

RESOLUTION NUMBER 24-124

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING AND APPROVING THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CONTRACT #31125 AWARDING THE TOWN OF FORT MYERS BEACH \$37,500.00 TO PROCURE AND PLANT 75 NATIVE TREES AND PALMS IN THE COASTAL AREA; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACT #31125; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Hurricane Ian devastated the Town of Fort Myers Beach resulting in a catastrophic loss of tree canopy within the Town; and

WHEREAS, the Town of Fort Myers Beach determines that trees promote the health and general welfare of the Town, its residents and the public; and

WHEREAS, the Florida Department of Agriculture and Consumer Services Contract #31125 awards the Town of Fort Myers Beach \$37,500.00 to procure and plant 75 native trees and palms in the coastal area and closely monitor and maintain the trees during a 60 day “grow in” period for their successful establishment; and

WHEREAS, the Town Council has determined it is in the best interest of the Town of Fort Myers Beach to accept and approve the Florida Department of Agriculture and Consumer Services Contract #31125.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby accepts the Florida Department of Agriculture and Consumer Services Contract #31125 awarding the Town of Fort Myers Beach \$37,500.00. A copy of Contract # 31125 is attached hereto as Attachment “A”.

Section 3. The Town Council hereby authorizes the Town Manager to execute Florida Department of Agriculture and Consumer Services Contract #31125.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member King and seconded by Council Member Safford, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 3rd day of June 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL


Dan Allers (Jun 5, 2024 16:03 EDT)

Dan Allers, Mayor

ATTEST:



Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Becky Vose (Jun 5, 2024 13:57 EDT)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 5th day of June 2024.

Florida Department of Agriculture and Consumer Services
Division of Administration**FEDERAL FINANCIAL ASSISTANCE
SUBRECIPIENT AGREEMENT**WILTON SIMPSON
COMMISSIONER

This Federal Financial Assistance Subrecipient Agreement ("AGREEMENT") made and entered into this 3rd day of June, 20 24 by and between the FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, ("RECIPIENT"), and Town of Fort Myers Beach ("SUBRECIPIENT"). The SUBRECIPIENT'S application package for federal financial assistance, dated November 16, 2023 ("APPLICATION") is incorporated by reference. The SUBRECIPIENT shall perform the Scope of Work contained in the SUBRECIPIENT'S APPLICATION.

The Department of Management Services' designated United Nations Standard Products and Services Code (UNSPSC) is:70151500

A. SUBAWARD AMOUNT

1. The total award amount for satisfactorily completing the Scope of Work is \$37,500.00. In no event shall the RECIPIENT be liable for payment of any amount, which exceeds the total award amount.

B. EFFECTIVE DATE/TERM

1. The effective date of this AGREEMENT shall commence upon execution and, unless sooner terminated or canceled, shall end on the 31st day of March of 2025 ("Term").
2. No-cost extensions require the prior written approval of the RECIPIENT and must be submitted not less than sixty (60) days prior to the end of the Term. Extension requests, which exceed the federal agency award period, will not be granted.

C. UNIVERSAL IDENTIFIER AND SYSTEM OF AWARD MANAGEMENT

1. The SUBRECIPIENT shall comply with 2 CFR, Part 25, "Financial Assistance Use of Universal Identifier and System of Award Management" (SAM). The SUBRECIPIENT must register and maintain a registration in SAM until submittal of the final financial report. A unique entity identifier is a 12-character alphanumeric ID assigned to an entity by SAM.gov.
2. Compliance with 2 CFR, Part 25 is not required for individuals.

D. FINANCIAL AND PROGRAM MANAGEMENT

1. Statutory and National Policy Requirements

- a. All expenditures of federal financial assistance under the AGREEMENT shall be in compliance with all applicable laws, rules and regulations applicable to expenditures of federal funds.
- b. The SUBRECIPIENT shall implement applicable National Policy Requirements.

