

Agreement Number: B0078
Project Number: DEM-HL00036

STATE-FUNDED GRANT AGREEMENT

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

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

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

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

(1) LAWS, RULES, REGULATIONS, AND POLICIES

- a. As required by Section 215.971(1), Florida Statutes, this Agreement includes:
 - i. A provision specifying a scope of work that clearly establishes the tasks that the Recipient is required to perform.
 - ii. A provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the Division before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.
 - iii. A provision specifying the financial consequences that apply if the Recipient fails to perform the minimum level of service required by the agreement.
 - iv. A provision specifying that the Recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period.
 - v. A provision specifying that any balance of unobligated funds which has been advanced or paid must be refunded to the Division.
 - vi. A provision specifying that any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the agreement must be refunded to the Division.
- b. In addition to the foregoing, the Recipient and the Division shall be governed by all applicable State and Federal laws, rules and regulations, including those identified in Attachment B. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

(2) CONTACT

a. In accordance with Section 215.971(2), Florida Statutes, the Division's Grant Manager shall be responsible for enforcing performance of this Agreement's terms and conditions and shall serve as the Division's liaison with the Recipient. As part of his/her duties, the Grant Manager for the Division shall:

- i. Monitor and document Recipient performance; and,
- ii. Review and document all deliverables for which the Recipient requests payment.

b. The Division's Grant Manager for this Agreement is:

Brianna Beynart, Project Manager
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
Telephone: 850-815-4516
Email: Brianna.Beynart@em.myflorida.com

c. The name and address of the representative of the Recipient responsible for the administration of this Agreement is:

Alexander Goldstein, Program Compliance Manager
100 W. Atlantic Blvd., Suite 220
Pompano Beach, FL 33060
Telephone: 954-786-4659
Fax: 954-786-5534
Email: alexander.goldstein@copbfl.com

d. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided to the other party.

(3) TERMS AND CONDITIONS

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

(4) EXECUTION

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

(5) MODIFICATION

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

(6) SCOPE OF WORK

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

(7) PERIOD OF AGREEMENT

This Agreement shall begin upon execution by both parties and shall end on **June 30, 2021**, unless terminated earlier in accordance with the provisions of Paragraph (16) TERMINATION. In accordance with Section 215.971(1)(d), Florida Statutes, the Recipient may expend funds authorized by this Agreement “only for allowable costs resulting from obligations incurred during” the period of agreement.

(8) FUNDING

- a. This is a cost-reimbursement Agreement, subject to the availability of funds.
- b. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with either Chapter 216, Florida Statutes, or the Florida Constitution.
- c. The Division will reimburse the Recipient only for allowable costs incurred by the Recipient in the successful completion of each deliverable. The maximum reimbursement amount for each deliverable is outlined in Attachment A of this Agreement (“Budget and Scope of Work”). The maximum reimbursement amount for the entirety of this Agreement is **\$194,000.00**.
- d. The Division will review any request for reimbursement by comparing the documentation provided by the Recipient against a performance measure, outlined in Attachment A, which clearly delineates:
 - i. The required minimum acceptable level of service to be performed; and,
 - ii. The criteria for evaluating the successful completion of each deliverable.
- e. The Division's Grant Manager, as required by Section 215.971(2)(c), Florida Statutes, shall reconcile and verify all funds received against all funds expended during the period of agreement and produce a final reconciliation report. The final report must identify any funds paid in excess of the expenditures incurred by the Recipient.
- f. For the purposes of this Agreement, the term “improper payment” means or includes:
 - i. Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and,
 - ii. Any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable

discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

g. As required by the Reference Guide for State Expenditures, reimbursement for travel must be in accordance with section 112.061, Florida Statutes, which includes submission of the claim on the approved state travel voucher.

(9) RECORDS

a. As a condition of receiving state financial assistance, and as required by sections 20.055(6)(c) and 215.97(5)(b), Florida Statutes, the Division, the Chief Inspector General of the State of Florida, the Florida Auditor General, or any of their authorized representatives, shall enjoy the right of access to any documents, financial statements, papers, or other records of the Recipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Recipient's personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term "Recipient" includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.

b. The Recipient shall maintain all records related to this Agreement for the period of time specified in the appropriate retention schedule published by the Florida Department of State. Information regarding retention schedules can be obtained at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>.

c. Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) provides the citizens of Florida with a right of access to governmental proceedings and mandates three, basic requirements: (1) all meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and, (3) minutes of the meetings must be taken and promptly recorded. The mere receipt of public funds by a private entity, standing alone, is insufficient to bring that entity within the ambit of the open government requirements. However, the Government in the Sunshine Law applies to private entities that provide services to governmental agencies and that act on behalf of those agencies in the agencies' performance of their public duties. If a public agency delegates the performance of its public purpose to a private entity, then, to the extent that private entity is performing that public purpose, the Government in the Sunshine Law applies. For example, if a volunteer fire department provides firefighting services to a governmental entity and uses facilities and equipment purchased with public funds, then the Government in the Sunshine Law applies to board of directors for that volunteer fire department. Thus, to the extent that the Government in the Sunshine Law applies to the Recipient based upon the funds provided under this Agreement, the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board may be subject to open government requirements. These meetings shall be publicly noticed, open to the

public, and the minutes of all the meetings shall be public records, available to the public in accordance with Chapter 119, Florida Statutes.

