



## Policy Board Meeting

April 5, 2023, at 1:30 p.m. CT

Orange Beach Council Chambers

4099 Orange Beach Blvd, Orange Beach, AL 6561

Meeting ID: 847 2932 0671 | Password: 982319

Call In: +13092053325

[Zoom Link](#)

### 1. Call to Order

### 2. Roll Call

### 3. Approval of Board Agenda

*Recommend the Board approve the April 5, 2023, meeting agenda.*

### 4. Approval of February 8, 2023, Policy Board Minutes

*Recommend the Board approve the February 8, 2023, meeting minutes.*

### 5. Staff Updates

- a. Director's Update
- b. Technical Update
- c. Outreach Update

### 6. Action Items

#### a. Approval of the First Amended and Restated PPBEP Interlocal Agreement

*Recommend the Board approve the First Amended and Restated PPBEP Interlocal Agreement and authorize transmittal of the Template Resolution and Interlocal Agreement to the Governing Parties for adoption.*

#### b. Approval of Florida Department of Environmental Protection Grant Agreement No. 22PLN35, in the amount of \$687,500, for the Compound Flood Modeling and Adaptation Planning Project

*Recommend the Board approve Florida Department of Environmental Protection Grant Agreement No. 22PLN35 and request Escambia County to approve the Agreement as current host agency of PPBEP.*

### 7. Discussion Items

- a. Organizational Transition
- b. FY23-24 Preliminary Budget

### 8. Committee Updates

- a. Technical Committee



- i. Oyster Subcommittee
- b. Education and Outreach Committee
- c. Environmental Justice Committee

**9. Policy Board/Agency Updates**

**10. Public Comment**

**11. Adjourn**



## Policy Board Meeting Minutes

February 8, 2023, at 1:30 p.m. CT  
Escambia County Commission Chambers  
221 Palafox Place, Pensacola, FL 32502  
[Meeting Recording](#)

### Members Present

Woody Speed, Chair	City of Orange Beach
Colten Wright, Vice Chair	Santa Rosa County
Robert Bender	Escambia County
Ashley Campbell	Baldwin County
Mike Kohler	Escambia County
Cherry Fitch	City of Gulf Breeze
Kerry Smith	Santa Rosa County
Jared Moore	City of Pensacola
Vernon Compton	City of Milton
Benjamin Boutwell, ph	Town of Century

### Members Absent

Mike Norberg	Okaloosa County
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### Interested Parties Present

Matt Posner	PPBEP
Whitney Scheffel	PPBEP
Logan McDonald	PPBEP
Haley Gancel	PPBEP
Madi Ross	PPBEP
Molly McDaniel	PPBEP
Tucker Reynolds	PPBEP
Barbara Albrecht	BFA, UWF
Brian Underwood	CBEP
Charles Bare	City of Pensacola
Chips Kirschenfeld	Escambia County
Chris Verlinde	UF IFAS Santa Rosa County
Christine Angelini	UF CCS
Collin Ortals	UF CCS
Diane Reese	EPA
Elizabeth Major	LWV
Jeanette Kelson	Wood
Jerry Couey	Santa Rosa County Watershed Protection
Julie Espy	SAS
Kevin Coyne	Black & Veatch



Kristin Bennett	TetraTech Inc.
Lisbeth Childs	Atkins Global
Matt Dietch	UF
Naisy Dolar	Santa Rosa County
Paul Looney	WRA
Shelley Alexander	Santa Rosa County
Stephanie Gudeman	SAS
Tanya Linzy	Santa Rosa County
Taurai Gweshe	ECUA
Tricia Kyzar	UF

**1. Call to Order**

**2. Roll Call**

Matt Posner (Director, PPBEP) called the roll. A quorum was present.

**3. Approval of Board Agenda**

Mayor Cherry Fitch (City of Gulf Breeze) made a motion to approve the agenda. Woody Speed (City of Orange Beach) seconded the motion. The motion passed unanimously.

**4. Approval of December 14, 2022, Policy Board Minutes**

Commissioner Colten Wright (Santa Rosa County) made a motion to approve the December 14, 2022, Policy Board minutes. Mayor Cherry Fitch (City of Gulf Breeze) seconded the motion. The motion passed unanimously.

**5. Action Items**

**a. Approval of Legal Counsel Services**

Woody Speed (City of Orange Beach) made a motion to approve the Legal Services Agreement with Beggs & Lane. Mayor Cherry Fitch (City of Gulf Breeze) seconded the motion. The motion passed unanimously.

**b. Approval of the PPBEP Special District Charter**

Discussion was held on the PPBEP organizational transition and forming an Independent Special District. The Board recommended amending the voting requirement of a unanimous vote to a super-majority vote of seven members. Ashley Campbell (Baldwin County) requested clarification on in-person vs. virtual voting requirements. Policy Board members are required to be present in-person to vote per Florida statute. The Florida legislature is working on an amendment to allow for virtual voting in public meetings that must adhere to Florida Sunshine Law.

The Board directed staff to work with PPBEP's legal counsel and the Governing Parties' attorneys to review and revise the Special District Charter and bring the final Charter before the Board for approval at the next Board meeting.



c. **Approval of Resolution 23-01 Requesting Designation of PPBEP as a National Estuary Program**

Mayor Cherry Fitch (City of Gulf Breeze) made a motion to approve Resolution 23-01 for the designation request of PPBEP as a National Estuary Program. Commissioner Colten Wright (Santa Rosa County) seconded the motion. The motion passed unanimously.

d. **Election of 2023 Policy Board Chair and Vice Chair**

Commissioner Colten Wright (Santa Rosa County) made a motion to elect Woody Speed (City of Orange Beach) as Policy Board Chair. Commissioner Mike Kohler (Escambia County) seconded the motion. The motion passed unanimously.

Commissioner Robert Bender (Escambia County) made a motion to elect Commissioner Colten Wright (Santa Rosa County) as Policy Board Vice-Chair. Woody Speed (City of Orange Beach) seconded the motion. The motion passed unanimously.

e. **Approval of the 2023 PPBEP Policy Board Meeting Schedule**

Mayor Cherry Fitch (City of Gulf Breeze) made a motion to approve the 2023 Policy Board Meeting schedule. Jared Moore (City of Pensacola) seconded the motion. The motion passed unanimously.

f. **Approval of PPBEP 2023-2027 Finance Strategy**

Commissioner Colten Wright (Santa Rosa County) made a motion to approve the PPBEP 2023-2027 Finance Strategy. Mayor Cherry Fitch (City of Gulf Breeze) seconded the motion. The motion passed unanimously.

**6. Guest Presentation:**

**Northwest Florida Water Quality Improvement Project** (*Christine Angelini, UF CCS*)

University of Florida Center for Coastal Solutions (UF CCS) provided an overview of a project funded by the Florida Legislature that aims to assess water quality and economic trends to inform future infrastructure improvement projects. The project's main objective is to create a comprehensive infrastructure improvement strategy, with an actionable, integrated funding roadmap to improve water quality in Northwest Florida. This includes a data-driven and stakeholder-informed prioritization of gray and green infrastructure solutions and a collaboratively (multi-state, multi-county) developed strategy to secure funding for high priority solutions.

Discussion was held on the anticipated timeline for when project outputs, like the septic to sewer conversion recommendations, will be accessible to local stakeholders and decision-makers. Policy Board members provided comments on the importance of building on projects that are already underway across the watersheds.

**7. Staff Updates**

a. **Director's Update** (*Matt Posner, Director*)



**i. Temporary Staff Addition**

Grover Robinson has temporarily joined PPBEP to assist with the organizational transition into an independent entity. Grover will be onboard through June 2023 and will serve as the liaison to current host agency, Escambia County. Grover's employment is funded through Escambia County, with the support of the City of Pensacola.

**ii. Estuary of National Significance**

On January 26<sup>th</sup>, Senator Rubio released his Pro-Florida Agenda for the 118<sup>th</sup> Congress, which included the reintroduction of the Pensacola and Perdido Bays Estuary of National Significance Act. First introduced in June 2021, the legislation would direct the Environmental Protection Agency to formally enroll the Pensacola and Perdido Bays Estuary Program into the National Estuary Program as an "Estuary of National Significance".

**iii. USEPA RESTORE Grant Extension**

The Program received an extension of the EPA RESTORE Grant until April 2023 to allow for the remaining funds to be spent.

**iv. 2023-2024 Florida State Appropriations**

PPBEP has submitted a \$750,000 request for funds to Representative Andrade's office for the 2023-2024 Florida State Appropriation cycle. State Appropriations help fund the Program's Community Grant Program and will be designated for use in the implementation of the Oyster Fisheries and Habitat Management Plan for the Pensacola Bay System, and operational support.

**v. Finance Sub-Committee Update**

Mayor Cherry Fitch (City of Gulf Breeze) and Commissioner Colten Wright (Santa Rosa County) will join the Finance Sub-Committee. The 2023 Finance Sub-Committee meeting schedule will be drafted and sent to the members in the next month.

**vi. Local Government Contributions**

Commitments to local government contributions have been received from Escambia County, Santa Rosa County, the City of Pensacola, and the City of Orange Beach for this fiscal year. Staff are working with the remaining local government parties to secure contributions.

**b. Technical Update** (*Whitney Scheffel, Senior Scientist*)

**i. Project Updates**

**1. Assessing Restoration Success across Panhandle Estuaries**



St. Andrew & St. Joseph Bays Estuary Program (SASJBEP) was awarded a \$1.2 million Florida RESTORE Act Centers of Excellence Program (FLRACEP) Grant to evaluate the effectiveness of multiple living shoreline restoration projects across three Florida panhandle estuaries, including the Pensacola Bay System. This project will quantify ecosystem services (e.g., shoreline protection, nutrient cycling, habitat creation) and assist in setting meaningful restoration targets. SASJBEP is partnering with PPBEP, Choctawhatchee Bay Estuary Program (CBEP), Choctawhatchee Basin Alliance (CBA), St. Andrew Bay Resource Management Association (SABRMA), and The Nature Conservancy (TNC) to complete this project.

## **2. Santa Rosa County Septic to Sewer Conversion Program**

Santa Rosa County requested \$22.5 million over four years from the Natural Resource Damage Assessment (NRDA) Program to complete several priority Septic to Sewer conversion projects. This multi-jurisdictional collaborative project would support the design, engineering, and construction of 23 prioritized locations for sewer expansion, septic abatement and conversion, in addition to the development of a Master Plan for an additional 6,000 conversions in the East Milton area. The project will include water quality monitoring and data collection conducted in collaboration with PPBEP. Santa Rosa County will complete this project with the Town of Jay, the City of Milton, and utility services from Gulf Breeze, Holley Navarre, and Pace.

## **3. Microbial Source Tracking**

PPBEP requested \$8.8 million over five years from the Natural Resource Damage Assessment (NRDA) Program for a Microbial Source Tracking Project that will address bacterial pollution issues throughout Escambia and Santa Rosa Counties. This project will use a two-phased approach for identifying and addressing bacterial impairments using DEP's Fecal Indicator Toolkit in nine sub-watersheds that show impaired or reoccurring bacterial issues. PPBEP will partner with Escambia County, Santa Rosa County, ECUA, and the City of Pensacola to complete this project.