2. Deliverables

- a. The SUBRECIPIENT must provide quantifiable, measurable and verifiable units of Deliverables (Deliverables) which must be received and accepted in writing by the RECIPIENT before payment. Deliverables must be directly related to the Scope of Work; specify minimum levels of service to be performed; and contain criteria for evaluating the successful completion of each Deliverable. The Deliverables are set forth in the Scope of Work contained in the SUBRECIPIENT APPLICATION.

3. Financial Management

- a. The SUBRECIPIENT shall maintain an accounting system and a set of accounting records, which allow for the identification of revenues and expenditures related to this AGREEMENT.
- b. The SUBRECIPIENT shall comply with 2 CFR, Part 200 and adhere to the accounting principles and procedures required therein, use adequate internal controls and maintain necessary source documentation for all costs incurred.

4. Reimbursement Requests

- a. The allowability of costs shall be in accordance with the federal financial assistance cost principles applicable to the SUBRECIPIENT and terms of this AGREEMENT.
- b. The SUBRECIPIENT shall submit the payment request packet to the RECIPIENT's grant manager not more often than monthly, but not less often than quarterly. To be eligible for reimbursement, costs shall be allowable, necessary and reasonable, and must be submitted by budget category consistent with the budget plan submitted with the SUBRECIPIENT APPLICATION.

- c. All reimbursement requests must be submitted using the RECIPIENT's standard payment request packet and provide supporting documentation for each cost. An authorized SUBRECIPIENT representative shall sign the certifications on the payment request packet submitted.
- d. The payment request packet is downloadable from <https://forms.fdacs.gov/02019.pdf>.
- e. A SUBRECIPIENT whose federal financial assistance grant provides an online reimbursement system for reporting reimbursement details shall use the online reimbursement system instead of the payment request packet.
- f. Bills for any authorized travel expenses shall be submitted and paid in accordance with the rates specified in Section 112.061, Florida Statutes, governing payments by the State for travel expenses. Any travel expenses must be specified in the Budget Plan and Scope of Work.
- g. \$37,500.00 for one year based on invoices submitted for expenses incurred during the quarterly periods ending March 31, June 30, September 30 and December 31 of each year. Invoices must be received within 30 calendar days of the conclusion of each quarter. Bills will be in the form of an invoice by major categories and will include local funding information detailing staff salaries, benefits, indirect costs (at 10% of Total Direct Costs) and other approved expenses, if accrued.

5. Payment of Reimbursement Requests

- a. Payment for allowable, necessary and reasonable costs shall be made within thirty (30) days after acceptance by the RECIPIENT. Payment request packets returned to the SUBRECIPIENT due to omissions or preparation errors will result in a payment delay.
- b. Payment requests for a percentage of work completed on each task deliverable are allowed.
- c. Payment is contingent upon the availability of funding from the federal agency and SUBRECIPIENT'S compliance with the terms and conditions of this AGREEMENT.
- d. The final payment under this AGREEMENT shall be made upon completion of the Scope of Work including all deliverables and the receipt and approval of all reports required hereunder.

- (1) Reimbursement Request Form with required backup documentation.
- (2) Final Report - brief paragraph on letterhead summarizing what was accomplished with the grant funding.
- (3) Copy of a news release that will be submitted to a local publication crediting the U.S. Forest Service for providing funding.
- (4) Copy of Congressional thank you letter - Thank you letter addressed to your federal congressional representatives for the grant funding. Include a brief description of what you were able to accomplish with the funding.
- (5) Certification of Acceptance executed by a Florida Forest Service official.

e. Disallowance or adjustments due to audit findings may require the SUBRECIPIENT to return funds to the RECIPIENT. The SUBRECIPIENT is solely responsible for reimbursing the RECIPIENT for amounts incorrectly paid to the SUBRECIPIENT.

6. Program Income

- a. "Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds". 2 CFR, 200.80
- b. The SUBRECIPIENT must report to the RECIPIENT any program income received or anticipated from the activities performed under this AGREEMENT.