d. Florida's Public Records Law provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. Unless specifically exempted from disclosure by the Legislature, all materials made or received by a governmental agency (or a private entity acting on behalf of such an agency) in conjunction with official business which are used to perpetuate, communicate, or formalize knowledge qualify as public records subject to public inspection. The mere receipt of public funds by a private entity, standing alone, is insufficient to bring that entity within the ambit of the public record requirements. However, when a public entity delegates a public function to a private entity, the records generated by the private entity's performance of that duty become public records. Thus, the nature and scope of the services provided by a private entity determine whether that entity is acting on behalf of a public agency and is therefore subject to the requirements of Florida's Public Records Law.

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

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156, Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

(10) AUDITS

a. In accounting for the receipt and expenditure of funds under this Agreement, the Recipient 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)."

b. When conducting an audit of the Recipient'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."

c. 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 Recipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty days after the Division has notified the Recipient of such non-compliance.

d. The Recipient shall have all audits completed by an independent auditor, which is defined in Section 215.97(2)(i), 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 audits must be received by the Division no later than nine months from the end of the Recipient’s fiscal year.

e. The Recipient shall send copies of reporting packages required under this paragraph directly to each of the following:

i. The Division of Emergency Management

DEMSingle_Audit@em.myflorida.com

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General

2555 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100

ii. The Auditor General

Room 401, Claude Pepper Building

111 West Madison Street

Tallahassee, Florida 32399-1450

(11) REPORTS

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

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

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

d. If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, the Division may withhold further payments until they are completed or may

take other action as stated in Paragraph (15) REMEDIES. "Acceptable to the Division" means that the work product was completed in accordance with the Budget and Scope of Work.

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

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

(12) MONITORING

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

b. In addition to reviews of audits conducted in accordance with paragraph (10) AUDITS above, monitoring procedures may include, but not be limited to, on-site visits by Division staff, limited scope audits, or other procedures. The Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Division. In the event that the Division determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Division to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Florida Chief Financial Officer or Auditor General. In addition, the Division will monitor the performance and financial management by the Recipient throughout the period of agreement to ensure timely completion of all tasks.

(13) LIABILITY

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

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

(14) DEFAULT

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make further payment of funds shall, if the Division elects, terminate and the Division has the option to exercise any of its remedies set forth in Paragraph (15) REMEDIES. However, the Division may make payments or partial payments after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment:

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

b. If material adverse changes occur in the financial condition of the Recipient at any time during the period of agreement, and the Recipient fails to cure this adverse change within thirty (30) days from the date written notice is sent by the Division.

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

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

(15) REMEDIES

If an Event of Default occurs, then the Division shall, after thirty (30) calendar days written notice to the Recipient and upon the Recipient's failure to cure within those thirty (30) days, exercise any one or more of the following remedies, either concurrently or consecutively:

a. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in paragraph (2) CONTACT herein;

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

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

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

e. Exercise any corrective or remedial actions, to include but not be limited to:

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

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

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

iv. require the Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible;

f. Exercise any other rights or remedies which may be available under law.

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

(16) TERMINATION.

a. The Division may terminate this Agreement for cause after thirty (30) days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Fla. Stat., as amended.

b. The Division may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Recipient with thirty (30) calendar days prior written notice.

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

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

(17) SUBCONTRACTS

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

For each subcontract, the Recipient shall provide a written statement to the Division as to whether

that subcontractor is a minority business enterprise, as defined in Section 288.703, Fla. Stat.

(18) ATTACHMENTS

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

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

c. This Agreement has the following attachments:

Exhibit 1 - Funding Sources

Attachment A – Budget and Scope of Work

Attachment B – Program Statutes and Regulations

Attachment C – Statement of Assurances

Attachment D – Request for Advance or Reimbursement

Attachment E – Justification of Advance Payment

Attachment F – Quarterly Report Form

Attachment G – Warranties and Representations

Attachment H – Certification Regarding Debarment

(19) PAYMENTS

a. Any advance payment under this Agreement is subject to Section 216.181(16), Florida Statutes. All advances are required to be held in an interest-bearing account. If an advance payment is requested, the budget data on which the request is based and a justification statement shall be included in this Agreement as Attachment E. Attachment E will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds. No advance shall be accepted for processing if a reimbursement has been paid prior to the submittal of a request for advanced payment. After the initial advance, if any, payment shall be made on a reimbursement basis as needed.

b. Invoices shall be submitted at least quarterly and shall include the supporting documentation for all costs of the project or services. The final invoice shall be submitted within sixty (60) days after the expiration date of the agreement. An explanation of any circumstances prohibiting the submittal of quarterly invoices shall be submitted to the Division grant manager as part of the Recipient's quarterly reporting as referenced in paragraph (11) REPORTS of this Agreement.

c. If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the federal Office of Management and Budgeting, the State Chief Financial Officer or under paragraph 8 of this Agreement, all obligations on the part of the Division to make any further payment of funds shall terminate, and the Recipient shall submit its closeout report within thirty days of receiving notice from the Division.