## **4. Pensacola Bay Oyster Restoration Initiative**

PPBEP requested \$11 million over four years from NOAA's Infrastructure Investment and Jobs Act (IIJA) funding opportunity for the Pensacola Bay Oyster Restoration Initiative Project, which ultimately aims to restore up to 600 hectares of oyster habitat in the Pensacola Bay System over the next 10 years. This project will use a four-phased approach, which includes oyster restoration design and permitting, implementation (up to 100 ha), sediment load assessment, Sandy Hollow Gully restoration



design and permitting, and implementation of a Living Shoreline Coast Share Program. PPBEP will partner with The Nature Conservancy (TNC), Santa Rosa County, Florida Fish and Wildlife Conservation Commission (FWC), the Department of Environmental Protection (DEP), and local stakeholder groups to complete this project.

#### 5. Perdido Watershed Initiative

The Nature Conservancy (TNC) requested \$12.8 million over five years from NOAA's Infrastructure Investment and Jobs Act (IIJA) funding opportunity for the Perdido Watershed Initiative Project. This project includes an update to the existing Living Shoreline Suitability Model (LSSM), education and outreach campaign(s), implementation of a Living Shoreline Cost Share Program, and planning and/or implementation of restoration projects at the Orange Beach Waterfront Park, the lower Perdido Islands, Lilian Swamp, and Bronson Field. TNC will partner with PPBEP, City of Orange Beach, Troy University, University of South Alabama (USA), Mississippi State University (MSU), Dauphin Island Sea Lab (DISL), Alabama Department of Coastal Natural Resources (ADCNR), and Moffatt & Nichol to complete this project.

#### ii. State of the Bays

PPBEP staff is working on the first State of the Bays report and will launch the digital platform in late spring 2023. The report will provide an overview of how conditions have changed over time, the current condition of the bays, and the efforts that are underway to improve the condition of the bays. The four main indicator groups are water quality (dissolved oxygen, chlorophyll-a, total nitrogen, total phosphorus, turbidity), habitat (oysters, seagrass, wetlands, longleaf pine forests), bacteria (beach advisories, sanitary sewer overflows), and wildlife (manatee sightings). The scale for ecosystem health is categorized as improving, stable, declining, critical, and undetermined. Additional indicators and metrics will be added in future iterations of the State of the Bays Report.

#### c. Outreach Update (*Logan McDonald, Community Outreach Coordinator*)

##### i. B-WET Pensacola Oyster Discovery

B-WET is a professional development opportunity for teachers funded by the NOAA's Bay Watershed and Education Training (B-WET) program. The purpose is to support locally relevant, authentic experiential learning through Meaningful Watershed Educational Experiences (MWEEs), which include learning in the outdoors and in the classroom to increase understanding and stewardship of watersheds and related ecosystems. In the workshop, teachers will explore the cultural, economic, and environmental importance of Pensacola Bay System oysters as a fishery industry and as habitat and use of





recent investments in research, restoration, and aquaculture to serve as local case studies for student-led inquiries into complex watershed issues to increase stewardship of the bay. High school teachers within the Pensacola and Perdido Bays watersheds are encouraged to apply.

**Applications are due March 19, 2023.**

**ii. Oyster Documentary**

The Humble Oyster documentary that explores the past, current, and future conditions of oysters in the Pensacola Bay System was completed. A premiere and panel discussion event will be held with WSRE.

SAVE THE DATE:

May 18, 2023

Time, TBD

Jean & Paul Amos Performance Studio

Kugelman Center for Telecommunications

1000 College Blvd. Pensacola, FL 32504

**iii. Estuary 101 Campaign**

Staff continues to work with Impact Campaigns and Hatchmark Studios to finalize the Estuary 101 Campaign. The campaign includes information on estuarine habitats and wildlife, how businesses, organizations, and individuals can advocate for the estuaries, and locations for community members to explore. The Estuary 101 Campaign will launch on March 1, 2023.

**iv. Community Grant Program Updates** (*Madi Ross, Community Outreach Assistant*)

**1. Escambia County Coastal Landscaping Workshop and Native Plant Giveaway**

Starting in March, the Escambia County Community Grant will host Coastal Landscaping Workshops in Pensacola and Perdido to educate homeowners on best practices of coastal landscaping.

[Escambia County News Article: Escambia County to Host Coastal Landscaping Workshops, Plant Giveaways](#)

SAVE THE DATE:

Perdido Key Coastal Landscaping Workshops



- [February 28, 2023, at 6:00 PM](#)
- [March 3, 2023, at 11:30 AM](#)

Perdido Key Community Center  
1500 Perdido Key Dr. Pensacola, FL 2507

Pensacola Beach Coastal Landscaping Workshops

- [March 7, 2023, at 6:00 PM](#)
- [March 10, 2023, at 1:00 PM](#)

Gulf Breeze Community Center  
800 Shoreline Dr. Gulf Breeze, FL 32561

## **2. UWF Zooplankton Ecology and Water Quality Monitoring of Perdido Bay**

Researchers led by Dr. Amanda Croteau from the UWF Center for Environmental Diagnostics and Bioremediation have been collecting monthly water quality and zooplankton bioindicator data across Perdido Bay. The research team is monitoring 20 sites, including Tee Lake, Elevenmile Creek, and Soldier Creek.

## **3. UWF Streambank Erosion Monitoring of the Pensacola Bay and Perdido Bay Watersheds**

UWF Department of Earth and Environmental Sciences researchers in Dr. Lieben's lab have been collecting data across the watersheds to evaluate streambank erosion. This information is crucial for the management of sediment issues in watersheds, including restoration efforts, because bank erosion has been shown to be a major source of sediment in many fluvial systems. This data will provide insight into erosion's severity to inform future stream and restoration projects' management. Researchers have completed 10 out of 20 streambank surveys at sites across the watersheds, including Perdido River, Blackwater River, Hollinger Creek, McCurtin Creek, Joe's Creek, Cowpen Creek, Brushy Creek, and Bellefontaine Creek.

## **4. Blackwater Soil and Water Conservation District No-Till Seed Drill Rental Program**

In January 2023, the Blackwater Soil and Conservation District acquired the No-Till Seed Drill for their Rental Program. Their team is currently drafting the rental agreement to initiate the program. This project will be renting out the drill to local farmers as a low-cost rental to aid in cover-crop plantings to lower sedimentation inputs from unplanted fields during the off-season. A release ceremony will be announced soon.



v. **Trash Free Waters Lesson Update** (*Madi Ross, Community Outreach Assistant*)

The updated Trash Free Waters curriculum has been presented to three schools in Escambia and Santa Rosa Counties. Approximately 400 students have been engaged, including the implementation of the Clean Campus High School Case Study at Gulf Breeze High School. Three more schools have signed up for future Trash Free Waters classroom presentations with the inclusion of another Clean Campus High School Case Study at West Florida High School.

vi. **Outreach Events** (*Madi Ross, Community Outreach Assistant*)

Staff participated in the Pea Ridge Elementary Science Night with an Observation Tank of local critters from Escambia Bay. Approximately 75 children and parents were engaged.

vii. **Volunteer Events**

1. **Mardi Gras Bead Tree Cleanup** (*Madi Ross, Community Outreach Assistant*)

PPBEP will be hosting the 2<sup>nd</sup> Annual Mardi Gras Bead Tree Cleanup of Palafox and Garden Streets to recover leftover beads from the Downtown Mardi Gras Parade and reduce the number of beads that will enter the waterways.

SAVE THE DATE:

February 19, 2023

9:00 AM – 12:00 PM

Ferdinand IV Plaza

Palafox St. Pensacola, FL 32502

2. **Volunteer Training Days**

Staff is hosting volunteer trainings in March to train dedicated community members to serve as Bay Ambassadors and Critter Collectors. Bay Ambassadors will assist staff at festivals, events, and provide community presentations. Ambassadors will receive training on PPBEP's mission and work, the State of our Bays, and communication.

SAVE THE DATE:

Bay Ambassador Trainings

[March 4, 2023, from 10:00 AM – 12:00 PM](#)

[March 9, 2023, from 6:00 PM – 8:00 PM](#)

PPBEP Office, Seville Towers, Floor 5

226 S. Palafox St. Pensacola, FL 32502

Critter Catchers will receive training in seine-net procedures, critter



identification, general observation tank activity set-up, and communication skills to help staff with festivals, events, and classroom presentations across the watershed.

SAVE THE DATE:

Critter Catchers Training

[March 11, 2023](#)

[March 18, 2023](#)

9:00 AM – 12:00 PM

Shoreline Park Pavilion

Shoreline Dr. Gulf Breeze, FL 32561

**viii. Resilience Survey Update** (*Molly McDaniel, Resilience Intern*)

The Resiliency Survey period closed on December 31, 2022. This survey is Phase 1 of the NOAA Climate and Resilience Community of Practice Grant. Phase 2 is the implementation of a Pilot Project within the City of Pensacola to enhance community resiliency. Staff is in the process of analyzing survey results.

## 8. Committee Updates

### a. Technical Committee

**i. Oyster Subcommittee** (*Whitney Scheffel, Senior Scientist*)

On January 31, 2023, over 60 stakeholders including community members, oyster farmers, academics, local utilities, and state representatives joined staff to discuss ways to improve water quality in the Pensacola Bay System to bring back the once thriving oyster industry. The goals of the meeting were to:

(1) share the latest information on the status of current and future projects addressing wastewater infrastructure, bacterial pollution, and monitoring

(2) develop a list of next steps for addressing concerns and root causes of water quality issues.

Partners from the Florida Department of Agriculture and Consumer Services (FDACS), Florida Department of Environmental Protection (DEP), Florida Fish and Wildlife Conservation Commission (FWC), Emerald Coast Utilities Authority (ECUA), Pace City Water, Inc., City of Milton, Florida Department of Health (FDOH), and PPBEP provided updates on current and future projects and programs addressing issues across the watershed. Discussion was focused on identifying potential solutions across several categories including stormwater management, septic maintenance and sewer conversions, code enforcement, land development code revisions, and bacterial source tracking. Participants provided feedback on their top priority short and long-term actions for resolving these issues. PPBEP staff will be synthesizing the feedback from the meeting to incorporate into collaborative solutions projects with partners.



- b. **Education and Outreach Committee** (*Logan McDonald, Community Outreach Coordinator*)  
Nominations for Chair and Co-Chair will be held at the upcoming February 16, 2023, Education & Outreach Committee Meeting. The Committee will review the Estuary 101 Campaign website and the State of the Bays Report Card to provide insight into the functionality and understanding of key concepts delivered on each platform.
- c. **Environmental Justice Committee**  
The Environmental Justice Committee (EJC) 2023 Meeting Schedule has been finalized. The next EJC Meeting will be held virtually on March 14, 2023, at 6:00 PM.

## 9. Policy Board/Agency Updates

Commissioner Colten Wright (Santa Rosa County) provided an update on the submission for Conservation and Agricultural easements in rural Santa Rosa County for protection and guidance on development practices. Santa Rosa County will be increasing capacity with new staff to aid in code enforcement and site inspections to prevent sediment loading into local waterways. Contracted services are being pursued to address sediment loading issues in Santa Rosa County, Allentown area.

## 10. Public Comment

Jerry Couey (Santa Rosa Watershed Protection) commented on the need to increase enforcement and fines of illegal discharges into the watersheds.

## 11. Meeting Adjourned



## Agenda Item 6.a.

### Approval of the First Amended and Restated PPBEP Interlocal Agreement

Background: At the January 2022 Policy Board meeting, the Board gave direction to the Executive Director to proceed with transitioning administrative and financial functions for the Pensacola & Perdido Bays Estuary Program from Escambia County, as the current host agency, to a newly created independent agency. The recommended structure was to pursue establishing an independent special district, as prescribed by Chapter 189, Florida Statutes, as a non-regulatory and non-taxing entity, similar to the Tampa Bay Estuary Program, Sarasota Bay Estuary Program, and Indian River Lagoon Council.

