY CLERK

EULA R. CLARKE
MAYOR

REVIEWED FOR FORM AND LEGAL SUFFICIENCY
CORRECTNESS:

MICHAEL J. MORTELL, CITY ATTORNEY

**INSTRUCTIONS TO EXECUTE THE
FEDERALLY FUNDED PUBLIC ASSISTANCE FUNDING AGREEMENT
BY THE SUBGRANTEE/SUBRECIPIENT**

FEMA's Public Assistance program is a Federal grant to aid State and Local governments in returning a disaster area to pre-disaster conditions. A minimum of 75% of eligible cost is provided to primarily address the repair and restoration of public facilities and infrastructure which have been damaged or destroyed, or the restoration of services which were negatively impacted. Eligible Applicants are State, tribal, or local governments, and the owners or operators of certain private nonprofit facilities. In order to be eligible for federal funds, you were required to submit a Request for Public Assistance (RPA). That request has been approved.

FEMA and the State share the responsibility for making Public Assistance funds available to the Subgrantee/Subrecipient. Funds that FEMA obligates to the State via electronic transfer, reside in the Federal account (SMARTLINK) until the State is ready to award grants to the appropriate Subgrantees/Subrecipients.

EXECUTION OF THE AGREEMENT

SIGNATURE AUTHORITY

1. Because your request for Public Assistance (RPA) was approved, it is now necessary for you, as the Subgrantee/Subrecipient, to enter into the attached Agreement with the Florida Division of Emergency Management (the Grantee/Recipient). The following specific officers/officials, or their authorized designees, are required to sign this Agreement on behalf of the specified type of Subgrantee/Subrecipient. (NOTE: If this Agreement is signed by a designee, a duly authenticated delegation of authority evidencing the signer's authority to execute the Agreement for and on behalf of the Subgrantee/Subrecipient *must* be attached to the Agreement for review by the Division.)
 - a. **Corporation:** the chair of the board of directors or president;
 - b. **City:** the mayor or city manager;
 - c. **County:** the chair of the board of county commissioners or the county manager;
 - d. **School Board:** the superintendent;
 - e. **Fire District:** the district chief;
 - f. **Special Districts:** the executive director;
 - g. **Institution of Higher Education:** the president of the institution;
 - h. **Charter School:** the chair of the board of directors;
 - i. **County Sheriff's Office:** the sheriff;
 - j. **State Agencies:** the Secretary or Director of the Agency;
 - k. **All other Subgrantee/Subrecipients:** the chief executive officer of the entity.
2. Copies of the Agreement can be obtained through FloridaPA.org by anyone authorized by the Subgrantee/Subrecipient to access the system.

CHECKLIST FOR EXECUTING THE FUNDING AGREEMENT

In what may be a change from how the Funding Agreement has been executed in previous disasters, it is now necessary take the following steps to ensure that the Funding Agreement and associated documentation is processed as quickly as possible:

- O 1. Download the Agreement and these instructions from the "Funding Agreement" section of your FloridaPA.org Subgrantee/Subrecipient Account Summary page for disaster FEMA-4283-DR-FL within www.FloridaPA.org;
- O 2. Complete all user-defined fields, save the Agreement to your local computer, then print a copy of the Agreement with all attachments. (Print two copies if you want to receive an executed copy with original signatures back from the Division);
- O 3. Have the officer/official listed above, or their designee with signature authority, sign:
 - a. the Statement of Assurances signature page (Attachment A);
 - b. the Funding Agreement on page 23, under the subsection "For the Subgrantee/Subrecipient," (If signed by a designee, a duly authenticated delegation of authority evidencing the signer's authority to execute the Agreement for and on behalf of the Subgrantee/Subrecipient must be attached.); and
 - c. the bottom of Attachment D, on the line for "Subgrantee/Subrecipient Authority/Board/Commission Signature."
 - d. The bottom of Attachment E on the line "FOR: Subgrantee/Subrecipient BY:"
- O 4. Scan a PDF copy of the Agreement with *all* Attachments and upload the PDF copy into www.FloridaPA.org. (This can be accomplished by selecting "View Funding Agreement" on the Event Summary page for disaster FEMA-4283-DR-FL.)
- O 5. Once uploaded, advance the Agreement in www.FloridaPA.org, where it will be reviewed and advanced for legal review.
- O 6. Send the original(s) of the signed Agreement by U.S. Mail or courier service to the following address:

Attn: Evan Rosenberg, Bureau Chief
Florida Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100.

Once received, the Division's representative will execute the Agreement and a scanned copy of the fully executed Agreement will be uploaded into www.FloridaPA.org. (If the Subgrantee/Subrecipient has sent two copies of the Funding Agreement, each with original signatures, the Division will return one fully executed copy with original signatures to the Subgrantee/Subrecipient. If only one copy with original signatures has been sent by the Subgrantee/Subrecipient, then the Division will retain the resulting fully executed copy of the Agreement.)

OTHER INFORMATION

It is the Subgrantee's/Subrecipient's responsibility to review all of the provisions in the Agreement and Attachments, and completely fulfill its duties and obligations thereunder. While

the provisions may not be modified, the Subgrantee/Subrecipient has the right to consult with counsel and have counsel review the Agreement before signing and submitting it to the Division for acceptance.

While all of the provisions are important and must be complied with, the following provisions are especially important for the Subgrantee/Subrecipient to be aware of:

GRANTEE'S/RECIPIENT'S WEB-BASED PROJECT MANAGEMENT SYSTEM (FloridaPA.org)

Subgrantees/Subrecipients *must* use the Grantee's/Recipient's web-based project management system, FloridaPA.org, (available at www.FloridaPA.org) to access and exchange project information with the State throughout the project's life. This includes processing advances, reimbursement requests, quarterly reports, final inspection schedules, change requests, time extensions, and other services as identified in the Agreement. Training on this system will be supplied by the Grantee/Recipient upon request by the Subgrantee/Subrecipient. *The Subgrantee/Subrecipient is required to have working knowledge of the FloridaPA.org system.*

TIMELINE FOR PERFORMANCE OF WORK

COMPLETION DATES

In accordance with 44 C.F.R. § 206.204, the Subgrantee/Subrecipient must complete all projects – whether small projects or large projects – no later than 18 months from the date a major disaster or emergency is declared by the President, except that the Subgrantee/Subrecipient only has 6 months to complete projects related to debris removal and emergency work. Based on extenuating circumstances or unusual project requirements beyond the control of the Subgrantee/Subrecipient, the Grantee/Recipient may – but is not required to – extend the completion deadline for an additional 6 months for debris removal and emergency work, and 30 months for permanent restoration work. The Subgrantee/Subrecipient must notify the State and certify work is complete on small projects.