(20) REPAYMENTS

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

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

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

(21) MANDATED CONDITIONS

a. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions or any material changes shall, at the option of the Division and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

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

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

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

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

f. Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a

contract with a public entity, and may not transact business with any public entity in excess of \$25,000.00 for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

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

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;

ii. Have not, within a five-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

iii. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph (21)(g)(ii) of this certification; and

iv. Have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

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

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

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

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

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

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

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

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

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

o. All expenditures of state financial assistance shall be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures.

p. This Agreement may be charged only with allowable costs resulting from obligations incurred during the period of agreement.

q. Any balances of unobligated cash that have been advanced or paid that are not authorized to be retained for direct program costs in a subsequent period must be refunded to the State.

r. Section 287.05805, Florida Statutes, requires that any state funds provided for the purchase of or improvements to real property are contingent upon the contractor or political subdivision granting to the state a security interest in the property at least to the amount of state funds provided for at least 5 years from the date of purchase or the completion of the improvements or as further required by law.

(22) LOBBYING PROHIBITION

a. Section 216.347, Florida Statutes, prohibits "any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency."

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

(23) COPYRIGHT, PATENT AND TRADEMARK

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

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

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

c. Within thirty (30) days of execution of this Agreement, the Recipient shall disclose all intellectual properties relating to the performance of this Agreement that he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property that is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under Paragraph (b), have the right to all patents and copyrights that accrue during performance of this Agreement.

d. If the Recipient qualifies as a state university under Florida law, then, pursuant to section 1004.23, Florida Statutes, any invention conceived exclusively by the employees of the Recipient shall become the sole property of the Recipient. In the case of joint inventions, that is inventions made jointly by one or more employees of both parties hereto, each party shall have an equal, undivided interest in and to such joint inventions. The Division shall retain a perpetual, irrevocable, fully-paid, nonexclusive license, for its use and the use of its contractors of any resulting patented, copyrighted or trademarked work products, developed solely by the Recipient, under this Agreement, for Florida government purposes.

(24) LEGAL AUTHORIZATION.

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

(25) ASSURANCES.

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

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

RECIPIENT:

City of Pompano Beach

By: _____

Name and title: _____

Date: _____

FID# _____

STATE OF FLORIDA

DIVISION OF EMERGENCY MANAGEMENT

By: _____

Name and Title: Jared Moskowitz, Director

Date: _____

EXHIBIT – 1

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

State Project -

State awarding agency: **Division of Emergency Management**

Catalog of State Financial Assistance title: **Hurricane Loss Mitigation Program**

Catalog of State Financial Assistance number: **31.066**

Amount of State Funding: **\$194,000.00**

EXHIBIT “A”
SCOPE OF WORK AND BUDGET

HISTORICAL BACKGROUND

In 1993, the Legislature created the Florida Hurricane Catastrophe Fund (“Cat Fund”). Codified in section 215.555, Florida Statutes, the Cat Fund: (1) provides a form of reinsurance for residential property insurers; and, (2) authorizes the expenditure of certain moneys to support programs that mitigate hurricane losses.

Section 215.555 requires that each insurance company pay premiums into the Cat Fund; those premiums are calculated based on actual catastrophic exposure. Initially, the Cat Fund collected from both “Participants” and “Non-Participants.” The term “Participants” refers to insurers who provide residential policies and small business commercial policies covering structures and contents; the term “Non-Participants” refers to insurers who provide property and casualty coverage. The latter is broader than the former; and, the former falls under the broader category of the latter. In other words, “Non-Participant” coverage includes “Participant” coverage; but, “Non-Participant” coverage also includes other types of insurance.

The State Board of Administration oversees the Cat Fund, which qualifies as a trust fund under state law.

In 1994, the Internal Revenue Service (“IRS”) issued a letter addressing the status of the Cat Fund for Federal income tax purposes. Recognizing that Participant contributions to the Cat Fund make the Fund look like a taxable, reinsurance program, the IRS nonetheless concluded that revenue earned by the Cat Fund qualifies as tax-exempt. In reaching this conclusion, the IRS focused on two, key components of the program: (1) the Non-Participant contributions; and, (2) the fact that the “State will appropriate moneys from the Fund each year and expend such moneys for specified purposes which are unrelated to its obligations under the Contracts.” Thus, in finding the Cat Fund tax exempt, the IRS relied at least in part on the mandatory use of some Cat Fund moneys for the public purpose of hurricane loss mitigation.

For fiscal year 1997-1998, the Legislature appropriated the \$10 million from the Cat Fund and split that appropriation into three categories: \$4.1 million to match grants from the Federal Emergency Management Agency; \$3.1 million going to the Residential Construction Mitigation Program under the Department of Community Affairs; and, \$2.8 million for sand dune restoration.