Per Chapter 189, Florida Statutes, and based on an opinion from the Florida Attorney General's Office, only Florida governmental agencies can establish independent special districts. At the December 2022 Board meeting, the Board approved the draft amended and restated Interlocal Agreement in concept only to allow coordination with the Governing Parties' attorneys for review and revision, as needed. Upon review by the county attorneys for Escambia County and Okaloosa County, it was deemed the proposed structure was not viable. At the February 2023 Board meeting, the Board directed staff to work with PPBEP's legal counsel and the Governing Parties' attorneys to review and revise the Special District Charter and bring the final Charter before the Board for approval at the next Board meeting.

Upon further review, PPBEP's legal counsel has recommended establishing PPBEP as a not-for-profit corporation to carry out the purposes of PPBEP. As such, PPBEP would qualify as an "instrumentality of government". This structure resolves the participation and operating challenges between Florida and Alabama posed by the Special District structure.

Please find enclosed correspondence from Mary Jane Bass of Beggs & Lane, the First Amended and Restated Interlocal Agreement, and the Template Resolution.

Recommendation: Recommend the Board approve the First Amended and Restated PPBEP Interlocal Agreement and authorize transmittal of the Template Resolution and Interlocal Agreement to the Governing Parties for adoption.

Financial Impact: None.



**BEGGS & LANE**<sub>RLLP</sub>  
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E. DIXIE BEGGS  
1908 - 2001

BERT H. LANE  
1917 - 1981

March 3, 2023

Hon. Grover C. Robinson, IV  
Mr. Matt J. Posner  
Pensacola & Perdido Bays Estuary Program  
226 South Palafox Place  
Pensacola, FL 32502

Re: Pensacola & Perdido Bays Estuary Program

Dear Grover and Matt,

To follow up on our recent meetings, I am providing you with a summary of our discussions and the direction we have decided is best for establishing the Pensacola & Perdido Bays Estuary Program ("PPBEP") as an independent legal entity.

As discussed, there are challenges to establishing PPBEP as an independent special district. To do so would require an act of the legislature, which could not be accomplished this year. Additionally, the Alabama entities could not be participants in a Florida special district. For these reasons, the better approach would be to establish a Florida not-for-profit corporation to carry out the purposes of the PPBEP.

There will be details to work out, but the corporation would be established in accordance with IRS regulations that would qualify it as an "instrumentality of government," which according to the IRS, is "an organization created by or pursuant to state statute and operated for public purposes." (See attached.) Issues we need to research are how to structure the entity so that it may receive tax-exempt donations. Additionally, to maintain the current Board structure, we need to be sure that Board members are appointed by the participating local government entities in a manner that ensures the Board members are compliant with dual office holding

Hon. G.C. Robinson  
Mr. Matt Posner  
March 3, 2023  
Page 2

requirements. If the Board members are serving as their entity's appointee to the Board, they would be serving as voting *ex officio* Board members by virtue of the office or position they hold with their participating entity. In that case, my initial research indicates that dual office holding requirements will not apply, but I want to draft for you a template resolution for appointments to make certain that dual office holding will not be an issue.

I have provided you with a preliminary redline to amend the Interlocal Agreement to provide for creation of the corporate entity. If the PPBEP Board supports this approach, I recommend the governing boards of the local government participants approve proceeding with the incorporation by adopting a resolution approving the amendment to the Interlocal and authorizing establishment of the corporation. I will also provide you with a template for that resolution.

In preparation for the April 5, 2023, Board meeting at which this matter will be discussed, I would be glad to meet with you and any attorneys for the participating entities who might have questions. Due to my travel schedule and an upcoming trial, the best time for those meetings for me will be the week of March 27. Please contact my assistant, Donna Dobson, if you would like to schedule a meeting or call that week.

I look forward to working with you further on this matter.

Sincerely,



Mary Jane Bass

Attachment



**From IRS Website (<https://www.irs.gov/government-entities/federal-state-local-governments/government-entities-and-their-federal-tax-obligations>):**

## **Instrumentalities**

An instrumentality is an organization created by or pursuant to state statute and operated for public purposes. Generally, an instrumentality performs governmental functions, but does not have the full powers of a government, such as police authority, taxation and eminent domain. A wholly-owned instrumentality of one or more states or political subdivisions is treated as a state or local government employer for purposes of the mandatory social security and Medicare provisions and also applies to entities covered under Section 218 of the Social Security Act. See IRC section 3121(b)(7)(F).

An interstate instrumentality is an independent legal entity organized by two or more states to carry on governmental functions. Examples include a regional planning authority, transportation system or water district. For purposes of Section 218, an interstate instrumentality is treated as a state.

In Revenue Ruling 57-128, the IRS addressed the question of whether an organization is wholly-owned by one or more states or political subdivisions. In making this determination, the following factors are taken into consideration:

- Whether it is used for a governmental purpose and performs a governmental function
- Whether performance of its function is on behalf of one or more states or political subdivisions
- Whether there are any private interests involved, or whether the states or political subdivisions involved have the powers and interests of an owner
- Whether control and supervision of the organizations is vested in public authority or authorities
- Whether express or implied statutory or other authority is necessary for its creation and/or use of the instrumentality, and whether such authority exists
- The degree of financial autonomy and the source of operating expenses

## **Characteristics of Instrumentalities**

Schools, hospitals and libraries, as well as associations formed for public purposes, such as soil and water conservation, may be instrumentalities, depending on the facts and circumstances. State sponsorship of an organization, state regulation of its activities, the participation of its employees in a public retirement system and operation with public funds are among the factors to be considered in determining whether an organization is an instrumentality. If an organization is essentially under private ownership and control, it is not an instrumentality. Associations formed for conservation, protection and promotion, although carrying out a public purpose, may not rise to the level of state instrumentalities. The following associations may or may not be state instrumentalities:

- Soil and water conservation districts
- Fire associations that protect forestland
- Associations that promote a state or municipality

To determine the status of an entity, it is essential to review the documents that establish statutory authority. See IRS Revenue Ruling 57-128 for additional information.

**FIRST AMENDED AND RESTATED  
PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM  
INTERLOCAL AGREEMENT**

**This Interlocal Agreement** (hereinafter referred to as the “Agreement”) is executed and made effective by and among: Escambia County, Santa Rosa County, and Okaloosa County, political subdivisions of the State of Florida; Baldwin County, a political subdivision of the State of Alabama (hereinafter referred to as the “Counties”); City of Gulf Breeze, City of Milton, City of Pensacola, and Town of Century, municipal corporations of the State of Florida; and City of Orange Beach, a municipal corporation of the State of Alabama (hereinafter referred to as the “Cities”) (each being at times referred to as “Party” or “Parties”).

**WITNESSETH:**

**WHEREAS**, the Florida Parties are authorized by Section 163.01, Florida Statutes, et seq., to enter into interlocal agreements and thereby cooperatively utilize their powers and resources in the most efficient and economical manner possible; and

**WHEREAS**, the City of Orange Beach is an Alabama Class 8 municipality vested with a portion of the state’s sovereign power to protect the public health, safety, and welfare pursuant to *Alabama Code* §11-45-1 et seq. (1975), and has specific authority to enter into contracts with counties and municipal corporations for the joint exercise of their powers and resources pursuant to *Alabama Code* §11-102-1 et seq. (1975); and

**WHEREAS**, Baldwin County is a political subdivision of the State of Alabama which is vested with certain authority as provided by state law, which includes the authority to provide for and protect the public health, safety, and welfare in the exercise of enumerated powers, and pursuant to *Alabama Code* § 11-102-1, et seq., (1975), Baldwin County has the authority to enter into contracts with counties and municipal corporations for the joint exercise of any power or service that state or local law authorizes each contracting entity to execute individually, subject to the limitations set forth in applicable laws, rules and regulations, including, but not limited to, *Alabama Code* § 11-102-5 (1975); and

**WHEREAS**, the Florida political subdivisions of Escambia and Santa Rosa Counties and the Florida municipal corporations of the Cities of Gulf Breeze, Milton, and Pensacola entered into an interlocal agreement, *Restated Interlocal Agreement Establishing Local Funding Requirements for the Bay Area Resource Council*, on May 18, 1987, revised on July 22, 1997, and last revised on August 9, 2005, establishing the Bay Area Resource Council (hereinafter the “BARC”) to ensure effective water resource planning, preservation, and coordination; and

**WHEREAS**, on August 31, 2017, the Parties were notified of intent to award funds to establish the Pensacola and Perdido Bays Estuary Program (hereinafter referred to as the “Estuary Program” or “Program”) through a Cooperative Agreement between the Gulf Coast Ecosystem Restoration Council (hereinafter referred to as the “RESTORE Council”) and the US Environmental Protection Agency’s (USEPA) Gulf of Mexico Program (GMP); and

**WHEREAS**, the Estuary Program succeeds and absorbs the BARC's mission; and

**WHEREAS**, the Estuary Program is established to develop and implement a Comprehensive Conservation & Management Plan (CCMP) to restore and protect the Pensacola Bay System and Perdido Bay System, and their associated watersheds as defined in Article I; and

**WHEREAS**, this Agreement establishes the Estuary Program to develop and implement the CCMP through close cooperation with the Parties, local, state, and federal agencies, and the public for effective planning, restoration, and protection of the Pensacola Bay System and Perdido Bay System.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions contained in this Agreement, the receipt and adequacy acknowledged by them, the Parties agree as follows:

#### **ARTICLE 1 – PURPOSE OF AGREEMENT**

- 1.1 **Recitals**: The recitals contained in the preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.
- 1.2 **Geographic Territory**: The geographic territory of the Estuary Program shall include the Pensacola Bay System (Figure 1) and the Perdido Bay System (Figure 2) and their associated watersheds, including all bayous, bays, creeks, rivers, and streams contained within. The Pensacola Bay System includes: Blackwater Bay, East Bay, Escambia Bay, Pensacola Bay, and Santa Rosa Sound, as well as the Blackwater River, Escambia River, and Yellow River. The Perdido Bay System includes: Bay La Launch, Big Lagoon, Perdido Bay, and Wolf Bay, as well as the Blackwater River, Perdido River, and Styx River. Collectively, the waterbodies in the geographic territory shall be referred to as the "Bay Systems".