CLOSEOUT

The Public Assistance Program is considered programmatically closed when FEMA assures that all of the grants awarded under this Agreement for a disaster meet the statutory and regulatory requirements that govern the program. To achieve programmatic closure, the Grantee/Recipient ensures that all funds have been obligated and all work has been completed in accordance with this Agreement. In addition, FEMA must resolve any appeals before programmatic closure is complete. Financial reconciliation of the grant, or grant closure, occurs later, when FEMA and the Grantee/Recipient (State) reach agreement that all applicable administrative actions related to the Public Assistance Program are complete and all program funds related to the disaster have been reconciled. A signed Project Completion and Certification report is required to close this Agreement.

Contract Number: 17-PA-U5-10-53-01-104

Subgrantee/Subrecipient: Stuart, City Of

FIPS/PAID Number: 085-68875-00

HURRICANE MATTHEW DISASTER DECLARATION (FEMA-4283-DR-FL)

Federally Funded Public Assistance State Agreement

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, whose headquarters is in Tallahassee, Leon County, Florida (hereafter referred to as the "Grantee/Recipient"), and:

(hereinafter referred to as the "Subgrantee/Subrecipient").

WHEREAS,

On October 8, 2016, President Barack H. Obama issued a Major Disaster Declaration designated FEMA-4283-DR-FL for the State of Florida as a result of Hurricane Matthew; and

WHEREAS,

The Declaration, as amended, authorizes Public Assistance funding for eligible disaster recovery efforts in Bradford, Brevard, Clay, Duval, Flagler, Indian River, Lake, Martin, Nassau, Palm Beach, Putnam, Seminole, St. Johns, St. Lucie, and Volusia Counties.

WHEREAS,

The FEMA-State Agreement executed October 12, 2016, and subsequently amended, between the State of Florida and the Federal Emergency Management Agency (FEMA) governing the use of such funds requires the State to share the costs eligible for federal financial assistance, and the State has undertaken to share those costs, as appropriated, with its Subgrantees/Subrecipients; and

WHEREAS,

The Subgrantee/Subrecipient is located in the affected area and appears to have suffered eligible damage; now

THEREFORE, the Grantee/Recipient and the Subgrantee/Subrecipient, as evidenced by the execution of this document by affixing the signatures of the parties' authorized representatives below, agree to the following:

1) DEFINITIONS.

- a. As used in this Agreement, the following terms have the following meanings unless another meaning is specified elsewhere:
 - i. **Agreement Sum:** is the Grantee's/Recipient's amount of reimbursement to the Subgrantee/Subrecipient for its verified expenses, subject to the scope of work identified in the Project Worksheet for Small and/or Large Projects.
 - ii. **Eligible activities:** are those activities authorized in the FEMA-State Agreement (located in FloridaPA.org on the main Disaster Summary Page

under “documents”), and in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C §§ 5121-5207 (Stafford Act); in accordance with 44 C.F.R.; 2 C.F.R.; and applicable policies of both the State of Florida and FEMA.

- iii. **FEMA - State Agreement:** is the agreement executed October 12, 2016, and amended from time to time, between the FEMA and the State of Florida, for a presidential major disaster declaration designated FEMA-4283-DR-FL.
- iv. **Large Project Threshold:** When the approved estimate of eligible costs for an individual project under this major disaster is \$123,100⁰⁰ or greater, it is a Large Project.
- v. **P.2. package:** is the formal notification used for all versions of a Project Worksheet with a change in the funding amount.
- vi. **Project Worksheet (Subgrant Application):** is the primary form used to document the location, damage description and dimensions, scope of work, Special Considerations, and cost estimates for each small or large project. It is the basis for the grant.
- vii. **Reasonable:** for purposes of access to records, is construed according to the circumstances, but ordinarily means during the normal business hours of 8:00 a.m. to 5:00 p.m., local time, on any Monday through Friday that is not a state or federal holiday.
- viii. **Zero (0) Dollar Notification Letter:** is the notification for projects where there are scope changes, improved or alternate projects, ineligible cost or a zero (0) dollar variance closeout.

2) AGREEMENT TO BE BOUND.

- a. The parties enter into this Agreement intending to be bound by same.
- b. The parties specifically agree to comply with all conditions, obligations, and duties imposed by this Agreement, by the FEMA - State Agreement, and by all applicable State and federal laws, regulations, and policies without limitation, including but not limited to 44 C.F.R.; 2 C.F.R.; and applicable policies of both the State of Florida and FEMA. The Subgrantee/Subrecipient further agrees to comply with the Statement of Assurances attached hereto as Attachment “A” and incorporated herein by reference.

3) FUNDING.

- a. The federal share of the eligible costs specified in the Project Worksheets under this Agreement is seventy-five percent (75%) of such costs, unless a higher percentage is approved. The non-federal share is the remaining amount.
- b. Payment of all or a specified portion of the nonfederal share of such costs is contingent upon a potential future State appropriation defining the apportionment of the nonfederal share.
- c. The Subgrantee/Subrecipient acknowledges that the Grantee's/Recipient's obligation to pay under this Agreement is contingent upon an appropriation by the

State Legislature, subject to any modification in accordance with Chapter 216, Florida Statutes, or the Florida Constitution.

- d. Disbursement must be consistent with section 252.37, Florida Statutes. Administrative costs in addition to the Project Worksheets that are otherwise eligible under 44 C.F.R. Part 206.228 and do not require matching funds may also be funded by FEMA.
- e. Subject to an advance payment of funds by the Grantee/Recipient to the Subgrantee/Subrecipient, the Grantee/Recipient will provide funds on a cost reimbursement basis to the Subgrantee/Subrecipient for eligible activities approved by the Grantee/Recipient and FEMA, as specified in the approved Subgrantee/Subrecipient Project Worksheets.
- f. The Grantee/Recipient may provide some portion of any nonfederal share for some Subgrantees/Subrecipients. As a condition of receipt of the federal funding, the Subgrantee/Subrecipient agrees to provide any nonfederal share not paid by the Grantee/Recipient. The federal allowable costs must be determined as per 2 C.F.R. and 44 C.F.R. §§ 13 and 206.
- g. The approved Project Worksheets will be transmitted to the Subgrantee/Subrecipient, and must state the cumulative funding allowed, the scope of the eligible project, and the costs eligible under this Agreement.
- h. Project Worksheets may obligate or deobligate funding, thereby amending the total funding for the project. **These actions will be denoted in the final version of the obligated project worksheet for each project.**
- i. The approved Project Worksheets will document the total eligible costs and the total federal share of those costs.
- j. As a condition of funding under this Agreement, the Subgrantee/Subrecipient agrees that the Grantee/Recipient may withhold funds otherwise payable to the Subgrantee/Subrecipient from any disbursement to the Grantee/Recipient, by FEMA or any other source, upon a determination by the Grantee/Recipient or FEMA that funds exceeding the eligible costs have been disbursed to the Subgrantee/Subrecipient pursuant to this Agreement or any other funding agreement administered by the Grantee/Recipient.
- k. The Subgrantee/Subrecipient understands and agrees that the Grantee/Recipient may offset any funds due and payable to the Subgrantee/Subrecipient until the debt to the State is satisfied. In such event, the Grantee/Recipient will notify the Subgrantee/Subrecipient via the entry of notes in FloridaPA.org.

