

Commerce Agreement Number: MT039

**AMENDMENT TWO
TO THE FEDERALLY FUNDED
COMMUNITY DEVELOPMENT BLOCK GRANT
MITIGATION PROGRAM (CDBG-MIT)
SUBRECIPIENT AGREEMENT**

On **April 12, 2022**, the State of Florida, Department of Commerce ("Commerce"), formerly known as the Florida Department of Economic Opportunity, and **the City of Avon Park, Florida** ("Grantee") entered into agreement **MT039** ("Agreement"). Commerce and the Subrecipient may individually be referred to herein as a "Party" or collectively as the "Parties".

WHEREAS, Section 5, Modification of Agreement, of the Agreement provides that any amendment to the Agreement shall be in writing executed by the Parties thereto.

WHEREAS, the Agreement was previously amended on **November 14, 2022**.

WHEREAS the Parties wish to amend the Agreement as set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

1. On July 1, 2023, the Florida Department of Economic Opportunity was renamed to the Florida Department of Commerce. Effective July 1, 2023, all references throughout the Agreement to "Department of Economic Opportunity" or "DEO" are replaced with "Department of Commerce" or "Commerce" as appropriate.
2. **Section 28, Employment Eligibility Verification**, is hereby deleted in its entirety and replaced with the following:
 - A. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.
 - B. In accordance with section 448.095, F.S., the State of Florida expressly requires the following:
 - (1) Every public agency and its contractors and subcontractors shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public agency or a contractor or subcontractor thereof may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
 - (2) An employer shall verify each new employee's employment eligibility within three (3) business days after the first day that the new employee begins working for pay as required under 8 C.F.R. 274a. Beginning July 1, 2023, a private employer with 25 or more employees shall use the E-Verify system to verify a new employee's employment eligibility.


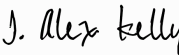
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- C. If an entity does not use E-Verify, the entity shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the effective date of this Agreement.
3. **Attachment A, Project Description and Deliverables**, is hereby deleted in its entirety and replaced with the attached:
4. **Attachment G, Reports, Section 3**, is hereby deleted in its entirety and replaced with the following:
- 3) The Subrecipient shall closeout its use of the CDBG-MIT funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.344. Activities during this close-out 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 Subrecipient) and determining the custodianship of records.
- Notwithstanding the terms of 2 CFR 200.344, upon the expiration of this Agreement, the Subrecipient shall transfer to the recipient any CDBG-MIT funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-MIT funds. Further, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG-MIT funds (including CDBG-MIT funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).
5. **Attachment G, Reports, Section 6**, is hereby deleted in its entirety and replaced with the following:
- 6) Section 3 Quarterly Reporting Requirements. Reporting of labor hours for Section 3 projects must comply with 24 CFR §75.25(a). Subrecipients must report the following: (i) the total number of labor hours worked; (ii) the total number of labor hours worked by Section 3 workers; and (iii) the total number of labor hours worked by Targeted Section 3 workers. If Section 3 benchmarks are not met, the subrecipient's qualitative efforts must be reported in a manner required by 24 CFR §75.25(b).
- Subrecipients shall provide Section 3 Reporting quarterly to Commerce by the 10th of each quarter (January 10, April 10, July 10, and October 10). For Section 3 Reporting, Subrecipients should complete and return the Project Implementation Plan template to Commerce.
6. All other terms and conditions of the Subrecipient Agreement not otherwise amended remain in full force and effect.

~ Remainder Left Intentionally Blank ~

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IN WITNESS HEREOF, by signature below, the Parties agree to abide by the terms, conditions, and provisions of Commerce Agreement Number **MT039**, as amended. This Amendment is effective on the date the last Party signs this Amendment.

CITY OF AVON PARK, FLORIDA	FLORIDA DEPARTMENT OF COMMERCE
SIGNED: 	SIGNED: 
GARRETT ANDERSON	J. ALEX KELLY
MAYOR	SECRETARY
DATE: 12/13/2023	DATE: 1/15/2024

Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.

**OFFICE OF GENERAL COUNSEL
FLORIDA DEPARTMENT OF COMMERCE**

By: Ryan Bourgoin

Approved Date: 1/8/2024

Attachment A – Project Description and Deliverables

1. PROGRAM DESCRIPTION:

In April 2018, the U.S. Department of Housing and Urban Development (HUD) announced the State of Florida, Department of Commerce (Commerce) would receive \$633,485,000 in funding to support long-term mitigation efforts following declared disasters in 2016 and 2017 through HUD's Community Development Block Grant Mitigation (CDBG-MIT) program. Awards were distributed on a competitive basis targeting HUD designated Most Impacted and Distressed (MID) Areas, primarily addressing the Benefits to Low-to-Moderate Income (LMI) National Objective. Additional information may be found in the Federal Register, Vol. 84, No. 169.

