

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

On **October 27, 2022**, the State of Florida, Department of Commerce (“Commerce”), formerly known as the Florida Department of Economic Opportunity, and the **City of Lakeland, Florida**. (“Grantee”) entered into agreement **MT047** (“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; and

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.
 - 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, Section 4, Eligible Tasks and Deliverables**, is hereby deleted and replaced with the following:

4. ELIGIBLE TASKS AND DELIVERABLES

A. Deliverable 1 – Project Implementation

Tasks that are eligible for reimbursement are as follows:

1. Environmental review administrative activities (Environmental Exemption, Public Notice Publication(s), etc.).
2. Develop policies for the Recipient to adopt related to special conditions listed in this subgrant agreement.
3. Prepare procurement documents.
4. Prepare list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
5. Prepare and submit public notices for publications.
6. Maintain financial records related to project activities on-site.
7. Conduct a Fair Housing activity.
8. Attend a pre-bid conference, bid opening, or preconstruction meeting.
9. Review contractor payrolls and interview employees to determine compliance with Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland "Anti-Kickback" Act.
10. Maintain project files.
11. Conduct Community Engagement, Public Meetings, and Outreach requirements.
12. Conduct project planning meetings with Subrecipient's local governing body, vendors, subcontractors, and regulatory agencies to provide progress reports on subgrant activities; submit meeting attendance and minutes to Commerce.
13. Prepare documentation for, or participate, in monitoring visits in person or virtually during monitoring with Commerce.
14. Prepare financial activity reports for submission to Commerce.
15. Prepare and submit detailed monthly and quarterly reports to Commerce.
16. Prepare and submit Section 3 reports to Commerce.
17. Respond to citizens' complaints.
18. Prepare subgrant modification document for submission to Commerce for review and approval.
19. Prepare responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD.
20. Project Closeout, Engineer's Certification of Completion, Grant Closeout Package completed and submitted to Commerce.

B. Deliverable 2 – Feasibility Study

Tasks that are eligible for reimbursement are as follows:

1. **Floodplain management and environmental review requirements.** The subrecipient will perform activities including the following:
 - a. A floodway encroachment analysis to evaluate the hydraulic impact of the proposed pump station in the regulatory floodway, per 44 CFR 60.3(d)(3).

- b. If the floodway encroachment analysis indicates an increase in base flood elevation, the city must apply for a Conditional Letter of Map Revision (CLOMR) and receive FEMA approval prior to construction (44 CFR 60.3(d)(4)). This must be accounted for in the revised project budget and schedule.
 - c. Define necessary state, federal, and local permitting requirements. Early coordination with permitting agencies to confirm the need and schedule for permits and obtain project feedback is required.
2. **Stakeholder coordination.** The subrecipient will specify property required to obtain easements for project implementation and:
 - a. Coordinate with property owners in accordance with Uniform Relocation Act requirements.
 - b. Conduct necessary surveys, site inspections, appraisals, and calculate subcontractor fees, real estate fees and all other materials necessary to complete the valuation and purchase of land required to access the site and complete construction. This applies to all land necessary for wetland dredging and flood relief infrastructure.
 - c. Scope community engagement specifics during design and construction, including number of public meetings held.
3. **Floodway Encroachment Analysis.** The subrecipient will perform limited engineering and design activities, as reasonable and necessary, to complete the required flood plain management analysis component of the feasibility study. These engineering and design elements will include and be limited to the following, required surveys:
 - a. Topographic survey.
 - b. Wetlands delineation.
 - c. Bathymetric and sediment thickness survey.
 - d. LiDAR survey.
4. **Copy of the feasibility study and proposed updated Scope of Work.** The subrecipient will provide the above-mentioned documentation outlining the project for Commerce's review and approval prior to moving forward with the project. The feasibility study should confirm the final scope of work, properties needed for acquisition, project schedule, project budget and leveraged funds, and maintenance procedures and funding sources. The subrecipient will confirm that any changes proposed to the initial project will still meet a National Objective and that the low-to-moderate income analysis for the project is revised, if necessary.