4) INSURANCE.

- a. The Subgrantee/Subrecipient understands and agrees that disaster funding for insurable facilities provided by FEMA is intended to supplement, not replace, financial assistance from insurance coverage and/or other sources. Actual or anticipated insurance proceeds must be deducted from all applicable FEMA Public Assistance grants in order to avoid a duplication of benefits. The Subgrantee/Subrecipient further understands and agrees that If Public Assistance funding is obligated for work that is subsequently determined to be covered by insurance and/or other sources of funding, FEMA must deobligate the funds per Stafford Act Sections 101 (b)(4) and 312 (c).

- b. As a condition of funding under this Agreement, pursuant to 44 C.F.R. §§ 206.252-253, for damaged facilities, the Subgrantee/Subrecipient understands it must, and it agrees to, maintain such types of insurance as are reasonable and necessary to protect against future loss for the anticipated life of the restorative work or the insured facility, whichever is lesser. Except that the Grantee/Recipient acknowledges FEMA does not require insurance to be obtained and maintained for projects where the total eligible damage is less than \$5,000⁰⁰.
- c. In addition to the preceding requirements, the Subgrantee/Subrecipient understands it is required to obtain and maintain insurance on certain permanent work projects in order to be eligible for Public Assistance funding in future disasters pursuant to § 311 of the Stafford Act. As stated in the Stafford Act, "Such coverage must at a minimum be in the amount of the eligible project costs." Further, the Stafford Act, requires a Subgrantee/Subrecipient to purchase and maintain insurance, where that insurance is "reasonably available, adequate or necessary to protect against future loss" to an insurable facility as a condition for receiving disaster assistance funding. The Act further states "If the requirement to purchase insurance is not met, FEMA will not provide assistance for damages sustained in the current disaster." If the State Insurance Commissioner certifies that the type and extent of insurance is not "reasonably available, adequate or necessary to protect against future loss" to an insurable facility, the Regional Administrator may modify or waive the requirement in conformity with the certification.
- d. The Subgrantee/Subrecipient understands and agrees it is responsible for being aware of, and complying with, all insurance considerations contained in the Stafford Act and in 44 C.F.R. §§ 206.252-253.
- e. The Subgrantee/Subrecipient agrees to notify the Grantee/Recipient in writing within thirty (30) days of the date it becomes aware of any insurance coverage for the damage identified on the applicable Project Worksheets and of any entitlement to compensation or indemnification from such insurance. The Subgrantee/Subrecipient further agrees to provide all pertinent insurance information, including but not limited to copies of all policies, declarations pages, insuring agreements, conditions, exclusions, Statement of Loss, and Statement of Values for each insured damaged facility.
- f. The Subgrantee/Subrecipient understands and agrees that it is required to pursue payment under its insurance policies to the best of its ability to maximize potential coverage available.

5) DUPLICATION OF BENEFITS PROHIBITED.

- a. The Subgrantee/Subrecipient understands it may not receive funding under this Agreement to pay for damage covered by insurance, nor may the Subgrantee/Subrecipient receive any other duplicate benefits from any source whatsoever.
- b. The Subgrantee/Subrecipient agrees to reimburse the Grantee/Recipient if it receives any duplicate benefits, from any source, for any damage identified on the applicable Project Worksheets, for which the Subgrantee/Subrecipient has received payment from the Grantee/Recipient.
- c. The Subgrantee/Subrecipient agrees to notify the Grantee/Recipient in writing within thirty (30) days of the date it becomes aware of the possible availability of,

applies for, or receives funds, regardless of the source, which could reasonably be considered as duplicate benefits.

- d. In the event the Grantee/Recipient determines the Subgrantee/Subrecipient has received duplicate benefits, the Subgrantee/Subrecipient gives the Grantee/Recipient and/or the Chief Financial Officer of the State of Florida, the express authority to offset the amount of any such duplicate benefits by withholding them from any other funds otherwise due and payable to the Subgrantee/Subrecipient, and to use such remedies as may be available administratively, at law, or at equity, to recover such benefits.

6) COMPLIANCE WITH PLANNING/PERMITTING REGULATIONS AND LAWS.

- a. The Subgrantee/Subrecipient is responsible for the implementation and completion of the approved projects described in the Project Worksheets in a manner acceptable to Grantee/Recipient, and in accordance with applicable Local, State, and Federal legal requirements.
- b. If applicable, the contract documents for any project undertaken by the Subgrantee/Subrecipient, and any land use permitted by or engaged in by the Subgrantee/Subrecipient, must be consistent with the local government comprehensive plan.
- c. The Subgrantee/Subrecipient must ensure that any development or development order complies with all applicable planning, permitting, and building requirements including, but not limited to, the National Environmental Policy Act and the National Historic Preservation Act.
- d. The Subgrantee/Subrecipient must engage such competent, properly licensed, engineering, environmental, archeological, building, and other technical and professional assistance at all project sites as may be needed to ensure that the project complies with the contract documents.

7) DOCUMENTATION AND INSPECTIONS.

- a. The Subgrantee/Subrecipient must create and maintain documentation of work performed and costs incurred on each project site identified in a Project Worksheet sufficient to permit a formal audit comporting with ordinary, customary and prudent public accounting requirements. If the Grantee/Recipient determines the Subgrantee/Subrecipient has failed to create and maintain such documentation, the Grantee/Recipient may, in its sole discretion, terminate further funding under this Agreement. In such event the Subgrantee/Subrecipient must, within sixty (60) days of receipt of Notice by the Grantee/Recipient, reimburse the Grantee/Recipient for all payments disbursed to the Subgrantee/Subrecipient, together with any and all accrued interest.
 - i. Failure of the Grantee/Recipient to terminate funding when a Subgrantee's/Subrecipient's breach is discovered does not act as a waiver of the Grantee's/Recipient's right to enforce this provision later, nor does failure to enforce this provision in one instance act as a waiver to enforce this provision in other instances.
- b. For all projects, the Subgrantee/Subrecipient must state on the "Project Completion and Certification Report" that all work was performed in accordance with this

Agreement and the requirements in each Project Worksheet, and must state the date of completion.