In February 2021, HUD announced an additional \$46,900,000 in federal mitigation funding for Florida communities that experienced a major disaster in 2018, raising the total CDBG-MIT allocation to \$680,385,000. (86 FR 561).

This award has been granted under the **General Infrastructure Program**. Projects eligible for funding under this program must be from units of general local government (UGLG) including towns, cities, counties, and villages. Eligible activities include projects that demonstrably increase community resilience. The following types of infrastructure projects are encouraged:

1. Restoration of critical infrastructure
2. Renourishment of protective coastal dune systems and state beaches
3. Building or fortifying buildings that are essential to the health, safety, and welfare of a community
4. Rehabilitation or construction of stormwater management systems
5. Improvements to drainage facilities
6. Reconstruction of lift stations and sewage treatment plants
7. Road repair and improvement and bridge strengthening

2. PROJECT DESCRIPTION:

The City of Avon Park has been awarded Six Hundred Seventy Thousand Six Hundred Twenty-Three Dollars and Zero Cents (\$670,623.00) of CDBG-MIT funds to overhaul the city's drinking water system, creating one that will ensure safe drinking water standards are met. The city's water system is deemed a critical facility as drinking water quality directly impacts the health and safety of the city's population.

This project satisfies the Low-to-Moderate Income (LMI) National Objectives requirements with a service area LMI of over 51%.

The City will not have leverage funds on this project.

3. SUBRECIPIENT RESPONSIBILITIES:

- A. Complete and submit the below items to Commerce within thirty (30) calendar days of execution of the agreement:

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- B. Develop and submit a copy of the following policies and procedures to the Commerce Grant Manager for review and approval within thirty (30) calendar days of Agreement execution. The Commerce Grant Manager will provide approval in writing prior to the policies and procedures being implemented.
- Procurement policies and procedures that incorporate 2 CFR 200.317-327.
 - Administrative financial management policies, which must comply with all applicable HUD CDBG-MIT and State of Florida rules.
 - Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDGB-MIT and Commerce policies.
 - Policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring policy, and which items will be monitored, and procedures for referring instances of fraud, waste and abuse to HUD IOG Fraud Hotline (phone: 1-800-347-3735 or email hotline@hudoig.gov).
- C. Attend fraud related training offered by HUD OIG to assist in the proper management of the CDBG-MIT grant funds when available.
- D. Upload required documents into a system of record provided by Commerce.
- E. Maintain organized subrecipient agreement files and make them accessible to Commerce or its representatives, upon request.
- F. Comply with all terms and conditions of the subrecipient agreement, Infrastructure Program Guidelines, Action Plans, Action Plan amendments, and Federal, State, and local laws.
- G. Provide copies of all proposed procurement documents to Commerce ten (10) business days prior to posting as detailed in Attachment D of Subrecipient Agreement. The proposed procurement documents will be reviewed and approved by the Commerce Grant Manager. Should the procurement documents require revisions based on state or federal requirements, Subrecipient will be required to postpone procurement and submit revised documents for review and approval.
- H. Provide the following information on a quarterly basis within ten (10) calendar days after the end of each quarter: Monthly and Quarterly Reports as detailed in Attachment G.
- I. Close out report will be due no later than sixty (60) calendar days after this Agreement ends or is otherwise terminated.
- J. Subrecipient shall provide pictures to document progress and completion of tasks and final project.

4. ELIGIBLE TASKS AND DELIVERABLES:

A. Deliverable 1 – Project Implementation

Tasks that are eligible for reimbursement are as follows:

- Environmental review administrative activities (Environmental Exemption, Public Notice Publication(s), etc.).
- Develop policies for the Recipient to adopt related to special conditions listed in this subgrant agreement,
- Prepared procurement documents,
- Prepared list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area,

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5. Prepared and submitted public notices for publications,
6. Maintained financial records related to project activities on-site,
7. Conducted a Fair Housing activity,
8. Maintain project files,
9. Attended meetings of the Recipient's local governing body to provide progress reports on subgrant activities,
10. Prepared documentation for and attend on-site monitoring visits by Commerce,
11. Prepared financial activity for submission to Commerce,
12. Prepared and submitted to Commerce detailed monthly and quarterly reports,
13. Prepared and submitted to Commerce Section 3 reports,
14. Responded to citizens' complaints,
15. Prepared subgrant modification document for submission to Commerce for review and approval,
16. Prepared responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD,
17. Project Closeout, Engineer's Certification of Completion, Grant Closeout Package Completed and Submitted to Commerce.