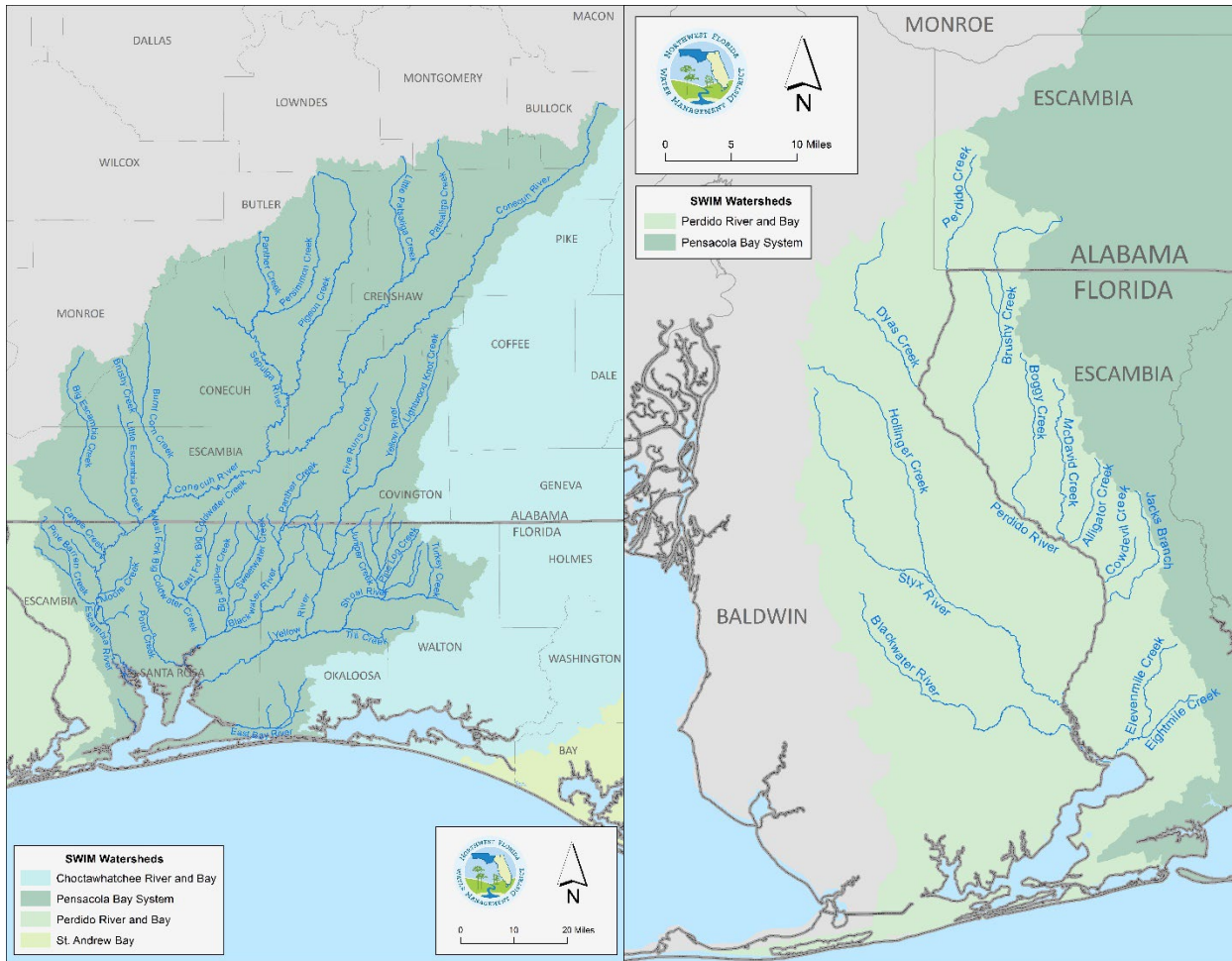


Figure 1: Pensacola Bay System

Figure 2: Perdido Bay System

1.3 **Purpose:** The Estuary Program will guide the development and implementation of a Comprehensive Conservation and Management Plan (CCMP) to improve water quality and living resources for the Bay Systems, as defined in section 1.2, through publicly identified outcomes and goals developed by the Parties, local, state, and federal agencies, and the public.

The Parties agree to work collaboratively and effectively on the development and implementation of the CCMP to meet the following outcomes:

- a) Water quality improvement;
- b) Restoration and conservation of habitat;
- c) Healthy ecosystems that support wildlife and fisheries;
- d) Improve surface and ground water quality and quantity, and flood control;
- e) Enhance community resilience; and
- f) Revitalize the coastal economy and quality of life.

## **ARTICLE 2 – AUTHORITY, COMPOSITION, AND POWERS**

2.1 **Authority:** This Agreement is an interlocal agreement, as authorized by Section 163.01, Florida Statutes, et seq., (hereinafter referred to as the Act) and pursuant to the authority of subsection (4) of the Act, all Florida Parties qualify to be a part of this Agreement under such Act. The Alabama Parties have authority to enter into this agreement pursuant to applicable state law, including, but not limited to, *Alabama Code* § 11-102-1, et seq., (1975), subject to the limitations set forth in applicable law, rules and regulations, including, but not limited to, *Alabama Code* § 11-102-5 (1975). Collectively, such laws are hereinafter referred to as the “Enabling Acts.”

2.2 **Immunity:** Pursuant to the Enabling Acts, and other laws, all privileges and immunities from liability, exemptions from laws, ordinances, and rules; and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extraterritorially under the provisions of this Agreement.

2.3 **Composition:**

2.3.1 **Creation of a Florida Not-for-Profit Corporation:** Pursuant to the Act, an independent public body corporate and politic, to be known as the Pensacola and Perdido Bays Estuary Program, Inc., a Florida not-for-profit corporation (the “Corporation”), shall be created for the purpose of administering and carrying out the purpose of the Estuary Program.

2.3.2 **Corporation Board:** The Board of the Corporation shall serve as the Top Level Organizational Unit (TLOU) and be comprised of the Parties. Escambia County and Santa Rosa County will each appoint and be represented by two voting directors, all other Parties will each appoint and be represented by one voting director. Each Party will also appoint an alternate director for the Corporation Board from time to time to serve when their primary director is not available. Each Party may change their director or alternate director from time to time with prior written notice by a duly authorized representative of any change to the Corporation Board before any meeting. The Corporation Board shall have policy-making powers for the Estuary Program in addition to those powers explicitly set forth in this Agreement.

a) Meetings. The Corporation Board should convene not less than quarterly. Meetings should be convened as needed as described in the bylaws;

b) Quorum. Except as otherwise specifically set forth herein or in the bylaws, a quorum for Corporation Board meetings shall be a majority of the Corporation Board directors;

c) Officers. The Corporation Board shall elect (i) a chair and vice chair of the Corporation Board; and (ii) other Corporation Board officers as deemed necessary by the Corporation Board. Election processes and term limits shall be described in the bylaws;

d) Voting. Each director shall have one vote. Voting will be conducted in person to the maximum extent possible, and other voting processes and criteria shall be described in the bylaws;

e) No compensation. All directors of the Corporation Board shall serve without compensation; and

f) Additional Board Members. The Corporation Board may allow other governmental entities, regulatory agencies, or other entities, to the extent allowed by law, to participate as members of the Corporation Board, provided they are approved by a supermajority vote of the Corporation Board. Upon approval, such Party must execute a Joinder Agreement by which it agrees to comply with all the provisions of this Agreement.

2.3.2 Committees: At the direction of the Corporation Board, the Corporation Board or Estuary Program staff may establish or terminate committees as it deems necessary including, without limitation, the Technical Committee, the Community Committee, the Education Committee, the Business Partnership Committee, and the Environmental Justice Committee. Procedures for establishing the nature (fact-finding or advisory) of a committee and its membership shall be described in the bylaws. All committee members shall serve without compensation.

## 2.4 Powers, Functions, and Responsibilities:

2.4.1 Powers: Pursuant to Section 163.01, Florida Statutes, the Estuary Program has the power to engage in agreements or contracts with other public or private entities for provisions of assistance in planning, financing, and coordinating the physical, chemical, biological, economic, and aesthetic aspects of the Bay Systems. The Estuary Program may establish rules, regulations, bylaws, and organization necessary to perform the Estuary Program's intended functions; provided, however, no such rules or regulations will operate in a manner that obligates a Party to act without the approval of the Party's governing body.

2.4.2 Exercise of Powers: All powers, privileges, and duties vested in or imposed upon the Estuary Program shall be exercised and performed upon a majority vote of a quorum of members; provided, however, subject to Corporation Board oversight, the exercise of such executive, administrative, and ministerial powers may be delegated by the Corporation Board to any of its officers, staff, or agents, to the extent provided under Florida Law. Any such delegation of powers may be withdrawn at any time for any reason.

2.4.3 Limitations of Powers: The Estuary Program shall have no power of taxation, regulation, eminent domain, law enforcement, nor obligate or bind a Party to act without approval by the Party's governing body.

## 2.5 Responsibilities:

2.5.1 Personnel: The Corporation Board shall be responsible for hiring, supervising, evaluating, and/or terminating the Executive Director. The Executive Director shall be responsible for hiring, supervising, evaluating, and/or terminating subordinate staff. The Executive Director must receive approval from the Corporation Board prior to the establishment of any new positions.

2.5.2 Budget: The Corporation Board shall approve an annual budget. Processes for establishing the budget shall be described in the bylaws.

2.5.3 Adoption of the CCMP Goals and Priorities: The Parties hereby agree that once approved by the Corporation Board, the Goals for the geographic territory of the Pensacola and Perdido Bays Estuary Program as described in the CCMP will be submitted for approval and

adoption by each of the Parties. The Parties shall endeavor to undertake reasonable efforts to achieve the Goals within the time periods described and shall work cooperatively to achieve all of the Goals applicable to them in a cost-effective manner. Additionally, the Parties agree to work together in good faith and undertake reasonable effort to address other actions and recommendations in the CCMP.

2.5.4 Bylaws: The Corporation Board by super-majority vote shall create, adopt, amend and update Bylaws or appropriate rules of procedure for the Pensacola and Perdido Bays Estuary Program for its governance and which shall remain in effect until modified by the Corporation Board.

2.5.5 Modification: The CCMP and its incorporated Goals shall not be amended, changed, extended, modified, or supplemented without unanimous consent of all the Parties. The process for modification shall be defined in the Corporation Board bylaws.

### **ARTICLE 3 – FUNDING**

3.1 Funding: Recurring funding contributions will be necessary to fund Estuary Program operations and implementation of the CCMP. Program operations will be financed by local, state, and federal government contributions, donations, grants, assistance funds and bequests. Contributions recommended for each Party shall be determined by a super-majority vote of the Corporation Board; however, nothing contained herein shall obligate any Party to appropriate or expend any monies for the Estuary Program or make any contributions thereto without the prior approval of the Party's governing body.

### **ARTICLE 4 – TERM**

4.1 Term: The term of this Agreement shall commence upon its execution by all Parties and shall continue indefinitely unless terminated as provided for herein.

4.2 Termination: Estuary Program membership may be terminated by any Party for convenience, upon sixty (60) days written notice by the terminating Party to the other Parties of such termination. This Agreement may be terminated by the then Parties upon sixty (60) days written notice to one other.

4.3 Sunset Review: This Agreement shall be subject to a review by the Corporation Board five (5) years from the Effective Date of this Agreement and on the same day of each five (5) year period thereafter at which time the Corporation Board shall evaluate the appropriateness and effectiveness of this Agreement and the Estuary Program. The Corporation Board shall vote by majority vote on whether to recommend terminating this Agreement, amending this Agreement or to let the status quo prevail.



## **ARTICLE 5 – GENERAL PROVISIONS**

5.1 **Fiscal Year**: The Estuary Program shall observe a fiscal year beginning on October 1 and ending September 30 of each year.

5.2 **Records**: The Parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Florida and/or Alabama open records laws. In the event a Party fails to abide by the provisions of such laws, the other Parties may, without prejudice to any right or remedy and after giving that Party seven (7) days written notice, during which period the Party fails to allow access to such documents, terminate this Agreement.

5.3 **Survival**: All other provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

5.4 **Governing Law**: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties stipulate that venue for any matter, which is a subject of this Agreement, shall be in Escambia County, Florida.

5.5 **Severability**: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement, and the balance hereof shall be construed to be enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

5.6 **Modification**: This Agreement may be modified, altered or amended only by a written instrument recommended by the Corporation Board and subsequently approved and executed by the Parties hereto.

5.7 **Execution**: This Agreement shall not be effective, nor shall it have any force and effect whatsoever, until all the Parties have duly executed this Agreement and filed the agreement pursuant to section 5.8.

5.8 **Filing**: The Estuary Program shall, pursuant to Section 163.01(11), Florida Statutes, file a copy of this Agreement and any other amendments thereto with the Clerk of the Circuit Court of each County where the Parties are located.

5.9 **Debt**: Neither the Estuary Program nor any Party shall have the power to incur any debt or obligation which shall become the responsibility of any other Party.