- c. For Small Projects, the Subgrantee/Subrecipient must notify the State when work is complete and must upload photographs clearly demonstrating completion of the work to the Subgrantee/Subrecipient's FloridaPA.org account.
- d. For Large Projects the Subgrantee/Subrecipient must submit a Request for Closeout on FloridaPA.org, and include.
 - i. a Request for Reimbursement (if funds are owed to the Subgrantee/Subrecipient); and
 - ii. a Summary of Documentation which is automatically created when the request for closeout is submitted on FloridaPA.org.
- e. To ensure that all work has been performed within the scope of work specified on the Project Worksheets, the Grantee/Recipient will conduct final inspections on Large Projects, and may, at its sole discretion, select one or more Small Projects to be inspected. Costs determined to be outside of the approved scope of work and/or outside of the approved performance period cannot be reimbursed.
- f. Interim Inspections may be requested by the Subgrantee/Subrecipient, on both small and large projects, to:
 - i. conduct insurance reconciliations;
 - ii. review an alternate scope of work;
 - iii. review an improved scope of work; and/or
 - iv. validate scope of work and/or cost.
- g. Interim Inspections may be scheduled and submitted by the Grantee/Recipient as a request in FloridaPA.org under the following conditions:
 - i. a quarterly report has not been updated between quarters;
 - ii. the Subgrantee/Subrecipient is not submitting Requests for Reimbursement (RFR's) in a timely manner;
 - iii. requests for a Time Extension have been made that exceed the Grantee's/Recipient's authority to approve; and/or
 - iv. there are issues or concerns identified by the Grantee/Recipient that may impact funding under this agreement
- h. The Subgrantee/Subrecipient must submit a request Large Project closeout in FloridaPA.org no later than sixty (60) days after the project's completion.
 - i. The Grantee/Recipient will use its authority to submit a request for project closeout if the Subgrantee/Subrecipient has identified the project to be complete but has failed to submit the request for closeout.

8) PAYMENT.

- a. The Grantee/Recipient agrees to disburse the eligible costs to the Subgrantee/Subrecipient in accordance with the following procedures:

i. **Funding for Small Projects:** Small project funding will be based on estimated costs, only if actual costs are not yet available. Payment is made on the basis of the initial approved amount, whether estimated or actual. Revisions to the initial Project Worksheet may be required if there are omissions or changes in the scope of work. (Revisions to the Project Worksheets may result in changes in funding level and/or category.) Payment methods are fully described in FEMA's Public Assistance Program and Policy Guide (January 2016). A request to increase cost on small projects is only allowed under a request for a Net Small Project Overrun. A Small Project Netting will require the inspection of *all* small projects to ensure that both the scope of work was completed and that all combined funds were expended.

1. The Grantee/Recipient agrees to disburse the federal and nonfederal shares of the eligible costs for Small Projects to the Subgrantee/Subrecipient as soon as practicable after execution of this Agreement and formal notification by FEMA of its obligation of the pertinent Small Project Worksheet.

ii. **Funding for Large Projects:** Although Large project funding must be based on documented actual costs, most Large Projects are initially approved based on estimated costs. Funds are made available to the Subgrantee/Subrecipient when work is in progress and funds have been expended with documentation of costs available. When all work associated with the project is complete, the State will perform a reconciliation of actual costs and will transmit the information to FEMA for its consideration for final funding adjustments.

1. The Grantee/Recipient agrees to reimburse the Subgrantee/Subrecipient for the federal and nonfederal shares of the eligible costs for Large Projects as soon as practicable after execution of this Agreement and formal notification by FEMA of its approval of the pertinent Large Project Worksheet and submission of a Request for Reimbursement (RFR) by the Subgrantee/Subrecipient. The submission from the Subgrantee/Subrecipient requesting this reimbursement must include:

- a) a Request for Reimbursement (available in FloridaPA.org);
- b) a Summary of Documentation (SOD) which is titled Reimbursement Detail Report in FloridaPA.org and is automatically created when the Request for Reimbursement is submitted (and is supported by copies of original documents such as, but not limited to, contract documents, insurance policies, payroll records, daily work logs, invoices, purchase orders, and change orders); and
- c) the FEMA Cost Claim Summary Workbook (found in the Forms section of FloridaPA.org), along with copies of original documents such as contract documents, invoices, change orders, canceled checks (or other proof of expenditure), purchase orders, etc.

- b. Once the work is completed, the Grantee/Recipient and the Subgrantee/Subrecipient will conduct a final inspection to determine if the payments to the Subgrantee/Subrecipient were proper, if it is owed additional monies, or if it must submit repayment to the State for overpayment.
- c. In the event that funds are owed to the State on any Federal grant, all payables are subject to be applied to any receivable until the total debt is satisfied.
- d. The amount which may be advanced may not exceed the expected cash needs of the Subgrantee/Subrecipient for the first three (3) months of the contract term, not to exceed the Federal share.
- e. Advances.
 - i. Payments under the Public Assistance Alternative Procedures Program (PAAP) are paid as an Advance Payment. Notwithstanding Paragraph "3) Funding," above, these payments are not bound by Section 216.181(16), Florida Statutes.
 - 1. The Grantee/Recipient must request a waiver from the State Comptroller each Fiscal year.
 - 2. For a federally funded contract, any advance payment is also subject to 2 C.F.R., federal OMB Circulars A-87, A-110, A-122, and the Cash Management Improvement Act of 1990.
 - 3. All advances must be held in an interest-bearing account with the interest being remitted to the Grantee/Recipient as often as practicable, but not later than ten (10) business days after the close of each calendar quarter.
 - 4. In order to prepare a Request for Advance (RFA) the Subgrantee/Subrecipient must certify to the Grantee/Recipient that it has procedures in place to ensure that funds are disbursed to project vendors, contractors, and subcontractors without unnecessary delay. The Subgrantee/Subrecipient must prepare and submit a budget that contains a timeline projecting future payment schedules through project completion.
 - 5. A separate RFA must be completed for each Project Worksheet to be included in the Advance Funding Payment.
 - 6. The Subgrantee/Subrecipient must complete a Request for Reimbursement (RFR) via FloridaPA.org no more than ninety (90) days after receiving its Advance Payment for a specific project. The RFR must account for all expenditures incurred while performing eligible work documented in the applicable Project Worksheet for which the Advance was received.
 - 7. If a reimbursement has been paid prior to the submittal of a request for an advance payment, an Advance cannot be accepted for processing.

8. The Grantee/Recipient may advance funds to the Subgrantee/Subrecipient, not exceeding the Federal share, only if the Subgrantee/Subrecipient meets the following conditions:
 - a) the Subgrantee/Subrecipient must certify to the Grantee/Recipient that Subgrantee/Subrecipient has procedures in place to ensure that funds are disbursed to project vendors, contractors, and subcontractors without unnecessary delay;
 - b) the Subgrantee/Subrecipient must submit to the Grantee/Recipient the budget supporting the request.
9. The Subgrantee/Subrecipient must submit a statement justifying the advance and the proposed use of the funds, which also specifies the amount of funds requested and certifies that the advanced funds will be expended no more than 90 days after receipt of the Advance;
10. The Grantee/Recipient may, in its sole discretion, withhold a portion of the federal and/or nonfederal share of funding under this Agreement from the Subgrantee/Subrecipient if the Grantee/Recipient reasonably expects that the Subgrantee/Subrecipient cannot meet the projected budgeted timeline or that there may be a subsequent determination by FEMA that a previous disbursement of funds under this or any other Agreement with the Subgrantee/Subrecipient was improper.