7. Revision of Budget Plan

- a. The Budget Plan contained in the SUBRECIPIENT APPLICATION lists costs and budget categories to fund the SUBRECIPIENT'S performance of the Scope of Work, including the completion of Deliverables.
- b. SUBRECIPIENT is required to report any transfers from one approved budget category to another approved budget category. If the cumulative budget transfers meet or exceed ten percent (10%), prior approval, evidenced by contract amendment, is required.
- c. Prior approval, evidenced by contract amendment, is required for:

- (1) any transfers from an approved budget category to an unapproved budget category. An unapproved budget category is defined as having no funds allocated in the original Budget Plan.
- (2) any equipment purchases not noted in the original Budget Plan and/or Scope of Work.
- (3) any subawarding or contracting out of any work not noted in the original Budget Plan and/or Scope of Work.

8. Revision of Scope of Work

- a. The SUBRECIPIENT shall report any changes to the Scope of Work including but not limited to changes in the objectives, changes in key personnel, reduction of work effort by key personnel and delays in completion of the work.

9. Acknowledgements

- a. The SUBRECIPIENT shall have an acknowledgement of the USDA Forest Service support placed on any publication written or published or audiovisual produced with grant support and, if feasible, on any publication reporting the results of, or describing, a grant-supported activity, or audiovisuals produced with grant support. This requirement does not apply to audiovisuals produced as research instruments or for documenting experimentations or findings and not intended for presentation or distribution to the public.
- b. Publication means a published book, periodical, pamphlet, brochure, flier, or similar item.
- c. Audiovisual means a product containing visual imagery or sound or both.
- d. The SUBRECIPIENT acknowledgement must contain a disclaimer that says: "Any opinions, findings, conclusions, or recommendations expressed in this publication or audiovisual are those of the author(s) and do not necessarily reflect the view of the USDA Forest Service".
- e. Language shall read:

The work upon which this (insert publication or audiovisual or both) is based was funded, in whole or in part through a subrecipient grant awarded by the USDA Forest Service through the Florida Department of Agriculture and Consumer Services. The contents do not necessarily reflect the views or policies of the USDA

Forest Service nor does mention of trade names, commercial productions, services or organization imply endorsement by the U.S. Government.

E. PROPERTY STANDARDS

1. Equipment and Real Property

- a. Equipment must be used in the project for which the federal funds are derived.
- b. The federal agency has a vested interest in equipment and/or real property which, when purchased, exceeds \$5,000 in value. If a title is issued for the equipment and/or real property, the federal agency must be listed on the title.
- c. The SUBRECIPIENT must maintain property records, which include, but are not limited to, the description, serial number or other identification number, acquisition date, cost, location, percentage of federal participation in the cost of the property, use and condition of the property. When the property is disposed of, the property records must be updated with the date of disposal and sale price of the property.
- d. A physical inventory is required at least once every two years.
- e. If the equipment and/or real property are to be sold or used as a trade-in, approval of the RECIPIENT is required.
- f. At the end of the award period, the SUBRECIPIENT is required to request from the RECIPIENT disposal instructions and is required to notify the RECIPIENT of the fair market value of the equipment and/or real property.

2. Insurance Coverage

- a. The SUBRECIPIENT will carry sufficient insurance coverage to protect all assets required under the AGREEMENT from loss due to theft, fraud and/or undue physical damage. SUBRECIPIENT shall carry insurance on its own assets in commercially reasonable amounts and all statutorily required insurance, including without limitation Workers' Compensation insurance.

3. Intellectual Property

- a. Anything by whatsoever designation it may be known, that is produced by, or developed in connection with this AGREEMENT shall become the exclusive property of the RECIPIENT and

may be copyrighted, patented or otherwise restricted as provided by Florida or federal law. Neither the SUBRECIPIENT nor any individual employed under this AGREEMENT shall have any proprietary interest in such property.