C. Deliverable 3 – Engineering and Design.

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 HUD and Commerce Policies and the National Environmental Policy Act referenced in Attachment D.4.b of

this Agreement and carry out any mitigation measures required as a result to the Environmental Review findings.

D. Deliverable 4 – Construction

Subrecipient shall:

1. Acquire property necessary for project construction (including wetland dredging and flood relief infrastructure), including permanent easements, in accordance with HUD Handbook for Tenant Assistance, Relocation, and Real Property Acquisition Handbook (Handbook 1378). Provide copies of acquisition and closing paperwork to Commerce.
2. Conduct, coordinate, manage, monitor and review construction project to provide contractor oversight, project management, planning, design, and construction of project via monthly meetings.
3. Complete the mobilization and demobilization of dredging equipment to the project location to begin and complete Lake Bonnet bottom dredging operations to remove an estimated 425,000 cubic yards (cy) of sediment.
4. Conduct separation of contaminated sediment, placement of contaminated dredged sediment at separate dredge material management area and completion of ex-situ dewatering activities. Includes sediment management unit preparation and restoration, tubes, polymer, equipment, piping, valves, polyethylene liner and equipment.
5. Loading , transportation and disposal of contaminated sediment and dredge material, this includes sample collection (sampling) and laboratory analysis.
6. Emplace the sand cap over approximately 10 acres of littoral zone around the shoreline of Lake Bonnet with clean sand, native vegetation supplies and any other necessary media for rehabilitation.
7. Construct geocells and aqua dams to provide for placement of dredged materials in thin layers within an estimated 40 acres of degraded wetland on the east side of Lake Bonnet. Anticipating 74,000 cy of dredge material emplacement annually.
8. Demolish and remove dilapidated weir structure; reconstruct and restore the canal at this location .
9. Complete regrading and stabilization of the western side of Lake Bonnet, to include constructing and installing structural reinforcement of the embankment.
10. Construct a pump station and installation of 100 cubic foot per second (cfs) pump, instrumentation, 43" force main, power drop / wire and any additional ancillary equipment necessary to achieve pumping from the Lake Bonnet Canal into Lake Bonnet during storm events.
11. Retrofit and reconstruct existing concrete culverts at Bridge Boulevard and placement of bank stabilization structures within the Lake Bonnet drainage canal.
12. Retrofit and reconstruct existing concrete culverts at Bridge Boulevard and placement of bank stabilization structures within the Lake Bonnet drainage canal.
13. Perform construction of flood relief diversion barriers (flood walls), drainage conveyances and infrastructure retention/detention facilities, electrical instrumentation, sump pumps, and other ancillary equipment as needed to alleviate flooding along the Lake Bonnet canal.

14. Complete final deliverables including copies of final as-built drawings; photographs of the completed project; all inspection reports; project manager certification that the project was completed in accordance with all applicable codes and standards and in alignment with the agreement scope of work as written; and a final balanced budget. In addition, all documentation related to required environmental conditions must be submitted in final project deliverables.

4. Attachment A, Section 6, Deliverables, is hereby deleted and replaced with the following:

6. DELIVERABLES

Subrecipient agrees to provide the following services as specified:

Deliverable No. 1 – Program Implementation		
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) Project Implementation task on a per completed task basis as detailed in Section 4.A, Attachment A – Project Description and Deliverables; 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 No. 1 Cost: \$5,432,226.00		
Deliverable No. 2 – Feasibility Study		
Tasks	Minimum Level of Service	Financial Consequences
Subrecipient shall complete task 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) Floodway encroachment analysis Engineering design. 2) Surveys, site inspections, appraisals, real estate fee docs, etc. 3) Copy of completed feasibility study; and 4) 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 No. 2 Cost: \$1,321,000.00		