Citing policy considerations, Governor Chiles vetoed the \$2.8 million appropriation for sand dune restoration. In his veto message, Governor Chiles stated that “[f]unding of these projects from these funds would set the wrong precedent; these funds should be for the purpose of enhancing residential mitigation.”

Despite the IRS’ reliance on Florida’s assertion that it would annually appropriate at least \$10 million in Cat Fund moneys for hurricane loss mitigation programs, Governor Chiles’ decision to veto the sand dune appropriation reduced that year’s overall mitigation appropriation down to \$7.2 million.

In 1999, the Florida Legislature passed the “Bill Williams Residential Safety and Preparedness Act” (“the Act”). With an effective date of July 1, 2000, the Act created the Hurricane Loss Mitigation Program (“HLMP”) as outlined in section 215.559, Florida Statutes.

The House of Representatives staff analysis describes the purpose of the Act as follows: “This bill creates the Hurricane Loss Mitigation Clearing Trust Fund (“HLMCTF”) to receive transfers from the Florida Hurricane Catastrophe Fund (“Cat Fund”) to provide funding for hurricane mitigation programs.” Addressing the concern that another line item veto could threaten the tax exempt status of the Cat Fund, the analysis goes on to state: “The creation of the HLMCTF assures that the \$10 million will be appropriated from the Cat Fund, thus making it less likely that a line item veto will jeopardize the tax exempt status of the Cat Fund.”

PRESENT SITUATION

Currently, the Legislature annually appropriates \$10 million from the Florida Hurricane Catastrophe Fund to the Florida Division of Emergency Management (“Division”) for the Division to administer the HLMP. By statute, that \$10 million is allocated as follows:

- \$3.5 million “to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.”
- \$3 million “to retrofit existing facilities used as public hurricane shelters”
- \$2.8 million “to inspect and improve tie-downs for mobile homes”
- \$700,000 “to the Florida International University center dedicated to hurricane research”

Previously, the Division allocated \$3.5 million for the Residential Construction Mitigation Program (“RCMP”), which provided grant funding to governmental entities, and nonprofit organizations as a means to improve the resiliency of residential structures within their communities. The RCMP utilized a benefit-cost analysis (BCA) for each of the submitted projects in order to determine whether the mitigation retrofits were cost-effective.

Presently, the Division expanded the \$3.5 million HLMP appropriation beyond the original scope of the RCMP, which excluded non-residential structures. The Division allocates \$3.5 million for any construction mitigation efforts that will “prevent or reduce losses or reduce the cost of rebuilding after a disaster” – provided that the construction:

- Involves a structure; and,
- Does not supplant any other mitigation grant program funded by or through the Division.

The Recipient will provide mitigation retrofit improvements as identified in RFP-DEM-19-20-038 on as many qualified structures as possible during the period of performance for this Agreement and within the awarded amount. The Division of Emergency Management’s (Division) Project Information Sheet (PIS) will be the controlling document that monitors expenditures for the approved mitigation properties.

All structures shall be located in the geographical boundaries of the State of Florida and be approved by the Division. The Recipient shall focus on a comprehensive approach that ties together all aspects of mitigation.

The Recipient shall be responsible for the implementation, management, coordination, and facilitation of all aspects related to the mitigation retrofit projects approved under this RFP.

The intent of the program is to mitigate a structure comprehensively. Comprehensive mitigation takes into account as many facets of mitigation as can be achieved given the Recipient’s budget for an identified structure. Where a comprehensive approach cannot be implemented, the Recipient must clearly justify (i.e., structure has already been partially mitigated or structure does not otherwise require certain measures) the reasons for the deviation. All awarded funds must be directly related to mitigation improvements.

The Division will conduct a benefit-cost analysis (BCA) for each of the submitted properties to determine if the mitigation retrofits are cost-effective. The BCA results in a numerical ratio

expression of the cost-effectiveness of a mitigation project and is calculated as: total project mitigation benefits divided by total project mitigation costs. A project with a BCA ratio of one or greater has more benefits than costs and is therefore considered cost-effective. Some of the submitted properties may receive a BCA ratio of less than one (1). However, if the combined BCA ratio for the submitted group of properties is equal to one (1) or greater the group of properties may be approved. Specific properties may be added or withdrawn if necessary in order to achieve a combined BCA of one (1) or greater. The Division will prioritize projects with the highest BCA ratio over projects with a lower BCA ratio.

Upon the Recipient receiving a BCA score of (1) or greater, the Division will alert the Recipient to begin construction. **It is important to note that no construction shall be started prior to the Division's approval of the mitigation improvements.**

The HLMP grant is a reimbursable grant. Therefore, no Pre-award costs are authorized. Further, the Recipient should secure funding in order to ensure maximum performance. The Division expects that each Recipient will fully spend their awarded grant amount. The Division retains the right to review Recipient performance and take corrective action at any time. The following Tasks and Deliverables will be achieved in order for the Recipient to be reimbursed.