9) FINAL PAYMENT.

- a. The Grantee/Recipient agrees to disburse the final payment to the Subgrantee/Subrecipient upon satisfaction of the following conditions:
 - i. the Subgrantee/Subrecipient must have completed the project to the satisfaction of the Grantee/Recipient;
 - ii. the Subgrantee/Subrecipient must have submitted the documentation required by this Agreement;
 - iii. in the case of Large Projects, the Grantee/Recipient must have performed the final inspection;
 - iv. in the case of Small Projects, the project listing and certification must have been reviewed by the Grantee/Recipient, or alternatively, the Grantee/Recipient must have performed a final inspection (the subgrantee notifies the state when work is complete on small projects, small projects are considered closed when the P.4. has been processed and FEMA has closed the subgrantee Grant); and
 - v. the Subgrantee/Subrecipient must have requested final reimbursement.
- b. The Grantee/Recipient may submit the final Request for Reimbursement (RFR) based on final inspections and closeout versions.

10) RECORDS MAINTENANCE.

- a. The funding of eligible costs under this Agreement and the performance of all other conditions are subject to the following requirements, in addition to such other requirements as may be imposed by operation of law:
 - i. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as codified in 2 C.F.R. and 44 C.F.R. § 13, as amended;
 - ii. Office of Management and Budget Circular (OMB) No. A-87, "Cost Principles for State and Local Governments," as amended;
 - iii. OMB Circular A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," as amended;
 - iv. OMB Circular A-122, "Cost Principles for Non-Profit Organizations," as amended; and
 - v. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," as amended.
- b. The Subgrantee/Subrecipient must retain sufficient records to show its compliance with the terms of this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives under this Agreement and all other applicable laws and regulations, for a period of five (5) years from the date of the Subgrantee/Subrecipient account closeout by FEMA.
 - i. The five (5) year period is extended if any litigation, claim or audit is started before the five (5) year period expires, and extends beyond the five (5) year period. The records must then be retained until all litigation, claims, or audit findings involving the records have been resolved.
- c. Records for the disposition of non-expendable personal property valued at \$5,000⁰⁰ or more at the time it is acquired must be retained for five (5) years after final account close out.
- d. Records relating to the acquisition of real property must be retained for five (5) years after final account close out.
- e. The Subgrantee/Subrecipient and its employees or agents, including all sub-contractors or consultants to be paid from funds provided under this Agreement, must allow access to its records at reasonable times to the Grantee/Recipient, the Florida Chief Financial Officer, the Florida Auditor General, the Comptroller General of the United States, the Department of Homeland Security (DHS), and FEMA, to include any designated employees and/or agents of such entities.

11) REPAYMENT BY SUBGRANTEE/SUBRECIPIENT.

- a. If upon final inspection, final audit, or other review by the Grantee/Recipient, FEMA, or any other authority, it is determined that the disbursements to the Subgrantee/Subrecipient under this Agreement exceed the eligible costs, the Subgrantee/Subrecipient must reimburse to the Grantee/Recipient the amount by which the total disbursements exceed the eligible costs no later than forty-five (45)

days from the date the Subgrantee/Subrecipient receives notice of such determination.

- b. All refunds or repayments owing to the Grantee/Recipient under this Agreement are to be made payable to the order of "Division of Emergency Management, Cashier" and mailed directly to:

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

- c. In accordance with section 215.34 (2), Florida Statutes, if a check or other draft is returned to the Grantee/Recipient for collection, Recipient must pay the Grantee/Recipient a service fee of \$15⁰⁰ or 5% of the face amount of the returned check or draft, whichever is greater.

12) AUDIT

- a. The Subgrantee/Subrecipient shall comply with the audit requirements contained in 2 C.F.R. Part 200, Subpart F.
- b. In accounting for the receipt and expenditure of funds under this Agreement, the Subgrantee/Subrecipient shall follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- c. When conducting an audit of the Subgrantee's/Subrecipient's performance under this Agreement, the Division shall use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, GAGAS, "also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- d. If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Subgrantee/Subrecipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty days after the Division has notified the Subgrantee/Subrecipient of such non-compliance.
- e. The Subgrantee/Subrecipient shall have all audits completed by an independent auditor, which is defined in section 215.97(2)(h), Florida Statutes, as "an independent certified public accountant licensed under chapter 473." The independent auditor shall state that the audit complied with the applicable provisions noted above. The audit must be received by the Division no later than nine months from the end of the Subgrantee's/Subrecipient's fiscal year.
- f. The Subgrantee/Subrecipient shall send copies of reporting packages for audits conducted in accordance with 2 C.F.R. Part 200, by or on behalf of the Subgrantee/Subrecipient, to the Division at the following address:

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

- g. The Subgrantee/Subrecipient shall send the Single Audit reporting package and Form SF-SAC to the Federal Audit Clearinghouse by submission online at:

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

- h. The Subgrantee/Subrecipient shall send any management letter issued by the auditor to the Division at the following address:

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

13) NONDISCRIMINATION BY CONTRACTORS.

- a. Pursuant to 44 C.F.R. §§ 7 and 16, and 44 C.F.R. § 206.11, the Subgrantee/Subrecipient must undertake an active program of nondiscrimination in its administration of disaster assistance under this Agreement. The Subgrantee/Subrecipient is also be subject to the requirements in the General Services Administrative Consolidated List of Debarred, Suspended and Ineligible Contractors, in accordance with 44 C.F.R. § 17.

14) MODIFICATION AND TIME FOR PERFORMANCE.

- a. Any amendments to, or modification of, this Agreement, including a modification extending the time for completion of a project, must be in writing, must be subject to the same terms and conditions as those set out in the initial Agreement, and takes effect only upon execution by both parties.
- b. Modifications to any Project Worksheet to be funded under this Agreement may be requested by the Subgrantee/Subrecipient through the Grantee/Recipient. The approval of any such modifications, however, is at the sole discretion of FEMA.
- c. Any approved modification to a Project Worksheet must be noted in a new Project Worksheet version for the project and in any amendment to this Agreement.
- d. The time allowed for the performance of eligible emergency work is six (6) months from the date of the presidential major disaster declaration, unless extended by the Grantee/Recipient or FEMA.
- e. The time allowed for the performance of eligible permanent work is eighteen (18) months from the date of the presidential major disaster declaration, unless extended by the Grantee/Recipient or FEMA.
- f. The time for project completion can only be extended once unless the failure of the Subgrantee/Subrecipient to close out the project is caused by events beyond its

control. Extensions cannot be granted for delays caused by lack of cost-share funding.