5.10 **Benefit**: This Agreement is for the benefit of the Parties only and is not intended to confer any rights or benefits, either direct, indirect, intended or implied, to any third party.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the respective dates under each signature: the Counties, through their respective Boards of County Commissioners, signing by and through their Chairmen, and the Cities through their respective City Managers and/or Mayors.

SIGNATURE PAGES ATTACHED

**ESCAMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: \_\_\_\_\_  
Lumon J. May, Chairman

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Pam Childers  
Clerk of the Circuit Court

(SEAL)

**SANTA ROSA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: \_\_\_\_\_  
Colten Wright, Chairman

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Donald C. Spencer  
Clerk of the Circuit Court

(SEAL)

**OKALOOSA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: \_\_\_\_\_  
Mel Ponder, Chairman

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
J.D. Peacock, II  
Clerk of the Circuit Court

(SEAL)

**BALDWIN COUNTY, ALABAMA**, a political subdivision of the State of Alabama acting by and through its duly authorized Board of County Commissioners.

By: \_\_\_\_\_  
Charles F. Gruber, Chairman

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Ronald J. Cink  
Interim County Administrator

(SEAL)

**CITY OF GULF BREEZE**, a Florida  
Municipal Corporation acting by and through  
its duly authorized City Council.

By: \_\_\_\_\_  
Cherry Fitch, Mayor

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Leslie H. Guyer, CMC, City Clerk

(SEAL)

**CITY OF MILTON**, a Florida Municipal Corporation acting by and through its duly authorized City Council.

By: \_\_\_\_\_  
Heather Lindsey, Mayor

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tammy Lowit  
City Clerk

(SEAL)

**CITY OF PENSACOLA**, a Florida Municipal Corporation acting by and through its duly authorized City Council.

By: \_\_\_\_\_  
D.C. Reeves, Mayor

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Ericka Burnett  
City Clerk

(SEAL)



**TOWN OF CENTURY**, a Florida Municipal Corporation acting by and through its duly authorized Town Council.

By: \_\_\_\_\_  
Benjamin Boutwell, Mayor

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Leslie Howington  
Town Clerk

(SEAL)

**CITY OF ORANGE BEACH**, a Alabama  
Municipal Corporation acting by and through  
its duly authorized City Council.

By: \_\_\_\_\_  
Tony Kennon, Mayor

ATTEST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Renee Eberly  
City Clerk

(SEAL)

RESOLUTION NUMBER \_\_\_\_\_

**A RESOLUTION OF THE \_\_\_\_\_ ADOPTING THE FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR THE PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM WHICH MANAGES THE COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN FOR THE RESTORATION AND PROTECTION OF PENSACOLA BAY AND PERDIDO BAY; PROVIDING FOR AN EFFECTIVE DATE, TERMINATION, AND SUNSET REVIEW**

**WHEREAS**, Pensacola Bay and Perdido Bay and their associated waterways provide boating, fishing, hunting and other outdoor recreational and economic opportunities for citizens and visitors of Florida and Alabama; and

**WHEREAS**, mismanagement of Pensacola Bay and Perdido Bay may exacerbate flooding and property loss, negatively impact water quality and estuarine habitat, negatively affect the local economy, and threaten the health, safety and welfare of Florida and Alabama's citizens and visitors; and

**WHEREAS**, in October of 2018, Escambia County, Santa Rosa County, and Okaloosa County, City of Gulf Breeze, City of Milton, City of Pensacola, and Town of Century, Florida; and Baldwin County, and the City of Orange Beach, Alabama (the "Parties") entered into an Interlocal Agreement, as authorized by Section 163.01, Florida Statutes, et seq., to cooperatively utilize their powers and resources in the most efficient and economical manner possible to develop and implement a Comprehensive Conservation & Management Plan (CCMP) to restore and protect the Pensacola Bay System and Perdido Bay System, and their associated watersheds as defined in Article I of the Interlocal Agreement (hereinafter the "Estuary Program"); and

**WHEREAS**, this First Amended and Restated Interlocal Agreement will provide for the creation of a Florida not-for-profit corporation, governed by a corporate board of directors appointed by the Parties to represent them for the purpose of administering and carrying out the Estuary Program that has been successfully developed and implemented under the 2018 Interlocal Agreement; and

**WHEREAS**, administering the Estuary Program through a not-for-profit corporation will provide for more efficient and flexible operations, with continued governance by the Parties' appointed representatives who will serve as the board of directors of the corporation (the "Corporation Board").

**NOW, THEREFORE, BE IT RESOLVED BY THE \_\_\_\_\_ OF \_\_\_\_\_ AS FOLLOWS:**

**Section 1.** That the \_\_\_\_\_ finds the above recitals to be true and correct and incorporates them herein by reference.

**Section 2.** That the \_\_\_\_\_ hereby approves and adopts, and authorizes the \_\_\_\_\_ **[Mayor, Chairman]** to sign, the First Amended and Restated Interlocal Agreement

[Type here]

for the Pensacola and Perdido Bays Estuary Program (the "Agreement"), which provides for creation of a Florida not-for-profit corporation to manage the Estuary Program and its Comprehensive Conservation and Management Plan for restoration of Pensacola Bay and Perdido Bay and their associated waterbodies.

**Section 3.** That the \_\_\_\_\_ hereby appoints \_\_\_\_\_, who serves as a member of the **[governing body]** of the **[county or municipality name]** to serve on the board of the not-for-profit corporation to be formed pursuant to the Agreement. Pursuant to the Agreement, the members of the Corporation Board are hereby appointed as full voting, ex officio members to the Corporation Board to administer and carry out the Estuary Program on behalf of the Parties.

**Section 3.** That this resolution shall take effect immediately upon its adoption by the \_\_\_\_\_.

**Section 4.** That the Clerk shall record this Resolution in accordance with \_\_\_\_\_ requirements and forward a copy with the original signature to the Pensacola and Perdido Bays Estuary Program.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

[Signature block]

[Type here]



### Agenda Item 6.b.

#### **Approval of Florida Department of Environmental Protection Grant Agreement No. 22PLN35, in the amount of \$687,500, for the Compound Flood Modeling and Adaptation Planning Project**

Background: This project will produce updated precipitation frequency estimates and compound flooding scenarios for the Pensacola and Perdido watersheds to aid local governments in identifying priority resilience projects, policy initiatives, and community outreach opportunities necessary to enhance community resilience. This project will work to ensure all local governments within the region are using the same base dataset for community resilience planning.

Recommendation: Recommend the Board approve Florida Department of Environmental Protection Grant Agreement No. 22PLN35 and request Escambia County to accept the Agreement as current host agency of PPBEP.

Financial Impact: Approval of the Agreement will increase revenue by \$687,500. \$480,000 is included as contractual services, \$148,500 for personnel, and \$59,000 for indirect costs.

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Standard Grant Agreement**

This Agreement is entered into between the Parties named below, pursuant to Section 215.971, Florida Statutes:

1. Project Title (Project): **Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios** Agreement Number: **22PLN35**

2. Parties **State of Florida Department of Environmental Protection,  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000** (Department)

Grantee Name: **Escambia County Board of County Commissioners** Entity Type: **County Commission**

Grantee Address: **221 Palafox Place, Suite 140, Pensacola, Florida 32502** FEID: **59-6000598** (Grantee)

3. Agreement Begin Date: **7/1/2021** Date of Expiration: **3/31/2025**

4. Project Number: \_\_\_\_\_ Project Location(s): **Escambia, Santa Rosa, and Okaloosa Counties**  
(If different from Agreement Number)

Project Description: **The project will conduct a comprehensive Vulnerability Assessment pursuant to Section 380.093, Florida Statutes, as well as develop a unified Adaptation Plan for Escambia, Santa Rosa, and Okaloosa Counties.**

5. Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
<b>\$ 687,500.00</b>	<input checked="" type="checkbox"/> State <input type="checkbox"/> Federal	<b>FY21-22 GAA Line #1707A</b>	<b>\$ 687,500.00</b>
	<input type="checkbox"/> State <input type="checkbox"/> Federal		\$
	<input type="checkbox"/> Grantee Match		\$
Total Amount of Funding + Grantee Match, if any:			<b>\$ 687,500.00</b>

6. Department's Grant Manager Name: <b>Deneka Smith</b> _____ or successor	Grantee's Grant Manager Name: <b>Matt Posner</b> _____ or successor
Address: <b>Resilient Florida Program</b> <b>2600 Blair Stone Road, MS235</b> <b>Tallahassee, Florida 32399</b>	Address: <b>Pensacola and Perdido Bays Estuary Program</b> <b>226 Palafox Place, 5th Floor</b> <b>Pensacola, Florida 32502</b>
Phone: <b>850-245-2171</b>	Phone: <b>850-595-0820</b>
Email: <b>Deneka.Smith@FloridaDEP.gov</b>	Email: <b>mjposner@ppbep.org</b>

7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

<input checked="" type="checkbox"/> Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
<input checked="" type="checkbox"/> Attachment 2: Special Terms and Conditions
<input checked="" type="checkbox"/> Attachment 3: Grant Work Plan
<input checked="" type="checkbox"/> Attachment 4: Public Records Requirements
<input checked="" type="checkbox"/> Attachment 5: Special Audit Requirements
<input checked="" type="checkbox"/> Attachment 6: Program-Specific Requirements
<input type="checkbox"/> Attachment 7: Grant Award Terms (Federal) *Copy available at <a href="https://facts.fldfs.com">https://facts.fldfs.com</a> , in accordance with §215.985, F.S.
<input type="checkbox"/> Attachment 8: Federal Regulations and Terms (Federal)
<input type="checkbox"/> Additional Attachments (if necessary):
<input checked="" type="checkbox"/> Exhibit A: Progress Report Form
<input type="checkbox"/> Exhibit B: Property Reporting Form
<input checked="" type="checkbox"/> Exhibit C: Payment Request Summary Form
<input type="checkbox"/> Exhibit D: Quality Assurance Requirements
<input type="checkbox"/> Exhibit E: Advance Payment Terms and Interest Earned Memo
<input type="checkbox"/> Exhibit F: Common Carrier or Contracted Carrier Attestation Form PUR1808
<input checked="" type="checkbox"/> Additional Exhibits (if necessary):

Exhibit F: Final Report Form, Exhibit G: Photographer Release Form, Exhibit H: Contractual Services Certification, Exhibit I: Vulnerability Assessment Compliance Checklist Certification

8.	The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331 (a) (1):	
Federal Award Identification Number(s) (FAIN):		
Federal Award Date to Department:		
Total Federal Funds Obligated by this Agreement:		
Federal Awarding Agency:		
Award R&D?	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	

**IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date above or the last date signed below, whichever is later.**

**Escambia County Board of County Commissioners**

**GRANTEE**

By \_\_\_\_\_  
*(Authorized Signature)* Date Signed

**Wesley J. Moreno**

Print Name and Title of Person Signing

**State of Florida Department of Environmental Protection**

**DEPARTMENT**

By \_\_\_\_\_  
Secretary or Designee Date Signed

**Alex Reed, Director of the Office of Resilience and Coastal Protection**

Print Name and Title of Person Signing

Additional signatures attached on separate page.

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ORCP Additional Signatures

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DEP Grant Manager, Deneka Smith

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DEP QC Reviewer, Jeremy Jimenez

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Local Sponsor may add additional signatures if needed below.