B. Deliverable 2 – Engineering Services

Subrecipient shall:

1. Create a full design package(s), signed and sealed by a Professional Engineer (PE) licensed in the State of Florida, including engineering drawings, specifications, construction cost estimate, surveys, and any other reports, documents, or information relevant to this project that meet all local current hurricane code ratings, local codes and building codes.
2. Obtain copies of all permit applications, correspondence with permitting agencies, final permits, and any other permit-related documentation for the project.
3. Conduct an Environmental Review/Assessment in accordance with COMMERCE Policies and the National Environmental Policy Act referenced in Attachment D.4.b of this Agreement.

C. Deliverable 3 -- Construction

Subrecipient shall hire Florida licensed contractor to:

1. Install chlorine skids and program logic controls in the Crystal Lake Plant in accordance with approved design plans.
2. Install chlorine skids and program logic controls in the Glenwood Plant in accordance with the approved design plans.
3. Procure and replace 5,000 LF (linear feet) of existing asbestos water pipe, landscaping and restoration included, in accordance with the approved design plans.

5. **DELIVERABLES:** Subrecipient agrees to provide the following services as specified:

Deliverable No. 1 – Project Implementation

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TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall provide project implementation activities as identified in Section 4.A. of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) task in accordance with Section 4.A of this Scope of Work on a per completed task basis; evidenced by invoice(s) noting completed tasks as well as payroll and other supporting documentation, as applicable.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
Deliverable 1 Cost- \$33,531.00		
Deliverable No. 2 – Engineering Services		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete tasks as detailed in Section 4.B of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) task in accordance with Section 4.B of this Scope of Work, evidenced by submittal of the following documentation: 1) Engineering design, working drawings and associated cost estimates, if applicable; 2) Copies of all required permits, if applicable; and 3) Invoice package in accordance with Section 7 of this Scope of Work.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
Deliverable 2 Cost- \$162,092.00		
Deliverable No. 3 – Construction		
TASKS	MINIMUM LEVEL OF SERVICE	FINANCIAL CONSEQUENCES
Subrecipient shall complete tasks as detailed in Section 4.C of this Scope of Work.	Subrecipient may request reimbursement upon completion of activities in accordance with Section 4.C of this Scope of Work in the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, evidenced by submittal of the following documentation: 1) AIA forms G702 and G703, or similar accepted Commerce form, completed by a licensed professional certifying to the	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.

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	percentage of project completion; 2) Photographs of project in progress and completed; and 3) Invoice package in accordance with Section 7 of this Scope of Work.	
Deliverable 3 Cost- \$475,000.00		
Total Project Costs Not to Exceed \$670,623.00		

COST SHIFTING: The deliverable amounts specified within the Deliverables Section 5 table above are established based on the Parties' estimation of sufficient delivery of services fulfilling grant purposes under the Agreement in order to designate payment points during the Agreement Period; however, this is not intended to restrict Commerce's ability to approve and reimburse allowable costs Subrecipient incurred providing the deliverables herein. Prior written approval from Commerce's Grant Manager is required for changes to the above Deliverable amounts that do not exceed **10%** of each deliverable total funding amount. Changes that exceed **10%** of each deliverable total funding amount will require a formal written amendment request from Subrecipient, as described in **MODIFICATION** section of the Agreement. Regardless, in no event shall Commerce reimburse costs of more than the total amount of this Agreement.

6. COMMERCE RESPONSIBILITIES:

- A. Monitor the ongoing activities of Subrecipient to ensure all activities are being performed in accordance with the Agreement to the extent required by law or deemed necessary by Commerce in its discretion.
- B. Assign a Grant Manager as a point of contact for Subrecipient.
- C. Review Subrecipient's invoices described herein and process them on a timely basis.
- D. Commerce shall monitor progress, review reports, conduct site visits, as Commerce determines necessary at Commerce's sole and absolute discretion, and process payments to Subrecipient.

7. INVOICE SUBMITTAL:

Commerce shall reimburse the Subrecipient in accordance with Section 5, above. In accordance with the Funding Requirements of s. 215.971(1), F.S. and Section (20) of this Agreement, the Subrecipient and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during this Agreement. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures (<https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>).

- A. Subrecipient shall provide one invoice per month for services rendered during the applicable period of time as defined in the deliverable table. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.
- B. The following documents shall be submitted with the itemized invoice:
 - 1. A cover letter signed by Subrecipient's Agreement Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented

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- to the State in the budget appropriation; (2) are for one or more of the components as stated in Section 5, DELIVERABLES, of this SCOPE OF WORK; (3) have been paid; and (4) were incurred during this Agreement.
2. Subrecipient's invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date;
 3. A certification by a licensed professional using AIA forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete. Include if applicable to your program
 4. Photographs of the project in progress and completed work;
 5. A copy of all supporting documentation for vendor payments; and
 6. A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from Subrecipient that the State deems necessary to verify that the services have been rendered under this Agreement.
- C. The Subrecipient's invoice and all documentation necessary to support payment requests must be submitted into Commerce's Subrecipient Management Reporting Application (SERA). Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided upon execution of the agreement.