Task 1 (Identification and inspection): The Recipient shall identify structures for possible mitigation improvements. Then, the Recipient shall conduct a comprehensive mitigation inspection of all identified structures. The mitigation inspection shall be performed by a state certified mitigation inspector or local building official. The inspector shall identify any previous mitigation improvements as well as any mitigation deficiencies. The inspection shall be completed using the state standard "Uniform Mitigation Verification Inspection Form". The inspector shall further ensure that all necessary information is given to the Recipient (i.e. measurements, counts, and applicable notes). Additionally, the inspector shall provide the following information in addition to the Uniform Mitigation Verification Inspection Form:

- a) An opinion on whether the structure can be retrofitted to effectively improve structural survivability;
- b) An estimate of the roof square footage;
- c) An estimate of the square footage of windows and doors;
- d) An indication whether the home has gable end reinforcement;
- e) A statement detailing any additional mitigation needs (such as vent strengthening, fascia or soffit repair, etc.).

Task 2 (Scope of work development): The Recipient shall develop a Scope of Work (SOW) for each project approved by the Division. The SOW shall be based on all the mitigation retrofit measures identified on the Uniform Mitigation Verification Inspection Form and approved by the Division. If required by the local building official, certified drawings will be developed for mitigation improvements and approved by a State of Florida Registered Professional Engineer or Florida Registered Architect as required. The Recipient shall select a Qualified, Licensed Florida Contractor in accordance with the Recipient's procurement policy.

Task 3 (Submission of the PIS): The Recipient shall submit to the Division a PIS for each structure identified for possible mitigation retrofits. The Recipient will provide all the requested information for each structure, to include color photographs. Cost estimates for each project component must be provided by the selected contractor. The electronic PIS will be provided to the Recipient by the Division. The original document should not be altered in any way. As part of the submission, the Recipient shall identify whether:

- a) the structure is on grade or not;
- b) any unpermitted work has occurred at the structure; and,
- c) if any outstanding liens or judgments are attached to the structure or its underlying property.

Task 4 (Construction): Upon completion and approval of Tasks 1 through 3 by the Division, the construction phase shall commence. The Recipient, or its Subcontractors, shall complete all mitigation retrofit measures as approved by the Division that have been identified on the PIS. The minimum level of required service includes, but is not limited to the completion of all or some of the mitigation retrofit measures identified the PIS. All construction work shall be completed by a Qualified and Licensed, Florida Contractor.

Task 5 (Final inspection): Upon completion of the mitigation retrofit improvements, a post inspection must be performed by the Recipient and a member of the Division's Technical Unit to ensure that all activities on the scope of work have been properly completed in compliance with issued building permits, as well as, any and all applicable Florida Building Codes, local building codes, industry standards and Manufacturer's Specifications.

Requests for reimbursement: During the course of the Fiscal Year, the Recipient is required to submit, at a minimum quarterly, Request for Reimbursements (RFR). The recipient is required to submit a quarterly report on the progress of the overall project. The quarterly report is due no later than

15 calendar days past the end of the quarter (see table 1). Documentation is required to support each RFR. Examples of supporting documentation are provided below for both construction expenses and project management expenses. In some cases, all the mitigation retrofit improvements may not be fully completed; however, a partial reimbursement request may be submitted. Additional documentation in the form of an Affidavit signed by the project manager attesting to the completion of the work identified in RFR is required.

Construction expenses: The Recipient will pre-audit bills, invoices, and/or charges submitted by the subcontractors and pay the subcontractors for approved bills, invoices, and/or charges. Recipient will submit Reimbursement Requests (Attachment D) to the Division with copies of Subcontractor's bills, invoices, and/or charges and Proof-of-Payment by the Recipient in the form of cancelled checks, payroll records, electronic payment verification, etc. The Recipient shall ensure that the Contractor's Invoice clearly identifies each mitigation item installed.

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

DELIVERABLES:

Deliverable 1 (Identification and inspection): The Recipient will provide to the Division a copy of the Uniform Mitigation Verification Inspection Form and any additional information provided by the certified mitigation inspector or building official.

Due Date: Initial PIS are due within one hundred and twenty (120) days of the contract execution date. Projects and properties may be added and removed through April 15, 2021.

Reimbursement: Provided the expenses do not exceed the amounts authorized by this Agreement, the Division will reimburse the Recipient for the Project Management expenses (Not to exceed \$15,000) and expenses associated with project identification, plan development, and inspection services.

Deliverable 2 (Scope of work development): Based on the work described in Task 3, the Recipient shall submit, in an electronic format, a spreadsheet that contains the following information:

- a) Recipient Name and HLMP Project Number;
- b) Property Owner's Name;
- c) Selected Contractor's Name and date of Contractor selection for each mitigation measure;
- d) Detailed description of mitigation activities to be implemented on each structure that includes unit count, measurements, material and labor costs; and,
- e) Florida Product Approval Code for each mitigation product to be installed.