- g. If any extension request is denied by the Grantee/Recipient, or is not sought by the Subgrantee/Subrecipient, reimbursement is only available for eligible project costs incurred up to the latest approved extension for completed projects.
- h. Failure to complete a project is adequate cause for the termination of funding for that project and require reimbursement to the Grantee/Recipient of any and all project costs.

15) CONTRACTS WITH OTHERS.

- a. If the Subgrantee/Subrecipient contracts with any contractor or vendor for performance of any portion of the work required under this Agreement, the Subgrantee/Subrecipient must incorporate into its contract with such contractor or vendor an indemnification clause holding the Federal Government, its employees and/or their contractors, the Grantee/Recipient, its employees and/or their contractors, and the Subgrantee/Subrecipient and its employees and/or their contractors harmless from liability to third parties for claims asserted under such contract.
- b. The Subgrantee/Subrecipient must document in the Quarterly Report the subcontractor's progress in performing its work under this Agreement.
- c. For each subcontract, the Subgrantee/Subrecipient must provide a written statement to the Grantee/Recipient as to whether the subcontractor is a minority vendor as defined in section 288.703, Florida Statutes. Copies of all contracts and subcontracts must be uploaded into FloridaPA.org by the Subgrantee/Subrecipient.
- d. All contracts must conform to the uniform standards for procurement found in 2 C.F.R §§ 200.317-.326 and Appendix II.
 - i. Grace Period. Notwithstanding the preceding, a Non-Federal Entity (NFE), may choose to continue to comply with the former procurement standards applicable to FEMA awards found at 44 C.F.R. Part 13 (for states, local, and Indian tribal governments) or 2 C.F.R. Part 215 (for institutions of higher education, hospitals, and other nonprofit organizations) until the completion of two additional fiscal years after December 26, 2014. This is an elective grace period. Note that if an NFE elects to use the previous procurement standards, it must affirmatively document this decision in its internal procurement policies, including the date upon which its grace period (based upon the two additional fiscal years) will end, and that it understand and agrees it must transition to the new procurement standards.

16) LIABILITY.

- a. The Grantee/Recipient assumes no liability to third parties in connection with this Agreement. Unless the Subgrantee/Subrecipient is a governmental entity covered under section 768.28 (5), Florida Statutes, the Subgrantee/Subrecipient is solely responsible to any and all contractors, vendors, and other parties with whom it contracts in performing this Agreement. Further, unless the Subgrantee/

Subrecipient is a governmental entity within the meaning of the preceding sentence, the Subgrantee/Subrecipient, by entering into this Agreement, agrees to indemnify and hold the Grantee/Recipient harmless from any and all claims asserted by third parties in connection with the performance of this Agreement.

- b. For the purpose of this Agreement, the Grantee/Recipient and the Subgrantee/Subrecipient agree that neither one is an employee or agent of the other, but that each one stands as an independent contractor in relation to the other.
- c. Nothing in this Agreement is to be construed as a waiver by the Grantee/Recipient or the Subgrantee/Subrecipient of any legal immunity, nor is anything in this Agreement to be construed as consent by either of the parties to be sued by third parties in connection with any matter arising from the performance of this Agreement.
- d. The Subgrantee/Subrecipient represents that to the best of its knowledge any hazardous substances that may be present at its project site or sites are present in quantities within statutory and regulatory limitations, and do not require remedial action under any federal, State or local requirements concerning such substances.
- e. The Subgrantee/Subrecipient further represents that the presence of any such substance or any condition at the site caused by the presence of any such substance will be addressed in accordance with all applicable legal requirements.

17) REPORTS.

- a. The Subgrantee/Subrecipient must provide Quarterly Reports to the Grantee/Recipient on the Quarterly Report Form available in FloridaPA.org, a sample of which is attached hereto as Attachment "B" and incorporated herein by reference.
- b. The first Quarterly Report is due at such time as the Subgrantee/Subrecipient is notified so. All subsequent Quarterly Reports are due no later than fifteen (15) days after each calendar quarter through the 2nd Quarter after official closure by FEMA. Quarterly Reports must indicate the anticipated completion date (this is not the approved time extension date but the date the Subgrantee/Subrecipient actually expects the project work to be complete for each project), together with any other circumstances that may affect the completion date, the scope of work, the project costs, or any other factors that may affect compliance with this Agreement.
- c. Interim inspections must be scheduled by the Subgrantee/Subrecipient before the final inspection, and may be required by the Grantee/Recipient based on information supplied in the Quarterly Reports.
- d. The Grantee/Recipient may require additional reports as needed, in which case the Subgrantee/Subrecipient must provide any such additional reports as soon as practicable.
- e. With respect to a Request for Advance or Reimbursement, Summary of Documentation, and Quarterly Reports, the contact for the Grantee/Recipient will be the State Public Assistance Officer.
- f. If the reports required under this section are not completed with all required information and timely submitted, the Grantee/Recipient must withhold payments payable to the Subgrantee/Subrecipient from any funding agreement.

- g. If reimbursement has not been requested within 720 days of obligation, FEMA may de-obligate funding as an interim financial reconciliation. If this occurs, the delay in funding is not appealable and the Subgrantee/Subrecipient will be eligible for funding when the project is complete and the final inspection has been processed by FEMA.

18) MONITORING.

- a. The Subgrantee/Subrecipient must monitor its performance under this Agreement, as well as that of its subcontractors, agents, and consultants who are paid from funds provided under this Agreement, to ensure that performance under this Agreement is achieved, satisfactorily performed, and in compliance with applicable State and federal laws, rules, and regulations.
- b. In addition to reviews of audits conducted in accordance with 2 C.F.R. and OMB Circular A-133, as revised, and section 215.97, Florida Statutes, monitoring procedures may include, but are not limited to, on-site visits by the Grantee/Recipient or its agent, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures deemed necessary by the Grantee/Recipient or FEMA. By entering into this Agreement, the Subgrantee/Subrecipient agrees to comply and cooperate with all monitoring procedures/processes deemed appropriate by the Grantee/Recipient. In the event that the Grantee/Recipient determines that a limited scope audit of the Subgrantee/Subrecipient is appropriate, the Subgrantee/Subrecipient agrees to comply with any additional instructions provided by the Grantee/Recipient regarding such audit.
- c. The Subgrantee/Subrecipient agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Comptroller or Auditor General.
- d. The Grantee/Recipient will monitor the performance and financial management by the Subgrantee/Subrecipient throughout the contract term to ensure timely completion of all tasks.
- e. The Subgrantee/Subrecipient must update its contacts in FloridaPA.org each quarter and ensure requests for updates are submitted as required by Florida Statutes.