- b. With respect to each Deliverable that constitutes a work of authorship within the subject matter and scope of U.S. Copyright Law, 17 U.S.C. Sections 102-105, such work shall be a "work for hire" as defined in 17 U.S.C. Section 101 and all copyrights subsisting in such work for hire shall be owned exclusively by the RECIPIENT.
- c. In the event it is determined as a matter of law that any such work is not a "work for hire," SUBRECIPIENT shall immediately assign to the RECIPIENT all copyrights subsisting therein for the consideration set forth in the AGREEMENT and with no additional compensation.
- d. The foregoing shall not apply to any preexisting software, or other work of authorship used by SUBRECIPIENT to create a Deliverable but which exists as work independent of the Deliverable, unless the preexisting software or work was developed by SUBRECIPIENT pursuant to a previous AGREEMENT with the RECIPIENT or by a purchase by the RECIPIENT under a state term contract.

F. MATCHING OR COST SHARE (IF APPLICABLE)

1. The matching or cost share portion must be tracked using a unique identifier in the SUBRECIPIENT accounting system.
2. If the matching or cost share portion is not met, the RECIPIENT may disallow costs paid with federal funds in proportion to the reduction in the matching or cost share amount.
3. The matching or cost share portion must be incurred in direct proportion to the amount of federal funds used.
4. The matching or cost share portion must be reported based upon the Budget Plan submitted with the APPLICATION.
5. Records for in-kind contributions, which are based upon volunteer hours, must have timesheets or a sign in/sign out log and must explicitly state the method for valuation of the hours. The value must be reasonable.
6. Records for in-kind contributions, which are based upon goods or services provided, must have an invoice, if available, or

must explicitly state the method for the valuation. The value must be reasonable.

7. In-kind contributions must be provided by a third party during the period for which they are being claimed.
8. The matching or cost share portion must not be counted towards other cost sharing requirements. Neither costs nor values of third party in-kind contributions may count if they have been used towards other cost sharing requirements.

G. GENERAL PROCUREMENT STANDARDS

1. The SUBRECIPIENT will follow the same policies and procedures it uses for procurements from other funding sources.
2. The SUBRECIPIENT must have documented procurement procedures.
3. The SUBRECIPIENT must have written policies on standards of conduct covering conflicts of interest. No employee, officer, or agency may participate in the selection, award or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest.

H. PERFORMANCE MONITORING AND REPORTING

1. The SUBRECIPIENT shall submit detailed quarterly reports using the format and content shown on the RECIPIENT's performance progress report. The performance progress report is downloadable from <http://forms.freshfromflorida.com/02018.pdf>.
2. In the event the AGREEMENT is terminated, the SUBRECIPIENT shall furnish a report detailing progress made under this AGREEMENT through the date of termination within twenty (20) days of termination.
3. The SUBRECIPIENT shall cooperate in all on-site reviews from the RECIPIENT, its authorized representatives or federal government personnel.
4. The review personnel will be given full and complete access during normal business hours to all information related to the performance of this AGREEMENT to ensure compliance with project activities and statutes, regulations and rules.
5. The RECIPIENT will give 48 hours of notice of any on site review.
6. The SUBRECIPIENT shall make available all personnel involved in the performance of work on this AGREEMENT.

7. Failure to correct substandard performance within thirty (30) days after written notice from the RECIPIENT shall result in suspension and/or termination of the AGREEMENT.

I. RECORD RETENTION AND ACCESS

1. Retention Requirements for Records

- a. Upon reasonable notice, the RECIPIENT shall have access to the SUBRECIPIENT'S records during normal business hours.
- b. The SUBRECIPIENT shall maintain all records pertinent to the activities to be funded under this AGREEMENT for a period of five (5) years after final payment is received and for such additional period as may be required until all claims, litigation and appeals pertaining or related to the AGREEMENT have been completely resolved.