Due Date: Within fourteen (14) days of Contractor selection.

Reimbursement: Provided the expenses do not exceed the amounts authorized by this Agreement, the Division will reimburse the Recipient for the Project Management expenses (Not to exceed \$15,000) associated with the approved Project's SOW, bidding process, or Contractor selection and creation of detailed spreadsheet.

Deliverable 3 (Submission of the PIS): Based on the work described in Tasks 1 and 2, the Recipient shall submit, in an electronic format, the completed Initial PIS. All the requested information identified by the PIS is required and shall be provided, including multiple color photographs provided in digital format. The color photographs may be sent by email, one structure per email, or via the Division's File Transfer Protocol (FTP) site. The HLMP Project Number and property owner name must be in the subject line of an email. In the FTP method, each property shall be in a separate file. The file names need to be short but identifiable. File names such as last name and address number (jones1234), or recipient's tracking number on the PIS. Approval of individual properties will be based on a combined BCA ratio.

Due Date: Initial PIS is due within one hundred and twenty (120) days of the final contract execution date. Recipient requested addition or deletion of properties is due by April 15, 2021.

Reimbursement: Provided the expenses do not exceed the amounts authorized by this Agreement, the Division will reimburse the Recipient for the Project Management expenses (Not to exceed \$15,000) and Construction Expenses associated with project identification, plan development, completion, and submission of the initial Division's PIS.

Deliverable 4 (Construction): Based on the work described in Task 4, the Recipient shall provide a Request for Reimbursement (RFR) Package that includes the following information:

a) Recipient's Invoice, to include;

- The Period of Performance;
- A breakdown of material and labor cost;
- Description of Work Performed; and,
- Payment amount requested for reimbursement.

b) Request for Reimbursement; (Attachment D)

- Signed and dated Summary Page with relevant Detail Pages;
- Sub-Contractor's Invoice:
 - a. Sub-Contractor Name;
 - b. Property owner name and address;
 - c. Date work performed;
 - d. Exact mitigation measure completed; and,
 - e. Amount requested for each mitigation measure,
- Copies of Canceled Checks or Electronic Funds Payment Verification;
- Quarterly Report; and,
- Affidavit of Partial Competition (if applicable).

Due Date: Deliverable 4, is due on a regular basis, but shall be submitted at least quarterly, starting with the first quarter after the final Agreement execution date and every quarter thereafter. It shall include the quarterly report. The quarterly submission is due fifteen (15) calendar days after the close of the quarter.

Reimbursement: Provided the expenses do not exceed the amounts authorized by this Agreement, the Division will reimburse the Recipient for the Project Management expenses (Not to exceed \$15,000) and Construction Expenses associated with all the mitigation retrofit improvements. The mitigation retrofit improvements may not be fully completed; however, a partial reimbursement request may be submitted.

Deliverable 5 (Final inspection): Based on the work described in Task 5, the Recipient shall provide a Final Close-Out Package digital media device that will include the following:

- a) Request for Final Inspection, which may be sent ahead of the storage device to expedite scheduling of final inspection, on agency/company letter head identifying the HLMP Project number, contract number and must include the following statements:
- The project is 100% complete;

- Scope of Work for each structure has been completed; and,
- All relevant building Codes and Standards have been satisfied.

b) A digital media device that contains electronic folders for each individual property.

The folders must have PDF formatted documents for each of the following:

- Approved PIS;
- Scope of Work;
- Color Photographs, in digital format, documenting mitigation work (pre and post);
- Building Permit;
- Post-Inspection Reports/Certificates of Completion for each structure;
- Florida Approved Product Codes, Miami-Dade Approval Codes, Notice of Acceptance/Product Approvals; and,
- All applicable Lien Waivers.

c) An Electronic Spreadsheet to include;

- Homeowner's Name;
- Homeowner's Address;
- Pre and Post Inspection Dates;
- Retrofit Measures Completed; and,
- Retrofit Cost;

Due Date: A request for closeout is to be received by the Division on or before June 15, 2021.

Reimbursement: Provided the expenses do not exceed the amounts authorized by this Agreement, the Division will reimburse the Recipient for the Project Management Expenses and Construction Expenses associated with Final Closeout preparation, final inspections, and any additional mitigation performed as required by final inspection. The **"Final Reimbursement Request"** must be submitted by August 15, 2021.

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

- a) Temporarily withhold cash payments pending correction of the deficiency by the recipient;
- b) Disallow all or part of the cost of the activity or action not in compliance;

- c) Wholly or partly suspend or terminate the current award for the recipient;
- d) Withhold further awards for the program; or,
- e) Take other remedies that may be legally available.

Key Deliverable Dates: The key deliverable dates are designed to aid the Recipient in fully expending the awarded grant funding. The Division will monitor the Recipient's performance by using the following dates as markers. Should the Recipient fall off this schedule, the Division will reach out to the Recipient and work towards an appropriate correction. The Division retains the right to review all Recipients for performance. Further, should the Recipient need additional time, the Recipient need only to demonstrate a work plan to the Division. These dates assume blue sky conditions throughout the life of the grant. Should the Division or the Recipient be impacted by disaster, event, or incident, the deliverable dates would be altered.