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**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STANDARD TERMS AND CONDITIONS  
APPLICABLE TO GRANT AGREEMENTS**

**ATTACHMENT 1**

**1. Entire Agreement.**

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

**2. Grant Administration.**

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
  - i. Standard Grant Agreement
  - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
  - iii. Attachment 1, Standard Terms and Conditions
  - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
  - (1) an increase or decrease in the Agreement funding amount;
  - (2) a change in Grantee's match requirements;
  - (3) a change in the expiration date of the Agreement; and/or
  - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
  - (1) task timelines within the current authorized Agreement period change;
  - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
  - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
  - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

**3. Agreement Duration.**

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

#### **4. Deliverables.**

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

#### **5. Performance Measures.**

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

#### **6. Acceptance of Deliverables.**

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

#### **7. Financial Consequences for Nonperformance.**

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction  
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
  - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
  - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

## **8. Payment.**

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with Section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address:  
<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.
- e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- f. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- g. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- h. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- i. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: [www.myfloridacfo.com/Division/AA/Vendors/default.htm](http://www.myfloridacfo.com/Division/AA/Vendors/default.htm).
- j. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

## **9. Documentation Required for Cost Reimbursement Grant Agreements and Match.**

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
  - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
  - ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with Section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal

## Attachment 1

Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

#### **10. Status Reports.**

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

#### **11. Retainage.**

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work, or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

#### **12. Insurance.**

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

#### **13. Termination.**

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.

- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

**14. Notice of Default.**

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

**15. Events of Default.**

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
  - i. Entry of an order for relief under Title 11 of the United States Code;
  - ii. The making by Grantee of a general assignment for the benefit of creditors;
  - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or

- iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

**16. Suspension of Work.**

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

**17. Force Majeure.**

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

**18. Indemnification.**

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
  - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
  - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.

- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

**19. Limitation of Liability.**

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

**20. Remedies.**

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

**21. Waiver.**

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.**

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to Sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
- i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
  - ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 any public entity; and may not transact business with any public entity.
  - iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
  - iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.



**23. Compliance with Federal, State and Local Laws.**

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

**24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.**

**This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.**

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. All construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

**25. Scrutinized Companies.**

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

**26. Lobbying and Integrity.**

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to Section 216.347, F.S., except that pursuant to the requirements of Section

287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with Sections 11.062 and 216.347, F.S.

#### **27. Record Keeping.**

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at:

<http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

#### **28. Audits.**

- a. Inspector General. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
  - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
  - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
  - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

- i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.
- ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
- iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

**29. Conflict of Interest.**

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

**30. Independent Contractor.**

The Grantee is an independent contractor and is not an employee or agent of Department.

**31. Subcontracting.**

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

**32. Guarantee of Parent Company.**

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

**33. Survival.**

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

**34. Third Parties.**

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This

Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

**35. Severability.**

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

**36. Grantee's Employees, Subcontractors and Agents.**

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

**37. Assignment.**

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

**38. Compensation Report.**

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

**39. Execution in Counterparts and Authority to Sign.**

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Special Terms and Conditions  
AGREEMENT NO. 22PLN35**

**ATTACHMENT 2**

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

**1. Scope of Work.**

The Project funded under this Agreement is Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios. The Project is defined in more detail in Attachment 3, Grant Work Plan.

**2. Duration.**

- a. Reimbursement Period. The reimbursement period for this Agreement is the same as the term of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods may be added in accordance with 2.a above and are contingent upon proper and satisfactory technical and administrative performance by the Grantee and the availability of funding.

**3. Payment Provisions.**

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

**4. Cost Eligible for Reimbursement or Matching Requirements.**

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a. Fringe Benefits, for actual costs not to exceed the budget amount identified in Attachment 3.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	b. Indirect Costs, for actual costs not to exceed the budget amount identified in Attachment 3.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contractual (Subcontractors)
<input type="checkbox"/>	<input type="checkbox"/>	Travel, in accordance with Section 112, F.S.
<input type="checkbox"/>	<input type="checkbox"/>	Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Rental/Lease of Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Miscellaneous/Other Expenses
<input type="checkbox"/>	<input type="checkbox"/>	Land Acquisition

**5. Equipment Purchase.**

No Equipment purchases shall be funded under this Agreement.

**6. Land Acquisition.**

There will be no Land Acquisitions funded under this Agreement.

**7. Match Requirements**

There is no match required on the part of the Grantee under this Agreement.

**8. Insurance Requirements**

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee’s liability and obligations under the Agreement. Grantee shall provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

- a. Comprehensive General Liability Insurance.  
The Grantee shall provide adequate comprehensive general liability insurance coverage and hold such liability insurance at all times during the Agreement. The minimum limits shall be \$200,000 for each person and \$300,000 per occurrence.
- b. Commercial Automobile Insurance.  
If the Grantee’s duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The minimum limits shall be as follows:  

\$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
\$200,000/300,000	Hired and Non-owned Automobile Liability Coverage
- c. Workers’ Compensation.  
The Grantee shall comply with the workers’ compensation requirements of Chapter 440, F.S.
- d. Other Insurance. None.

**9. Quality Assurance Requirements.**

There are no special Quality Assurance requirements under this Agreement.

**10. Retainage.**

No retainage is required under this Agreement.

**11. Subcontracting.**

The Grantee may subcontract work under this Agreement without the prior written consent of the Department’s Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

**12. State-owned Land.**

The work will not be performed on State-owned land.

**13. Office of Policy and Budget Reporting.**

There are no special Office of Policy and Budget reporting requirements for this Agreement.

**14. Common Carrier.**

- a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution] If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.
- b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808

**15. Additional Terms.**

Documentary Evidence Requirement for Subcontractor(s). If any work associated with this Agreement is completed by a subcontractor(s), the Grantee shall require that such subcontractor(s) submit documentary evidence (e.g., workshop agendas; meeting recordings) to Grantee demonstrating that the subcontractor(s) has fully performed its Project obligation(s). The Grantee shall forward copies of all such documentary evidence to the Department with the Grantee's relevant deliverable(s), using the approved Project Timeline set forth in Attachment 3 to this Agreement (Grant Work Plan).

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
GRANT WORK PLAN  
AGREEMENT NO. 22PLN35**

**ATTACHMENT 3**

**PROJECT TITLE:** Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios

**PROJECT LOCATION:** The Project is located within Escambia, Santa Rosa, and Okaloosa Counties, Florida.

**PROJECT DESCRIPTION:**

The Pensacola & Perdido Bays Estuary Program, working through the Escambia County Board of County Commissioners (Grantee) will conduct the Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios (Project). The Project will include a comprehensive Vulnerability Assessment (VA) pursuant to Section 380.093, Florida Statutes (F.S.) as well as develop a unified regional Adaptation Plan (AP). The Project will develop updated precipitation frequency estimates and compound flooding scenarios for the Pensacola and Perdido watersheds to aid local governments in identifying priority resilience projects, policy initiatives, and community outreach opportunities necessary to enhance community resilience.

**TASKS AND DELIVERABLES:**

**Task 1: Acquire Background Data**

**Description:** The Grantee will research and compile the data needed to perform the VA, based on the requirements as defined in Section 380.093, F.S. Three main categories of data are required to perform a VA: 1) critical and regionally significant asset inventory, 2) topographic data, and 3) flood scenario-related data. GIS metadata should incorporate a layer for each of the four asset classes as defined in paragraphs 380.093(2)(a) 1-4, F.S. Geographic Information System (GIS) files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata. Sea level rise projection data shall include the 2017 National Oceanic and Atmospheric Administration (NOAA) intermediate-high and intermediate-low projections for 2040 and 2070, at a minimum. Other projections can be used at the Grantees discretion. Storm surge data used must be equal to or exceed the 100-year return period (1% annual chance) flood event. In the process of researching background data, the Grantee shall identify data gaps, where missing data or low-quality information may limit the VA's extent or reduce the accuracy of the results. The Grantee shall rectify any gaps of necessary data.

**Deliverables:** The Grantee will provide the following: 1) a technical report to outline the data compiled and findings of the gap analysis; 2) a summary report to include recommendations to address the identified data gaps and actions taken to rectify them, if applicable; and 3) GIS files with appropriate metadata of the data compiled, to include locations of critical assets owned or maintained by the Grantee as well as regionally significant assets that are classified and as defined in paragraphs 380.093(2)(a) 1-4, F.S.



## **Task 2: Conduct Steering Committee Meetings**

**Description:** The Grantee will coordinate and schedule the quantity, dates, times, and locations for the steering committee meetings, based on critical decision points in the project process. The steering committee meetings will assist in reviewing the goals of the project, review draft materials, provide input for study direction, assist in identifying geographic context, appropriate modeling methodologies, assist in identifying available data and resources, identify relevant assets, and review project findings and recommendations. The Grantee will prepare all social media notifications, meeting invitations, meeting materials, presentations, and graphics utilized during the meeting, as applicable.

**Deliverables:** The Grantee will provide the following: 1) the list of local representatives that have confirmed participation on the steering committee. The list shall include the name, organization/affiliation, position title, and contact information; 2) meeting agendas to include location, date, and time of each meeting; 3) meeting sign-in sheets with attendee names and affiliation; 4) a copy of the presentation(s) and any materials created for distribution at the meeting, as applicable; and 5) a summary report of committee recommendations and guidance, to include attendee input, meeting outcomes, methodologies selected, appropriate resources and data, relevant assets and review of study deliverables for accuracy and applicability.

## **Task 3: Public Outreach and Community Engagement**

**Description:** The Grantee will lead a series of small group meetings with local government staff and elected officials to review and discuss project outputs and identify opportunities for regional resilience projects, initiatives, and policies. The Grantee will also host a series of community engagement sessions, in conjunction with local government staff, to review the compound flooding scenarios, modeled impacts to their homes and businesses, and discuss regional resilience projects, initiatives, and policies to be included in the Regional Resilience AP. The Grantee will prepare all social media notifications, meeting invitations, meeting materials, presentations, and graphics utilized during the meeting, as applicable.

**Deliverables:** The Grantee will provide the following: 1) meeting agendas to include location, date, and time of meeting; 2) meeting sign-in sheets with attendee names and affiliation (i.e. local stakeholder, resident, steering committee member, local government staff); 3) a copy of the presentation(s) and any materials created in preparation of or for distribution at the meeting (i.e. social media posts, public announcements, graphics), as applicable; 4) a copy of the file or weblink of the video or audio recording from the meeting, if applicable; and 5) a summary report including attendee input and meeting outcomes.

## **Task 4 : Exposure Analysis**

**Description:** The Grantee will perform an exposure analysis to identify the depth of water caused by each sea level rise, storm surge, and/or flood scenario. The water surface depths (i.e. flood scenarios) used to evaluate assets shall include the following data: tidal flooding, current and future storm surge flooding, rainfall-induced flooding, and compound flooding, all as applicable, as well as the scenarios and standards used for the exposure analysis shall be pursuant to s. 380.093, F.S.

**Deliverables:** The Grantee will provide the following: 1) a draft VA report that provides details on the modeling process, type of models utilized, and resulting tables and maps illustrating flood depths for each flood scenario; and 2) GIS files with results of the exposure analysis for each flood scenario as well as the appropriate metadata that identifies the methods used to create the flood layers.

### **Task 5: Sensitivity Analysis**

**Description:** The Grantee will perform the sensitivity analysis to measure the impact of flooding on assets and to apply the data from the exposure analysis to the inventory of critical assets created in the Exposure Analysis Task. The sensitivity analysis should include an evaluation of the impact of flood severity on each asset type and at each flood scenario and assign a risk level based on percentages of land area inundated and number of critical assets affected.

**Deliverables:** The Grantee will provide the following: 1) a draft VA report that provides details on the findings of the exposure analysis and the sensitivity analysis, and includes visual presentation of the data via maps and tables, based on the statutory-required scenarios and standards; and 2) an initial list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.