2. Public Access to Records

- a. The SUBRECIPIENT shall comply with all applicable requirements of Chapter 119, Florida Statutes.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENTS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS:

**OFFICE OF GENERAL COUNSEL
407 SOUTH CALHOUN STREET, SUITE 520
TALLAHASSEE, FL 32399
PHONE: (850) 245-1000
EMAIL: PRCUSTODIAN@FDACS.GOV**

J. REMEDIES FOR NONCOMPLIANCE

1. Prior to the exercise of any remedy provided for herein, the RECIPIENT shall provide thirty (30) calendar days written notice of default and shall provide the SUBRECIPIENT the opportunity to cure such failure or default within said thirty (30) day period. Upon the failure or inability to cure, the RECIPIENT shall have all rights and remedies provided at law or in equity, including without limitation the following:

- a. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT.
- b. Disallow all or part of the cost of the services not in compliance.
- c. Wholly or partly suspend or terminate this AGREEMENT.

2. Termination

- a. The RECIPIENT may suspend or terminate this AGREEMENT if the SUBRECIPIENT:
 - (1) Fails to comply with any applicable rules, regulations or provisions referred to herein, or any other applicable state or federal statutes, rules, regulations, executive orders, federal guidelines, policies or directives;
 - (2) Fails, to timely fulfill its obligations under the AGREEMENT;
 - (3) Improperly or illegally uses funds provided under this AGREEMENT; or
 - (4) Submits reports that are incorrect in any material respect.
- b. This AGREEMENT may be terminated for convenience by either party upon giving not less than thirty (30) days advance written notice to the other party. SUBRECIPIENT shall be paid for all work satisfactorily performed prior to the date of termination provided SUBRECIPIENT has otherwise complied with the terms of this AGREEMENT, including the submission of all reports.

K. CLOSE OUT

1. Notwithstanding the termination of this AGREEMENT, the SUBRECIPIENT'S obligations to the RECIPIENT shall survive until all close out requirements are completed. Close out activities shall include but are not limited to: completing and submitting final reports, properly disposing of property, accounting for unspent cash advances and program income and transferring custodianship of records to RECIPIENT or its designee.
2. Post-close Out Adjustments

- a. Any funds paid in excess of the amount to which the SUBRECIPIENT is entitled under the AGREEMENT must be

refunded to the RECIPIENT within thirty (30) days after demand therefore by RECIPIENT.

L. AUDIT REQUIREMENTS

1. Audit Provisions

- a. If the SUBRECIPIENT is a state or local government or a nonprofit organization, the audit provisions as defined in 2 CFR, Part 200 Subpart F are applicable.
- b. If the SUBRECIPIENT is a commercial organization (For-Profit), the organization will provide the RECIPIENT with its annual audited financial statement or the annual tax return provided to the Internal Revenue Service.
- c. Audit provisions are not required for a SUBRECIPIENT who is an individual.
- d. In the event that the SUBRECIPIENT expends \$750,000 or more in federal awards in its fiscal year, the SUBRECIPIENT must have a single or program-specific audit conducted in accordance with the 2 CFR, Part 200 Subpart F.
- e. If the SUBRECIPIENT expends less than \$750,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR, Part 200 Subpart F is not required. Records must be available for audit or review if necessary.
- f. If the SUBRECIPIENT expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted, the cost of the audit must be paid from non-federal resources.

2. Basis for Determining Federal Awards Expended

- a. In determining the federal awards expended in its fiscal year, the SUBRECIPIENT shall consider all sources of federal awards, including federal resources received from the RECIPIENT.
- b. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR, Part 200 Subpart F.

3. Relation to Other Audit Requirements

- a. If the SUBRECIPIENT has an audit conducted in relationship to any other federal regulation or statute, the RECIPIENT may determine upon review if the audit reports meet the

needs of the RECIPIENT. If so, an additional audit will not be required.

- b. An audit of the SUBRECIPIENT conducted by the Auditor General in accordance with provisions of 2 CFR, Part 200 Subpart F will meet these requirements.
- c. These provisions do not limit the authority of the federal agency, Inspector General, General Accounting Office (GAO) or RECIPIENT to conduct or arrange for the conduct of audits or evaluations of federal financial assistance awards.