KEY ACTIVITY	DUE DATE	COMMENT
Deliverable 1: Identification and Inspection	No later than 45 days post contract execution.	Additional structures may be considered for mitigation until April 15, 2021.
Deliverable 2: Scope of Work Development	No later than 14 business days after vendor selection.	
Deliverable 3: Submission of the PIS	No later than 120 days post contract execution.	
Deliverable 4: Construction	To be completed by June 1, 2021.	Completion of all mitigation retrofit work.
Deliverable 4: Final Invoice	No later than August 15, 2021.	Cannot be released until the Division receives recommendation to close out the project by the Technical Unit.
Deliverable 5: Final Inspection	No later than June 15, 2021.	

Budget: The Budget is designed to account for HLMP Awarded Funds. Each invoice and request for reimbursement should clearly identify the amount of HLMP funds requested and provide supporting documentation.

This is HLMP Project Number DEM-HL-00036, City of Pompano Beach. The Period of Performance for this project shall start upon contract execution and ends June 30, 2021.

EXPENDITURE CATEGORIES	AWARD
Salary & Benefits	
Other Personnel / Contractual Services	
Project Management Expenses	\$15,000
Construction Expenses	\$179,000
Totals	\$194,000

Attachment B
Program Statutes and Regulations

Section 215.559, Florida Statutes	Hurricane Loss Mitigation Program
Section 215.422, Florida Statutes	Payments, warrants, and invoices; processing time limits; dispute limitation; agency or judicial branch compliance
Section 215.97, Florida Statutes	Florida Single Audit Act
Section 215.971, Florida Statutes	Agreements funded with federal and state assistance
Section 216.347, Florida Statutes	Disbursement of grant and aids appropriations for lobbying prohibited
Section 216.3475 Florida Statutes	Maximum rate of payment for services funded under General Appropriations Act or awarded on a noncompetitive basis
Section 287.056, Florida Statutes	Purchases from purchasing agreement and state term contract
Section 287.057, Florida Statutes	Procurement of commodities or contractual services
CFO MEMORANDUM NO. 04 (2005-06)	Compliance Requirements for Agreements
Section 553.844, Florida Statutes	Requirements for Roofs and Opening Protection

Attachment C
Statement of Assurances

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

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

be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.

(f) It will comply with

- (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Recipient, this assurance shall obligate the Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;
 - (2) Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualifies handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973;
 - (3) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship;
- (g) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties pursuant to Section 112.313 and Section 112.3135, Florida Statutes;
- (h) It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Section 51 which outlaws and prescribes penalties for “kickbacks” of wages in federally financed or assisted construction activities;
- (i) It will comply with the provisions of 18 U.S.C. 594, 598, 600-605 (further known as the Hatch Act) which limits the political activities of employees;
- (j) It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4002-4107, including

requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase “Federal financial assistance” includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;

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

- (k) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the “Uniform Federal Accessibility Standards,” (AS) which is Appendix A to 41 CFR Section 101-19.6 for general type buildings and Appendix A to 24 CFR, Part 40 for residential structures. The Recipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor;
- (l) It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (U.S.C. 470), Executive Order 11593, 24 CFR, Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et seq.) by:
 - (1) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR, Section 800.8) by the proposed activity; and
 - (2) Complying with all requirements established by the State to avoid or mitigate adverse effects upon such properties.
 - (3) Abiding by the terms and conditions of the **“Programmatic Agreement Among the Federal Emergency Management Agency, the Florida State Historic Preservation Office, the Florida Division of Emergency Management and the Advisory Council on Historic Preservation, (PA)”** which addresses roles and responsibilities of Federal and State entities in implementing Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470(f), and implementing regulations in 36 CFR, Part 800.
 - (4) When any of the Recipient’s projects funded under this Agreement may affect a historic property, as defined in 36 CFR, Part 800 (2)(e), the Federal Emergency Management Agency (FEMA) may require the Recipient to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the

recommended approaches set out in the **Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards)**, the **Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines)** (48 Federal Register 44734-37), or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the **Standards**, the Recipient agrees to participate in consultations to develop, and after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.

- (5) The Recipient agrees to notify FEMA and the Division if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation of footings and foundations, and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise the Recipient on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery or archeological data from the property.

If the Recipient is unable to avoid the archeological property, develop, in consultation with SHPO, a treatment plan consistent with the **Guidelines** and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties". The Recipient shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do not object within 15 calendar days of receipt of the treatment plan, FEMA may direct the Recipient to implement the treatment plan. If either the Council or the SHPO object, Recipient shall not proceed with the project until the objection is resolved.