### **Task 6: Final Vulnerability Assessment Report, Maps, and Tables**

**Description:** The Grantee will finalize the VA report pursuant to the requirements in s. 380.093, F.S. and based upon the steering committee and public outreach efforts. The final VA must include all results from the exposure and sensitivity analyses, as well as a summary of identified risks and assigned focus areas. It should contain a list of critical and regionally significant assets that are impacted by flooding and sea-level rise, specifying for each asset the flood scenario(s) impacting the asset. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

**Deliverables:** The Grantee will provide the following: 1) Final VA Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutorily-required scenarios and standards in s. 380.093, F.S.; 2) a final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.; 3) all electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata; and 4) a signed VA Compliance Checklist Certification.

### **Task 7: Adaptation Plan**

**Description:** The Grantee will complete an AP that is consistent with the Florida Adaptation Planning Guidebook and includes the following: assessment of adaptive capacities, prioritization of adaptation needs, and identification of adaptation strategies. The Grantee may also include optional subtasks such as identifying adaptation action areas, stakeholder engagement, and integrating the proposed AP into existing APs. The AP will also include a list of prioritized projects for each asset class as defined in subsection 380.093(2), F.S., for consideration and implementation.

**Deliverables:** The Grantee will provide the final AP or Report.

**PERFORMANCE MEASURES:** The Grantee will submit all deliverables for each task to the Department's Grant Manager on or before the Task Due Date listed in the Project Timeline. The Grantee must also submit Exhibit A, Progress Report Form, to the Department's Grant Manager, with every deliverable and payment request. For interim payment requests, Exhibit A may serve as the deliverable for

a task. The Department’s Grant Manager will review the deliverable(s) to verify that they meet the specifications in the Grant Work Plan and the task description, to include any work being performed by any subcontractor(s), and will provide written acceptance or denial of the deliverable(s) to the Grantee within ten (10) working days. Upon written acceptance by the Department’s Grant Manager of deliverables under the task, the Grantee may proceed with the payment request submittal.

**CONSEQUENCES FOR NON-PERFORMANCE:** For each task deliverable not received by the Department at one hundred percent (100%) completion and by the specified due date listed in the Agreement’s most recent Project Timeline, the Department will reduce the relevant Task Funding Amount(s) paid to Grantee in proportion to the percentage of the deliverable(s) not fully completed and/or submitted to the Department in a timely manner.

**PAYMENT REQUEST SCHEDULE:** Following the Grantee’s full completion of a task, the Grantee may submit a payment request for cost reimbursement using both Exhibit A, Progress Report Form, and Exhibit C, Payment Request Summary Form. Interim payment requests cannot be made more frequently than quarterly and must be made using Exhibit A, detailing all work progress made during that payment request period, and Exhibit C. Upon the Department’s receipt of Exhibit A and C, along with all supporting fiscal documentation and deliverables, the Department’s Grant Manager will have ten (10) working days to review and approve or deny the payment request.

**PROJECT TIMELINE:** The tasks must be completed by, and all deliverables received by, the corresponding task due date listed in the table below. Cost-reimbursable grant funding must not exceed the budget amounts indicated below. Requests for any change(s) must be submitted prior to the current task due date listed in the Project Timeline. Requests are to be sent via email to the Department’s Grant Manager, with the details of the request and the reason for the request made clear.

Task No.	Task Title	Task Start Date	Task Due Date
1	Acquire Background Data	7/1/2021	12/31/2024
2	Conduct Steering Committee Meetings	7/1/2021	12/31/2024
3	Public Outreach and Community Engagement	7/1/2021	12/31/2024
4	Exposure Analysis	7/1/2021	12/31/2024
5	Sensitivity Analysis	7/1/2021	12/31/2024
6	Final Vulnerability Assessment Report, Maps, and Tables	7/1/2021	12/31/2024
7	Adaptation Plan	7/1/2021	12/31/2024

**BUDGET DETAIL:**

Task No.	Task Title	Budget Category	DEP Amount
1	Acquire Background Data	Contractual Services	\$25,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$0
		Fringe Benefits	\$0

		Indirect Costs	\$0
		<b>Total for Task:</b>	<b>\$25,000</b>
2	Conduct Steering Committee Meetings	Contractual Services	\$5,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$10,000
		Fringe Benefits	\$3,500
		Indirect Costs	\$500
		<b>Total for Task:</b>	<b>\$19,000</b>
3	Public Outreach and Community Engagement	Contractual Services	\$5,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$50,000
		Fringe Benefits	\$17,500
		Indirect Costs	\$7,250
		<b>Total for Task:</b>	<b>\$79,750</b>
4	Exposure Analysis	Contractual Services	\$212,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$0
		Fringe Benefits	\$0
		Indirect Costs	\$21,200
		<b>Total for Task:</b>	<b>\$233,200</b>
5	Sensitivity Analysis	Contractual Services	\$212,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$0
		Fringe Benefits	\$0
		Indirect Costs	\$21,200
		<b>Total for Task:</b>	<b>\$233,200</b>
6	Final Vulnerability Assessment Report, Maps, and Tables	Contractual Services	\$11,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$0
		Fringe Benefits	\$0
		Indirect Costs	\$1,100
		<b>Total for Task:</b>	<b>\$12,100</b>
7	Adaptation Plan	Contractual Services	\$10,000
		Miscellaneous/Other Expenses	\$0
		Salary	\$50,000
		Fringe Benefits	\$17,500
		Indirect Costs	\$7,750
		<b>Total for Task:</b>	<b>\$85,250</b>
		<b>Project Total:</b>	<b>\$687,500</b>

**SALARY AND FRINGE BENEFITS BY TASK:** Cost-reimbursable funding or hourly match and fringe rate(s) by position may not exceed those indicated below. Upon submission of each payment request, the Grantee certifies that the hours and fringe rates submitted are accurate and allowable costs for the Grant

Agreement. Upon request by the Department's Grant Manager, additional documentation of hours worked will be provided.

<b>Task No.</b>	<b>Position Title</b>	<b>Hourly Rate</b>	<b>Fringe Rate (%)</b>
2, 3, and 7	Project Coordinator	\$27.00	35.0
	Outreach Coordinator	\$25.00	35.0

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Public Records Requirements**

**Attachment 4**

**1. Public Records.**

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

**2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.**

For the purposes of this paragraph, the term “contract” means the “Agreement.” If Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

**f. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:**

**Telephone:** (850) 245-2118  
**Email:** [public.services@floridadep.gov](mailto:public.services@floridadep.gov)  
**Mailing Address:** Department of Environmental Protection  
ATTN: Office of Ombudsman and Public Services  
Public Records Request  
3900 Commonwealth Boulevard, MS 49  
Tallahassee, Florida 32399

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Special Audit Requirements  
(State and Federal Financial Assistance)**

**Attachment 5**

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

**MONITORING**

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department 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 Chief Financial Officer (CFO) or Auditor General.

**AUDITS**

**PART I: FEDERALLY FUNDED**

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

**Attachment 5**

1 of 7

## PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

## PART III: OTHER AUDIT REQUIREMENTS

*(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)*

## PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
  - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:



By Mail:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10th Street  
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:

**Audit Director**

Florida Department of Environmental Protection  
Office of Inspector General, MS 40  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Electronically:

[FDEPSingleAudit@dep.state.fl.us](mailto:FDEPSingleAudit@dep.state.fl.us)

B. The Auditor General's Office at the following address:

Auditor General  
Local Government Audits/342  
Claude Pepper Building, Room 401  
111 West Madison Street  
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

**Audit Director**

Florida Department of Environmental Protection  
Office of Inspector General, MS 40  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Electronically:

[FDEPSingleAudit@dep.state.fl.us](mailto:FDEPSingleAudit@dep.state.fl.us)

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

**Attachment 5**

3 of 7

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

#### **PART V: RECORD RETENTION**

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

**EXHIBIT – 1**

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

*Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded*

<b>Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:</b>					
<b>Federal Program A</b>	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	
<b>Federal Program B</b>	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

*Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:*

<b>Federal Program A</b>	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
<b>Federal Program B</b>	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year <sup>1</sup>	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	Florida Department of Environmental Protection	FY 21.22	37.098	Resilient Florida Programs	\$687,500.00	140078
State Program B	State Awarding Agency	State Fiscal Year <sup>2</sup>	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$687,500.00	
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [[https://apps.fldfs.com/fsaa/state\\_project\\_compliance.aspx](https://apps.fldfs.com/fsaa/state_project_compliance.aspx)]). The

<sup>1</sup> Subject to change by Change Order.

<sup>2</sup> Subject to change by Change Order.

services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
PROGRAM-SPECIFIC REQUIREMENTS  
RESILIENT FLORIDA PROGRAM**

**ATTACHMENT 6**

1. Sea Level Impact Projection Study Requirement. If the project is within the designated area, pursuant to Section 161.551, F.S. and Chapter 62S-7, *Florida Administrative Code*, the Grantee is responsible for performing a Sea Level Impact Projection (SLIP) study and submitting the resulting report to the Department. The SLIP study report must be received by the Department, approved by the Department, and be published on the Department's website for at least thirty (30) days before construction can commence. This rule went into effect July 1, 2021, and applies to certain state-funded construction projects located in the coastal building zone as defined in the rule.
2. Permits. The Grantee acknowledges that receipt of this grant does not imply nor guarantee that a federal, state, or local permit will be issued for a particular activity. The Grantee agrees to ensure that all necessary permits are obtained prior to implementation of any grant-funded activity that may fall under applicable federal, state, or local laws. Further, the Grantee shall abide by all terms and conditions of each applicable permit for any grant-funded activity. Upon request, the Grantee must provide a copy of all acquired and approved permits for the project.
3. Attachment 3, Grant Work Plan, Performance Measures. All deliverables and reports submitted to the Department should be submitted electronically and must be compliant with the Americans with Disabilities Act, also known as "508 Compliant," in all formats provided.
4. Copyright, Patent and Trademark. The Department reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state government purposes:
  - a. The copyright in any work developed under this Agreement; and
  - b. Any rights or copyright to which the Grantee or subcontractor purchases ownership with grant support.
5. Grant funds may not be used to support ongoing efforts to comply with legal requirements, including permit conditions, mitigation, and settlement agreements.
6. Funding Source. With the exception of audiovisuals not intended for presentation to the general public that are produced either as research instruments or for documenting experimentation or findings (unless otherwise required under the special terms of this Agreement), Grantee agrees to include the Department's logo (which can be found on the Department's website at: <https://floridadep.gov> or by contacting the Grant Manager for a copy) on all publications, printed reports, maps, audiovisuals (including videos, slides, and websites), and similar materials, as well as the following language:

"This work was funded in part through a grant agreement from the Florida Department of Environmental Protection's Office of Resilience and Coastal Protection Resilient Florida Program. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies."

The next printed line must identify the month and year of the publication.

7. Final Project Report. The Grantee must submit Exhibit F, Final Project Report Form, prior to requesting final payment. The Final Project Report may be submitted in lieu of the final quarterly status report, only in instances where the next quarterly report falls after the project's completion date.