19) MANDATED CONDITIONS.

- a. The Subgrantee/Subrecipient understands and agrees that:
 - i. Invoices for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper pre and post-audit.
 - ii. The Grantee/Recipient may unilaterally terminate this Agreement for refusal by the Subgrantee/Subrecipient or its contractors or subcontractors to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, that are made or received by the Subgrantee/Subrecipient or its contractors and subcontractors in connection with this Agreement.

- iii. No funds or other resources received from the Grantee/Recipient disbursed to it under this Agreement will be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any State agency.
- iv. Responsibility for compliance with this Agreement rests with the Subgrantee/Subrecipient, and further agrees that noncompliance with this Agreement is cause for the rescission, suspension, or termination of funding under this Agreement, and may affect eligibility for funding under past and future Subgrantee/Subrecipient Agreements.
- v. If otherwise allowed under this Agreement, all invoices for any travel expenses must be submitted in accordance with section 112.061, Florida Statutes.
- vi. The Grantee/Recipient will not knowingly award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, in violation of the employment provisions contained in 8 U.S.C. § 1324a(e) [§ 74A(e) of the Immigration and Nationality Act ("INA")] and the Grantee/Recipient considers the employment of unauthorized aliens by any contractor a violation of § 274A(e) of the INA. Such violation by the Subgrantee/Subrecipient is grounds for unilateral cancellation of this Agreement by the Grantee/Recipient.
- vii. It will comply with the restriction that a person or affiliate who has been placed on the debarred/convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list will not be allowed to submit a bid on a contract to provide any goods or services to a public entity, will not be allowed to submit a bid on a contract with a public entity for the construction or repair of a public building or public work, will not be allowed to submit bids on leases of real property to a public entity, will not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and will not be allowed to transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the debarred/convicted vendor list or on the discriminatory vendor list.
- viii. If applicable, it must comply with the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, all State and local government services, and in telecommunications.

20) CERTIFICATIONS.

- a. The Subgrantee/Subrecipient certifies that:
 - i. It possesses the legal authority to receive the funds under this Agreement and that its governing body (if applicable) has authorized the execution and acceptance of this Agreement.
 - ii. The individual executing this Agreement on Subgrantee's/Subrecipient's behalf has the authority to legally execute this Agreement and bind the Subgrantee/Subrecipient to its terms.

- iii. With respect to any Subgrantee/Subrecipient other than a State agency or political subdivision of the State, which receives funds under this Agreement from the federal government, to the best of its knowledge and belief, that it and its principals:
 - 1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - 2. have not within the five-year period preceding entering into this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default; and
 - 3. have not within the five-year period preceding entering into this proposal been convicted of or had a civil judgment rendered against them for:
 - a) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or a contract under public transaction, or
 - b) violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
- b. The Subgrantee/Subrecipient certifies that to the best of its knowledge and belief:
 - i. No federal appropriated funds have been or will be paid, by or on behalf of the Subgrantee/Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
 - 1. Subgrantee/Subrecipient understands that 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, the Subgrantee/Subrecipient must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - ii. All unmanufactured and manufactured articles, materials and supplies which are acquired for public use under this Agreement have been produced in the United States as required by 41 U.S.C. § 10a, unless it would not be in the public interest or unreasonable in cost.
- c. The Subgrantee/Subrecipient understands and agrees that the language of this certification must be included in the award documents for all sub awards at all tiers

(including subcontracts, sub grants, contracts under grants, loans, and cooperative agreements) and that all Subgrantees/Subrecipients must certify and disclose accordingly. The Subgrantee/Subrecipient further understands and agrees that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

- i. Subgrantee/Subrecipient further understands that submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification is subject to a civil penalty of not less than \$10,000⁰⁰ and not more than \$100,000⁰⁰ for each such failure.
- d. Where the Subgrantee/Subrecipient is unable to certify to any of the statements in this certification, the Subgrantee/Subrecipient understands it must submit to the Grantee/Recipient (by email or facsimile) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" for each prospective subcontractor which the Subgrantee/Subrecipient intends to fund under this Agreement. (See Attachment "C".) Such form must be received by the Grantee/Recipient prior to the Subgrantee/Subrecipient entering into a contract with any prospective subcontractor.

21) TERM.

- a. This Agreement takes effect upon its execution by the last of the signatories and terminates upon approval of account closeout by FEMA, unless terminated earlier as specified elsewhere in this Agreement.
 - i. Notwithstanding the above, this Agreement survives account closeout for the purposes of State or federal audit purposes.
- b. The Subgrantee/Subrecipient agrees to commence work on the project(s) specified by this Agreement without delay.

22) DEFAULT, REMEDIES, AND TERMINATION.

- a. Upon the occurrence of any one or more of the following events the Grantee/Recipient may, at its option, terminate this Agreement and any funding under this Agreement, and all obligations of the Grantee/Recipient to disburse further funds under this Agreement terminate at the option of the Grantee/Recipient:
 - i. The determination that any representation by the Subgrantee/ Subrecipient in this Agreement is inaccurate or incomplete in any material respect, or that the Subgrantee/Subrecipient has breached any condition of this Agreement and has not cured such breach in a timely fashion, or that the Subgrantee/Subrecipient is unable or unwilling to meet its obligations under this Agreement;
 - ii. the Subgrantee/Subrecipient suffers any material adverse change in its financial condition while this Agreement is in effect, as compared to its financial condition as represented in any reports or other documents submitted to the Grantee/Recipient, if Subgrantee/Subrecipient has not cured the condition within thirty (30) days after notice in writing from the Grantee/Recipient;