4. Frequency of Audits

- a. Audits shall be performed annually to meet this requirement.

5. Sanctions

- a. If the SUBRECIPIENT is unwilling or has a continued inability to have an audit conducted, the provisions for noncompliance will be enforced.

6. Subrecipient Responsibilities

- a. The SUBRECIPIENT shall arrange for the audit to be conducted in a timely manner and submitted as required in 2 CFR, 200.512.
- b. The SUBRECIPIENT shall prepare the financial statements in accordance with 2 CFR, 200.510.
- c. The SUBRECIPIENT shall promptly follow up and take corrective action on audit findings.
- d. The SUBRECIPIENT will provide the auditor with access to records, personnel, documentation and other information as needed by the auditor.

7. Audit Findings Follow-up

- a. At the completion of the audit, the SUBRECIPIENT must prepare, in a document separate from the auditor's findings a corrective action plan to address each audit finding included in the current year auditor's reports.
- b. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned and the anticipated completion date.

- c. If the SUBRECIPIENT does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.
- d. Any deficiencies noted in audit reports must be fully cleared by the SUBRECIPIENT within thirty (30) days after receipt by the SUBRECIPIENT.
- e. Failure of the SUBRECIPIENT to comply with the above requirement will constitute a violation of this AGREEMENT and may result in the withholding of future payments.

8. Report Submission

- a. The audit must be completed and the data collection form and reporting package must be submitted within the earlier of thirty (30) calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.
- b. The SUBRECIPIENT must submit required data elements described in Appendix X to 2 CFR, Part 200 - Data Collection Form (SF-SAC), which states whether the audit was completed in accordance with this part and provide information about the SUBRECIPIENT, its federal programs and the results of the audit.
- c. A senior representative of the SUBRECIPIENT must sign a statement to be included as part of the data collection that the SUBRECIPIENT has complied with the audit requirements, the data was prepared in accordance with 2 CFR, 200.512, the reporting package does not include protected personally identifiable information, the information is accurate and complete and the reporting package and form will be publicly available on the web.
- d. The SUBRECIPIENT shall also submit to the RECIPIENT's Grant Manager one copy of the audit report, reporting package, any management letter issued by the auditor and data collection form described in Appendix X to 2 CFR, Part 200.
- e. The SUBRECIPIENT is required to use the internet submission form on the Federal Audit Clearinghouse (FAC) website. The FAC website is located at <https://facweb-census.gov>.
- f. The SUBRECIPIENT shall ensure that audit working papers are made available to the RECIPIENT, or its designee, Chief Financial Officer or Auditor General upon request for a

period of five (5) years from the date the audit report is issued, unless extended in writing by the RECIPIENT.

M. GENERAL CONDITIONS

1. Nothing contained in this AGREEMENT is intended to, or will be construed in any manner, as creating or establishing the relationship of principal and agent or employer and employee between the parties. The SUBRECIPIENT will at all times remain an independent contractor with respect to the services to be performed under this AGREEMENT.
2. The RECIPIENT shall have the right of unilateral cancellation for refusal by the SUBRECIPIENT to allow public access to all documents, papers, letters or other material made or received by the SUBRECIPIENT in conjunction with this AGREEMENT, unless the records are confidential or exempt from s. 24(a) of Article I of the State Constitution and s. 119.07(1), Florida Statutes.
3. The SUBRECIPIENT acknowledges and agrees that:
 - i. Pursuant to Section 287.133(2)(a), Florida Statutes, 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 contractor, 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, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Pursuant to Section 287.134(2)(a), Florida Statutes, 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. Pursuant to Section 287.137(2)(a), Florida Statutes, 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 for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new 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 new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.