8. Project Photos. The Grantee must submit Exhibit G, Photo Release Form, with the first submission of deliverables and reports (Exhibit A and F) that include photos.
9. Contractual Services. For all grant agreements that include Contractual Services as an expenditure category, the Grantee must submit Exhibit H, Contractual Services Certification, and all required supporting documentation for all contractors conducting work under the grant agreement, prior to requesting payment that includes contractual services.
10. Vulnerability Assessments. For all Planning grant agreements (Resilient Florida Grant Program and Regional Resilience Entities), the Grantee must submit Exhibit I, Vulnerability Assessment Compliance Checklist Certification, with the final grant deliverable(s).
11. Geographic Information System (GIS) files and associated metadata. All GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (found on the Resilient Florida Program website: <https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>), and raw data sources shall be defined within the associated metadata.
12. State and Local Fiscal Recovery Funds. For all grant agreements funded with the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) under the American Rescue Plan Act, the Grantee must submit the SLFRF Reporting Requirements Form upon execution of the grant agreement.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Resilient Florida Program  
Progress Report Form**

**Exhibit A**

<b>DEP Agreement No.:</b>	22PLN35		
<b>Project Title:</b>	Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios		
<b>Grantee Name:</b>	Escambia County Board of County Commissioners		
<b>Grantee Address:</b>			
<b>Grantee's Grant Manager:</b>		<b>Telephone No.:</b>	
<b>Reporting Period:</b>	(MM/DD/YYYY – MM/DD/YYYY)		
<p><b>INSTRUCTIONS:</b> Provide the following information for <b>all tasks and deliverables identified in Attachment 3, Grant Work Plan:</b> Description of the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, proposed work for the next reporting period, and percentage of the work that has been completed to date.  <b>NOTE:</b> Use as many pages as necessary to cover all tasks in the Grant Work Plan.</p> <p><b><u>The following format should be followed:</u></b></p> <p><b>Task 1:</b>  <b>Progress for this reporting period:</b>  <b>Identify any delays or problems encountered:</b>  <b>Percentage of task completed:</b></p> <p><b>Task 2:</b>  <b>Progress for this reporting period:</b>  <b>Identify any delays or problems encountered:</b>  <b>Percentage of task completed:</b></p> <p><b>Task 3:</b>  <b>Progress for this reporting period:</b>  <b>Identify any delays or problems encountered:</b>  <b>Percentage of task completed:</b></p> <p><b>Task 4:</b>  <b>Progress for this reporting period:</b>  <b>Identify any delays or problems encountered:</b>  <b>Percentage of task completed:</b></p>			

This report is submitted in accordance with the reporting requirements of the above DEP Agreement No. and accurately reflects the activities associated with the project.

\_\_\_\_\_  
Signature of Grantee's Grant Manager (or successor)

\_\_\_\_\_  
Date



**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RESILIENT FLORIDA GRANT PROGRAM  
EXHIBIT C  
PAYMENT REQUEST SUMMARY FORM**

The current **Exhibit C, Payment Request Summary Form** for the Resilient Florida Program grant agreements can be found on the Department's website at the link below. Each payment request must be submitted on the current form. The Department will notify grantees of any substantial changes to Exhibit C that occur during the grant agreement period.

<https://floridadep.gov/Resilient-Florida-Program/Grants>

**EXHIBIT F**

**DEP AGREEMENT NO. 22PLN35**

**COMPOUND RAIN AND TIDAL FLOODING IN THE PENSACOLA AND PERDIDO BAY AREA  
UNDER FUTURE CLIMATE SCENARIOS**

**Escambia County Board of County Commissioners**

**Final Project Report**



Insert Month & Year

This report is funded in part through a grant agreement from the Florida Department of Environmental Protection. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies.

**Exhibit F, DEP Agreement # 22PLN35**

Page 1

5/12/2022

## **Part I. Executive Summary**

## **Part II. Methodology**

## **Part III. Outcome**

*Include evaluation of project's ability to meet goals and expected performance measures and provide explanation for why goals were not met, if applicable. Identify successful outcomes, areas for improvement, and quantifiable metrics as a result of the project.*

## **Part IV. Further Recommendations**

### **Instructions for completing Attachment F Final Project Report Form:**

DEP AGREEMENT NO.: This is the number on your grant agreement.

GRANTEE NAME: Enter the name of the grantee's agency.

PROJECT TITLE: Enter the title shown on the first page of the grant agreement.

MONTH & YEAR: Enter month and year of publication

The final Project Report must contain the following sections: Executive Summary, Methodology, Outcome, and Further Recommendations. The Final Project Report must comply with the publication requirements in the grant agreement. Please limit the final project report to no more than five (5) pages. One electronic copy shall be submitted to the Department's Grant Manager for approval. Final payment will be held until receipt and approval of the Final Project Report.

Questions regarding completion of the Final Project Report should be directed to the Department's Grant Manager, identified in paragraph 18 of this agreement.



Florida Department of Environmental Protection

EXHIBIT G

PHOTOGRAPHER RELEASE FORM  
FOR PHOTOGRAPHS, VIDEOS, AUDIO RECORDINGS AND ARTWORKS

DEP AGREEMENT NO: 22PLN35

RELEASE FORM FOR PHOTOGRAPHS, VIDEOS, AUDIO RECORDINGS AND ARTWORKS

Owner/Submitter's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

**License and Indemnification**

I certify that I am the owner of the photograph(s), video(s), audio recording(s) and/or artwork(s) being submitted and am eighteen (18) years of age or older.

I hereby grant to the Florida Department of Environmental Protection the royalty-free and non-exclusive right to distribute, publish and use the photograph(s), video(s), audio recording(s) and art work(s) submitted herewith (the "Work") to promote the Florida Department of Environmental Protection. Uses may include, but are not limited to:

1. Promotion of FDEP (including, but limited to publications, websites, social media venues, advertisements, etc.); and
2. Distribution to the media; and
3. Use in commercial products.

The Florida Department of Environmental Protection reserves the right to use/not use any Work as deemed appropriate by the Florida Department of Environmental Protection. No Work will be returned once submitted.

I hereby acknowledge that the Florida Department of Environmental Protection shall bear no responsibility whatsoever for protecting the Work against third-party infringement of my copyright interest or other intellectual property rights or other rights I may hold in such Work, and in no way shall be responsible for any losses I may suffer as a result of any such infringement; and I hereby represent and warrant that the Work does not infringe the rights of any other individual or entity.

I hereby unconditionally release, hold harmless and indemnify the Florida Department of Environmental Protection, its employees, volunteers, and representatives of and from all claims, liabilities and losses arising out of or in connection with the Florida Department of Environmental Protection's use of the Work. This release and indemnification shall be binding upon me, and my heirs, executors, administrators and assigns.

**I have read and understand the terms of this release.**

Owner signature: \_\_\_\_\_ Date: \_\_\_\_\_

Photo/video/audio/artwork/recording  
file name(s): \_\_\_\_\_

Location of photo/video/audio  
recording/artwork: \_\_\_\_\_

Name of person accepting Work submission \_\_\_\_\_

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RESILIENT FLORIDA GRANT PROGRAM  
CONTRACTUAL SERVICES CERTIFICATION**

**Exhibit H**

*Required for all grant agreements that include Contractual Services as an expenditure category.*

DEP Agreement Number: 22PLN35

Project Title: Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios

Grantee: Escambia County Board of County Commissioners

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Prior to making a request for payment of contractual services, the Grantee must provide the following to the Department Grant Manager then responsible for the Grantee's Resilient Florida Grant Program grant agreement:

1. Documentation of the Grantee's procurement process, as consistent with Attachment 1, Paragraph 9(c) and Attachment 2, Paragraph 11;
2. A list of all subcontractor quote and/or bid amounts (as applicable), including the company name and address for each subcontractor;
3. An explanation of how and why the Grantee made their determination(s) for the subcontractor(s) selected to perform certain task(s) under the Grantee's relevant grant agreement; and
4. This Exhibit H, signed and dated by the Grantee's own (non-Departmental) grant manager.

---

By signing below, I certify that, on behalf of the Grantee, I have provided all the information required by items 1. through 3. of this exhibit, as stated above, to the Department Grant Manager currently responsible for the Grantee's Resilient Florida Grant Program grant agreement. I also certify that the procurement process the Grantee utilized follows all of said Grantee's non-Departmental policies and procedures for subcontractors.

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Grantee's Grant Manager Signature

---

Print Name

---

Date

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RESILIENT FLORIDA GRANT PROGRAM  
VULNERABILITY ASSESSMENT COMPLIANCE CHECKLIST CERTIFICATION**

**Exhibit I**

*Required for all planning grant agreements.*

DEP Agreement Number: 22PLN35

Project Title: Compound Rain and Tidal Flooding in the Pensacola and Perdido Bay Area Under Future Climate Scenarios

Grantee: Escambia County Board of County Commissioners

In accordance with subsection 380.093(3), F.S., the following components, scenarios, data, and information are required for a comprehensive Vulnerability Assessment (VA). The checklist must be completed and submitted with the final VA Report deliverable, pursuant to Attachment 3, Grant Work Plan. The Grantee must abide by the Department’s GIS Data Standards found on the Resilient Florida Program webpage at the link below:

<https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>

**Part 1 – Subparagraph 380.093(3)(c)2., F.S.**

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
a	<input type="checkbox"/>	Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables.	
<b>All electronic mapping data used to illustrate flooding and sea level rise impacts that are identified in the VA must be provided in the format consistent with the Department’s GIS Data Standards and include the following three (3) items:</b>			
b	<input checked="" type="checkbox"/>	Geospatial data in an electronic file format.	
c	<input type="checkbox"/>	GIS metadata.	
d	<input type="checkbox"/>	List of critical assets for each jurisdiction, including regionally significant assets, that are impacted by flooding and sea level rise. The list must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset	

**Part 2 – Subparagraphs 380.093(3)(d)1. and 380.093(3)(d)2., F.S.**

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
e	<input type="checkbox"/>	Peril of Flood Compliance Plan amendments developed that address paragraph 163.3178(2)(f), F.S., if applicable.	

**Exhibit I**

		<input type="checkbox"/> Not applicable <input type="checkbox"/> Already in compliance	
f	<input type="checkbox"/>	Depth of tidal flooding, including future high tide flooding, using thresholds published and provided by the Department.	
g	<input type="checkbox"/>	To the extent practicable, analysis geographically displays the number of tidal flood days expected for each scenario and planning horizon. <i>(optional)</i>	
h	<input type="checkbox"/>	Depth of current and future storm surge flooding using publicly available NOAA or FEMA storm surge data. <i>(check one)</i> <input type="checkbox"/> NOAA data <input type="checkbox"/> FEMA data	
i	<input type="checkbox"/>	Initial storm surge event equals or exceeds current 100-year flood event.	
j	<input type="checkbox"/>	Higher frequency storm analyzed for exposure of a critical asset. <i>(optional, but must provide additional detail if included)</i>	
k	<input type="checkbox"/>	To the extent practicable, rainfall-induced flooding was considered using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. <i>(required if item e is not applicable)</i>	
l	<input type="checkbox"/>	Future boundary conditions have been modified to consider sea level rise and high tide conditions. <i>(optional)</i>	
m	<input type="checkbox"/>	Depth of rainfall-induced flooding for 100-year storm and 500-year storm event. <i>(required if item e is not applicable)</i>	
n	<input type="checkbox"/>	To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding. <i>(optional)</i>	

**Part 3 – Subparagraph 380.093(3)(d)3., F.S.**

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
o	<input type="checkbox"/>	All analyses performed in North American Vertical Datum of 1988.	
p	<input type="checkbox"/>	Includes at least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections.	
q	<input type="checkbox"/>	Includes at least two planning horizons, which must include years 2040 and 2070.	
r	<input type="checkbox"/>	Utilizes local sea level data that has been interpolated between the two closest NOAA tide gauges.	
s	<input type="checkbox"/>	Local, publicly available, sea level data was taken from one of the two closest NOAA tide gauges, which must be the gauge with the highest mean sea level <i>(if so, provide Department approval)</i> .	