- (6) The Recipient shall notify the Division and FEMA as soon as practicable: (a) of any changes in the approved scope of work for a National Register eligible or listed property; (b) of all changes to a project that may result in a supplemental DSR or modify a HMGP project for a National Register eligible or listed property; (c) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner. The Recipient acknowledges that FEMA may require the Recipient to stop construction in the vicinity of the discovery of a previously unidentified property that may be eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. The Recipient further acknowledges that FEMA may require the Recipient to take all reasonable

measures to avoid or minimize harm to such property until FEMA concludes consultation with the SHPO. The Recipient also acknowledges that FEMA will require, and the Recipient shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.

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

- (w) It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4728-4763;
- (x) It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 270;
- (y) It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347;
- (z) It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 469a, et seq.;
- (aa) It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination;
- (bb) It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j, regarding the protection of underground water sources;
- (cc) It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs;
- (dd) It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting components or potential components of the national wild and scenic rivers system;
- (ee) It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 12898 (Environmental Justice);
- (ff) It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3510;
- (gg) It will assure project consistency with the approved State program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1464; and
- (hh) It will comply with the Fish and Wildlife Coordination Act of 1958, 16 U.S.C. 661-666.
- (ii) With respect to demolition activities, it will:
 - (1) Create and make available documentation sufficient to demonstrate that the Recipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.

- (2) Return the property to its natural state as though no improvements had ever been contained thereon.
- (3) Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in the Recipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection and the County Health Department.
- (4) Provide documentation of the inspection results for each structure to indicate:
 - a. Safety Hazard Present
 - b. Health Hazards Present
 - c. Hazardous Materials Present
- (5) Provide supervision over contractors or employees employed by the Recipient to remove asbestos and lead from demolished or otherwise applicable structures.
- (6) Leave the demolished site clean, level and free of debris.
- (7) Notify the Division promptly of any unusual existing condition which hampers the contractor's work.
- (8) Obtain all required permits.
- (9) Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.
- (10) Comply with mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).
- (11) Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR, Part 15 and 61). This clause shall be added to any subcontracts.
- (12) Provide documentation of public notices for demolition activities.

Attachment D

DIVISION OF EMERGENCY MANAGEMENT

REQUEST FOR ADVANCE OR REIMBURSEMENT OF
HURRICANE LOSS MITIGATION PROGRAM FUNDS

RECIPIENT NAME: City of Pompano Beach

ADDRESS: 100 W. Atlantic Blvd., Suite 220

CITY, STATE, ZIP CODE: Pompano Beach, FL 33060

Project Number: DEM-HL00036

PAYMENT No: _____

DEM Agreement No: B0078

Eligible Amount 100%	Obligated Federal _____%	Obligated HLMP 100%	Previous Payments	Current Request	DEM Use Only	
					Approved	Comments
	N/A					

TOTAL CURRENT REQUEST: \$ _____

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

RECIPIENT SIGNATURE _____

NAME AND TITLE _____ DATE: _____

_____ TO BE COMPLETED BY DIVISION OF EMERGENCY MANAGEMENT	
APPROVED PROJECT TOTAL \$ _____	
ADMINISTRATIVE COST \$ _____	GOVERNOR'S AUTHORIZED REPRESENTATIVE _____
APPROVED FOR PAYMENT \$ _____	DATE _____

Attachment E

JUSTIFICATION OF ADVANCE PAYMENT

RECIPIENT: City of Pompano Beach

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

☐ **ADVANCE REQUESTED**

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

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

ESTIMATED EXPENSES

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

LINE ITEM JUSTIFICATION (For each line item, provide a detailed justification explaining the need

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

Attachment F

DIVISION OF EMERGENCY MANAGEMENT
HURRICANE LOSS MITIGATION PROGRAM

QUARTERLY REPORT FORM

RECIPIENT: City of Pompano Beach
PROJECT LOCATION: _____

Project Number: **DEM-HL00036**
DEM ID #: **B0078**
QUARTER ENDING: _____

Provide amount of advance funds disbursed for period (if applicable) \$ _____
Provide reimbursement projections for this project:

July-Sep, 20__ \$ _____ Oct-Dec, 20__ \$ _____ Jan-Mar, 20__ \$ _____ Apr-June, 20__ \$ _____

July-Sep, 20__ \$ _____ Oct-Dec, 20__ \$ _____ Jan-Mar, 20__ \$ _____ Apr-June, 20__ \$ _____

Percentage of Work Completed (may be confirmed by state inspectors): _____%

Project Proceeding on Schedule: ☐ Yes ☐ No

Describe milestones achieved during this quarter:

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

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

Cost Status: ☐ Cost Unchanged ☐ Under Budget ☐ Over Budget

Additional Comments/Elaboration:

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

Name and Phone Number of Person Completing This Form _____

Attachment G

Warranties and Representations

Financial Management

Recipient's financial management system must include the following:

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

Competition

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

Codes of Conduct.

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

Business Hours

The Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site, from _____

Licensing and Permitting

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

Attachment H

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

Subcontractor Covered Transactions

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

SUBCONTRACTOR:

By: _____

Signature

Recipient's Name

Name and Title

DEM Contract Number

Street Address

Project Number

City, State, Zip

Date