4. The SUBRECIPIENT shall not discriminate on the basis of race, sex, religion, color, national origin, age or disability and shall comply with all applicable state and federal laws and regulations related thereto, including without limitation, the Americans with Disabilities Act (42 USC 12101 et. Seq.); Section 504 of the Rehabilitation Act of 1973 (29 USC 795); and the Age Discrimination Act of 1975 (42 USC 6101-6107).

5. The SUBRECIPIENT acknowledges and agrees that the employment of unauthorized aliens by any person or entity is considered a violation of 8 U.S.C. § 1324a. If the SUBRECIPIENT knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this AGREEMENT. SUBRECIPIENT avers that it is registered in the E-Verify system and further agrees to comply with the provisions of Section 448.095(2), Florida Statutes during the term of the

- contract, including receiving and maintaining required affidavits from subcontractors.
6. This AGREEMENT is contingent upon the availability of funding from the federal agency. This AGREEMENT may be terminated by RECIPIENT if funding from the federal agency is reduced or terminated.
 7. The SUBRECIPIENT represents and warrants that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency; and, that the SUBRECIPIENT shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction. Any lower tier contract provider who receives funds as a result of this AGREEMENT shall be verified by SUBRECIPIENT through the General Services Administration (GSA) Federal Excluded Parties List: <https://sam.gov/SAM/>.
 8. The SUBRECIPIENT shall comply with the Federal Acquisition Regulation 52.204-25, prohibition on contracting for certain telecommunications and video surveillance services or equipment pursuant to the National Defense Authorization Act. Failure to comply or if the SUBRECIPIENT knowingly provides funds to any entity prohibited from receiving a contract or award pursuant to the Federal Acquisition Regulation 52.204-25 shall be cause for unilateral cancellation of this AGREEMENT.
 9. The SUBRECIPIENT acknowledges it has completed the certification regarding lobbying.
 10. If prior written authorization for subcontracting is granted by the DEPARTMENT, any work or services subcontracted by the SUBRECIPIENT shall be specifically by written contract or agreement, and such subcontracts shall be subject to each provision of this AGREEMENT and applicable Federal, State or County guidelines and regulations. Prior to execution by the SUBRECIPIENT of any subcontract hereunder, the SUBRECIPIENT must submit such subcontracts to the RECIPIENT for its review and approval.
 11. The SUBRECIPIENT will, to the extent permitted by law, hold harmless, defend and indemnify the RECIPIENT from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the

SUBRECIPIENT's performance or nonperformance of the services or subject matter called for in this AGREEMENT. Nothing herein contained shall be construed or operate as a waiver of sovereign immunity to the extent sovereign immunity may otherwise apply.

12. The SUBRECIPIENT will comply with section 20.055, Florida Statutes.
13. This AGREEMENT may not be modified except by a written instrument executed by a duly authorized representative of each party hereto.
14. In the event that two or more documents combine to form this AGREEMENT, and in the event that there is any contradictory or conflicting clause or requirement in these documents, the provisions of the document(s) prepared by the RECIPIENT shall be controlling.
15. This AGREEMENT shall be controlled by Florida law, without regard to any conflict of law provisions thereof.
16. In the event that any clause or requirement of this AGREEMENT is contradictory to, or conflicts with the requirements of Florida law, such clause or requirement shall be without force and effect and the requirements of the applicable Florida law shall substitute for that clause or requirement and be binding on all parties hereto.
17. SUBSUBRECIPIENT agrees that all services to be performed hereunder shall be performed solely by the SUBRECIPIENT and may not be subcontracted for or assigned without the prior written consent of DEPARTMENT, which may be withheld by DEPARTMENT for any reason or granted subject to SUBRECIPIENT's compliance with one or more of the following: (i) SUBRECIPIENT purchasing, at its sole expense, a payment bond in a form and amount that DEPARTMENT determines to be adequate to protect suppliers of labor and material; (ii) DEPARTMENT withholding, as retainage, 25% or the highest percent permitted by law, whichever is less, of all payments made to the SUBRECIPIENT until SUBRECIPIENT submits evidence satisfactory to DEPARTMENT that all subcontracts and outstanding indebtedness in connection with the services hereunder have been paid for by the SUBRECIPIENT; and (iii) SUBRECIPIENT disclosing information satisfactory to DEPARTMENT regarding each subcontractor to perform services hereunder, including a description of the subcontractor's organization, ability

to provide applicable services, cost to perform applicable services, previous work experience, and relationship to the SUBRECIPIENT.