Deliverable No. 3 – Engineering Services		
Tasks	Minimum Level of Service	Financial Consequences
Subrecipient shall complete task as detailed in Section 4.C. of this Scope of Work	Subrecipient may request reimbursement upon Design completion in accordance with Section 4.C of this Scope of Work in the following increments: 30%, 60%, 90% and 100%, evidenced by submittal of the following documentation: 1) Certification from a Professional Engineer licensed in Florida certifying to the percentage of Design completion. 2) Copy of final signed and sealed design plans. 3) Copy of cost estimates; and 4) 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 No. 3 Cost: \$2,560,000.00		
Deliverable No. 4 - Construction		
Tasks	Minimum Level of Service	Financial Consequences
Subrecipient shall complete task as detailed in Section 4.D of this Scope of Work	Subrecipient may request reimbursement upon completion of activities in accordance with Section 4.D 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 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.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
Total Deliverable 4 Cost: \$33,673,164.00		
TOTAL PROJECT COST NOT TO EXCEED \$42,986,390.00		

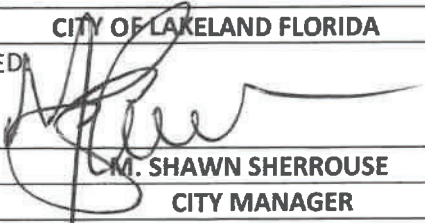

5. **Attachment D, Section 4** is hereby deleted and replaced with the following:
4. Prior to the obligation or disbursement of any funds, except for Project Implementation not to exceed \$66,000, 30% of the Engineer/Design cost and the cost of the Feasibility Study covered by an approved Environmental Exemption, the Subrecipient shall complete the following:
- a. Submit for Commerce's review and approval the documentation required for contract for:
 - I. Any professional services.
 - II. Grant Administration; and
 - III. The Feasibility Study.

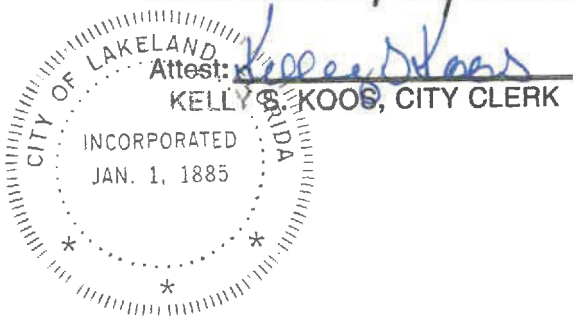
The Subrecipient proceeds at its own risk if more than the specified amount is incurred before Commerce approves any procurement. If Commerce does not approve the procurement of a professional services contract, grant administration contract and the feasibility study, the local government will not be able to use CDBG-MIT funds for those services.

- b. Comply with 24 CFR 58 and the regulations implementing the National Environmental Policy Act, 40 CFR 1500-1508. When the Subrecipient has completed the environmental review process, it shall submit a Request for Release of Funds and Certification. Commerce will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of Commerce. If Commerce has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide the Subrecipient a written update regarding the status of the review process. **SUBRECIPIENT SHALL NOT BEGIN CONSTRUCTION BEFORE COMMERCE HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**
6. All other terms and conditions of the Subrecipient Agreement not otherwise amended remain in full force and effect.

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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 **MT047** as amended. This Amendment is effective on the date the last Party signs this Amendment.

CITY OF LAKELAND FLORIDA	DEPARTMENT OF COMMERCE
SIGNED: 	SIGNED: 
M. SHAWN SHERROUSE CITY MANAGER	J. ALEX KELLY SECRETARY
DATE: 2/23/24	DATE: 3/19/2024




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

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE

By: Ryan Bourgois

Approved Date: 3/8/2024

APPROVED AS TO FORM
AND CORRECTNESS:

Palmer C. Davis, City Attorney