- iii. any reports required by this Agreement have not been submitted to the Grantee/Recipient or have been submitted with inaccurate, incomplete, or inadequate information; or
 - iv. the monies necessary to fund this Agreement are unavailable due to any failure to appropriate or other action or inaction by the State Legislature, Florida Department of Financial Services, Congress, or Office of Management and Budget.
- b. Notwithstanding the preceding, the Grantee/Recipient may at its option continue to make payments or portions of payments after the occurrence of any one or more such events without waiving the right to exercise such remedies and without incurring liability for further payment.
- c. Upon the occurrence of any one or more of the foregoing events, the Grantee/Recipient may at its option give notice in writing to the Subgrantee/Subrecipient to cure its failure of performance if such failure can be cured. Upon the failure of the Subgrantee/Subrecipient to cure, the Grantee/Recipient may exercise any one or more of the following remedies:
 - i. terminate this Agreement upon not less than fifteen (15) days' notice of such termination after delivery by certified letter to the Subgrantee/Subrecipient at the address specified in Attachment "D" of this Agreement;
 - ii. commence an action in law or in equity for the judicial enforcement of this Agreement;
 - iii. withhold the disbursement of any payment or any portion of a payment otherwise due and payable to the Subgrantee/Subrecipient pursuant this Agreement; and
 - iv. take any other actions that may otherwise be available in law or in equity.
- d. Upon the rescission, suspension or termination of this Agreement, the Subgrantee/Subrecipient must refund to the Grantee/Recipient all funds disbursed to the Subgrantee/Subrecipient under this Agreement.
- e. Notwithstanding anything to the contrary elsewhere in this Agreement, the rescission, suspension or termination of this Agreement by the Grantee/Recipient does not relieve the Subgrantee/Subrecipient of liability to the Grantee/Recipient for the restitution of funds advanced to Subgrantee/Subrecipient under this Agreement, and the Grantee/Recipient may set off any such funds by withholding future disbursements otherwise payable to the Subgrantee/Subrecipient under this Agreement until such time as the exact amount of restitution due the Grantee/Recipient from the Subgrantee/Subrecipient is determined. In the event that FEMA should de-obligate funds formerly allowed under this Agreement, the Subgrantee/Subrecipient must immediately repay such funds to the Grantee/Recipient. Any de-obligation of funds or other determination by FEMA must be addressed in accordance with the regulations of that Agency.
- f. If the Subgrantee/Subrecipient violates this Agreement or any statute, rule or other legal requirement applicable to the performance of this Agreement, the Grantee/Recipient must withhold any disbursement otherwise due the Subgrantee/Subrecipient for the project with respect to which the violation has occurred until the violation is cured or has otherwise come to final resolution. If the

violation is not cured, the Grantee/Recipient may terminate this Agreement and invoke its remedies under the Agreement as per this section.

- i. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Subgrantee/Subrecipient in this Agreement, in any subsequent submission or response to the Grantee/Recipient request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes will, at the option of the Grantee/Recipient and with fifteen (15) days written notice to the Subgrantee/Subrecipient, cause the termination of this Agreement and the release of the Grantee/Recipient from all its obligations to the Subgrantee/Subrecipient.

23) ATTACHMENTS.

- a. All attachments to this Agreement are incorporated into this Agreement by reference as if set out fully in the text of the Agreement itself.
- b. In the event of inconsistencies between the language of this Agreement and the Attachments to it, the language of the Attachments are controlling, but only to the extent of such inconsistencies.
- c. All grant administrative and electronic forms not attached to this Agreement will be provided by the Grantee/Recipient as necessary or posted on the Grantee's/Recipient's website at www.FloridaPA.org.

24) HEADINGS.

- a. Headings used in this Agreement are provided for the convenience of the parties only and cannot be used to construe meaning or intent.

25) GOVERNING LAW.

- a. This contract is governed by, and must be construed in accordance with, the laws of the State of Florida, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort, or otherwise, are likewise governed by the laws of Florida.
- b. Except as may be otherwise provided for by statute, any action or proceeding, whether brought by the Grantee/Recipient or the Subgrantee/Subrecipient, relating to or arising out of this contract must be brought in Leon County, Florida and venue will lie therein.

26) ATTORNEY FEES.

- a. Except as may be otherwise provided for by statute, in any action arising out of this Agreement each party shall bear its own attorney's fees and costs.

27) PUBLIC ASSISTANCE ALTERNATIVE PROCEDURES.

- a. Should the Subgrantee/Subrecipient desire to utilize the Public Assistance Alternative Procedures provisions of the Sandy Recovery Improvement Act (Division B of P.L. 113-2), execution of a Supplemental Funding Agreement covering specific aspects of the Alternative Procedures Package is required of the Subgrantee/Subrecipient prior to the payment of such funds by the State as the Grantee/Recipient.
- b. Payments processed under the Alternative Procedures provisions will be requested as an advance and are exempt from advance requirements covered by Section 216.181(16), Florida Statutes. They will, however, be treated as an advance for purposes of Requests for Reimbursement (RFRs) and satisfaction of the requirement that ninety percent (90%) of previously advanced funds must be accounted for prior to receiving a second advance.

28) DESIGNATION OF AGENT.

- a. The Subgrantee/Subrecipient must complete Attachment "D" by designating at least three agents to execute any Requests for Advance or Reimbursement, certifications, or other necessary documentation on behalf of the Subgrantee/Subrecipient.
- b. After execution of this Agreement, the authorized, primary, and secondary Agent may request changes to contacts via email to the State assigned team.
- c. In the event the Subgrantee/Subrecipient contacts have not been updated regularly and all three (3) Agents have separated from the Subgrantee's/Subrecipient's agency, a designation of authority form will be needed to change contacts. NOTE: This is very important because if contacts are not updated, notifications made from FloridaPA.org may not be received and could result in failure to meet time periods to appeal a Federal determination.

29) NOTICE AND CONTACT.

- a. All notices required to be made to the Grantee/Recipient under this Agreement must be in writing and must be delivered by email, by facsimile, by hand, or by certified letter to the Grantee/Recipient at the following addresses:

Evan Rosenberg, Bureau Chief
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Email: evan.rosenberg@em.myflorida.com.

- b. All notices required to be made to the Subgrantee/Subrecipient under this Agreement must be in writing and must be delivered by email, by facsimile, by hand, or by certified letter to the Subgrantee/Subrecipient at the address indicated in Attachment "D" which the Subgrantee/Subrecipient must complete and submit with this Agreement.

30) FEDERALLY FUNDED SUBAWARD

- a. This Agreement and the Project Worksheet (FEMA Form 90-91) combine to form a Federally Funded Subaward and Grant Agreement.

- b. The parties agree that the Federally Funded Subaward and Grant Agreement formed as described above should comply with the requirements of Section 215.971, Florida Statutes.

**STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT
HURRICANE MATTHEW DECLARATION
(FEMA-4283-DR-FL)**

Federally Funded Public Assistance State Agreement

IN WITNESS WHEREOF, the Grantee/Recipient and the Subgrantee/Subrecipient have executed this Agreement:

FOR THE GRANTEE/RECIPIENT:
DIVISION OF EMERGENCY MANAGEMENT

Governor's Authorized Representative

Date

FOR THE SUBGRANTEE/SUBRECIPIENT:

Printed Name and Title

Signature

Date

DUNS Number: 099077562

Federal Employer Identification Number (FEIN): 59-6000433

or

State Agency FLAIR Number: _____

CFDA Number:	<u>97.036</u>
Federal Fund Number	<u>20 2 750001</u>
State Fund Number	<u>20 2 339047</u>

- Attachments:
- A) Statement of Assurances
 - B) Example of Public Assistance Quarterly Report
 - C) Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
 - D) Designation of Authority with Instructions
 - E) DHS OIG Audit Issues & Acknowledgement
 - F) Justification for Advance Payment