18. The termination of this AGREEMENT (whether by expiry, completion, the exercise of a termination right hereunder, or otherwise) will not relieve either party of any obligation, nor impair the exercise of rights, accrued hereunder prior to such termination. Without limiting the foregoing, the terms of Sections M(17) hereof and Articles D (entitled "FINANCIAL AND PROGRAM MANAGEMENT"), I (entitled "RECORD RETENTION AND ACCESS"), K (entitled "CLOSE OUT"), and L (entitled "AUDIT REQUIREMENTS") hereof will survive the termination of this AGREEMENT.

Special Conditions: See attachment A

This AGREEMENT constitutes the entire AGREEMENT between the RECIPIENT and the SUBRECIPIENT for the use of the funds received under this AGREEMENT.

The Grant Manager for the RECIPIENT is Todd Little and is located at 3125 Conner Blvd., Tallahassee, FL 32399.

The Grant Manager for the SUBRECIPIENT is Chadd Chustz and is located at 2525 Estero Boulevard, Fort Myers Beach, FL 33931.

Federal resources awarded to the SUBRECIPIENT pursuant to this agreement are from USDA Forest Service, federal financial assistance funding opportunity under FAIN # 23-DG-11083112-430 and Catalog of Federal Domestic Assistance 10.664, Cooperative Forestry Assistance.

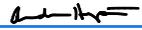
Signed by parties to this AGREEMENT:

FLORIDA DEPARTMENT OF AGRICULTURE SUBRECIPIENT AND CONSUMER SERVICES

Joey B. Hicks
Signature

Director of Administration
Title

5/15/2024
Date


Signature

Town Manager
Title

June 3, 2024
Date

Florida Department of Agriculture and Consumer Services
Division of Administration

BUDGET PLAN
2 CFR 200

Federal Financial Assistance Funding Opportunity Number: 23-DG-11083112-430			Subrecipient FEIN: 65-0632342	
Subrecipient Legal Name: Town of Fort Myers Beach				
Category/Description	Cost per Unit	Number of Units	Grant Amount	Match Amount
Personnel -				
Fringe Benefits -				
Travel (not authorized)				
Equipment (not authorized)				
Supplies -				
Contractual (if authorized) -				
Trees -	500	75	37,500	0
Other Expenses -				
Total Direct Charges				
Indirect Charges -				
Total Amount	500	75	37500	



WILTON SIMPSON
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

**CERTIFICATION REGARDING LOBBYING;
DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS
FOR EXPENDITURE OF FEDERAL FUNDS**

LOBBYING

As required by 2 CFR 200, for persons entering into a contract, grant or cooperative agreement over **\$100,000** involving the expenditure of Federal funds, the undersigned certifies for itself and its principals that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Andrew Hyatt, Town Manager

PRINTED NAME/TITLE OF REPRESENTATIVE

CONTRACT / PURCHASE ORDER NUMBER


Andrew Hyatt (Jun 5, 2024 14:06 EDT)

SIGNATURE OF REPRESENTATIVE / DATE

DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

As required by 2 CFR 200, for persons entering into a contract, grant or cooperative agreement over **\$25,000** involving the expenditure of Federal funds, the undersigned certifies for itself and its principals that:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State, or local) with commission of any offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

Andrew Hyatt, Town Manager

PRINTED NAME/TITLE OF REPRESENTATIVE

CONTRACT / PURCHASE ORDER NUMBER


Andrew Hyatt (Jun 5, 2024 14:06 EDT)

SIGNATURE OF REPRESENTATIVE / DATE