

**MEMORANDUM OF UNDERSTANDING BETWEEN BROWARD COUNTY AND  
FLORIDA INTERNATIONAL TERMINAL, LLC**

This Memorandum of Understanding (“MOU”), made between Broward County, a political subdivision of the State of Florida (“County”), and Florida International Terminal, LLC, a Florida Limited Liability Company (“FIT”) (each a “Party” and collectively referred to as the “Parties”), is entered into on the day last executed by the Parties (the “Effective Date”).

**RECITALS**

A. The Parties entered into a Marine Terminal Lease and Operating Agreement, dated December 8, 2015, which was amended by a First Amendment, dated February 26, 2019, and a Second Amendment, dated June 18, 2024 (as amended, the “MTLOA”).

B. The Parties desire to improve the Premises (as defined in the MTLOA), with a focus on improving the safety, efficiency, and reliability of Port Everglades (the “Port”) infrastructure.

C. The Infrastructure Investment and Jobs Act, Pub. L. 117-58, authorized and appropriated \$450 million to be awarded by the United States Department of Transportation, Maritime Administration (“MARAD”) for projects for coastal seaports for Fiscal Year 2025.

D. MARAD issued a Notice of Funding Opportunity (“NOFO”) for the Port Infrastructure Development Program Grant (“PIDP Grant”), with applications due by 11:59 P.M. Eastern on April 30, 2025.

E. The PIDP Grant NOFO states that MARAD seeks to fund projects which support the following objectives, merit criteria, and selection considerations: (1) improving the safety, efficiency, or reliability of Port infrastructure, the loading and unloading of goods, the movement of goods, and operational improvements (including projects to improve Port resilience); (2) supporting economic vitality at the national and regional levels; and (3) leveraging Federal funding to attract non-Federal sources of infrastructure investment.

F. County is an eligible applicant under the PIDP Grant NOFO.

G. The PIDP Grant allows for an eligible applicant, such as County, to apply jointly as the lead applicant with a private entity or group of private entities.

H. The Parties have agreed to jointly apply for a PIDP Grant to improve the Premises (as defined in the MTLOA), with a focus on improving the safety, efficiency, and reliability of Port infrastructure, while also creating good-paying jobs (the “Project”).

I. The Parties accept and assume certain responsibilities and costs associated with the development of the PIDP Grant application, as set forth in this MOU.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.
2. Acceptance. The Parties shall be bound by the entirety of the PIDP Grant NOFO, including, but not limited to, the Federal Award Information and Application and Submission Information.
3. Obligations and Responsibilities. The Parties shall jointly confer on overall needs in preparation of the PIDP Grant. Subject to Section 7 of this MOU, the Parties' obligations and responsibilities are as follows:
  - (a) FIT shall prepare the application as required by the PIDP Grant NOFO, including, but not limited to, Section D, Application and Submission Information. FIT shall bear the cost associated with preparing the application, including, but not limited to, hiring a grant writer or consultant. FIT shall provide County a clean copy of its respective portion of the application by 11:59 P.M. Eastern on April 28, 2025.
  - (b) County, upon receipt of a proper application, will submit the application no later than 4:59 P.M. Eastern on April 30, 2025.
  - (c) FIT shall pay the entire non-Federal cost share for the Project.
  - (d) Prior to County's execution of the grant agreement with MARAD, FIT shall enter into a Subgrant Award Agreement with County in substantially the form attached as Exhibit A (including the attached Subgrant Award Terms and Conditions). For purposes of the Subgrant Award Agreement, County is the grant recipient and FIT is the subrecipient.
  - (e) County is responsible for the financial administration of the Project and County must be fully reimbursed by grant funds or FIT for all costs associated with the financial administration of the Project or any other costs incurred as a result of County's role as the lead applicant. Upon FIT incurring allowable expenses under the terms of the grant, FIT shall provide adequate supporting documentation for reimbursement requests to County, and County will submit reimbursement requests to MARAD. Following approval of reimbursement requests for allowable expenses by FIT, County will pass the federal funds through to FIT for the reimbursement of allowable expenses.
  - (f) FIT is responsible for the procurement of all goods and services funded by the PIDP Grant for the Project. FIT shall conduct such procurement in accordance with all Federal, State, and local laws and regulations, including, but not limited to all the PIDP Grant requirements.
  - (g) FIT assumes the entire responsibility and shall relieve County from responsibility for all repairs and maintenance of all improvements whatsoever associated with the Project during the term of the MTLOA, as may be amended.

- (h) Ownership of the improvements shall be governed by Section 14.B. of the MTLOA, as may be amended; provided, however, FIT will have title to all temporary or mobile equipment purchased as part of the Project during the term of the MTLOA and after its expiration and/or termination.
- (i) Construction bond requirements for the improvements shall be governed by Section 14.F. of the MTLOA, as may be amended. In addition, FIT shall provide security guaranteeing the completion and performance of the Project in accordance with all PIDP Grant requirements, which security shall remain in effect for a period of three (3) years after completion of construction.
- (j) Notwithstanding anything to the contrary in the MTLOA, County will not provide any payment credits to FIT associated with this MOU.
- (k) Should the MTLOA expire or otherwise terminate prior to the completion of the Project, the obligations hereunder will survive until completion of the Project.

4. Nonexclusive. FIT acknowledges the grant application for this PIDP Grant is not exclusive to FIT in its role as a private co-applicant and that the County may include other private co-applicants in pursuing this opportunity; however, in the event of County includes other private co-applicants, there will be a separate MOU between each private entity and County.

5. Codes, Rules, Laws, and Regulations. The Parties shall abide by all applicable codes, rules, laws, and regulations, including, but not limited to, any requirements contained in the NOFO or PIDP Grant.

6. Cost Overruns and Administrative Costs. FIT agrees to pay any and all cost overruns or administrative costs, including any costs associated with the financial administration of the PIDP Grant or any reporting or monitoring requirements thereof. Any other third- party costs to be shared must be agreed upon in writing between the Parties in advance.

7. Assurances. The Parties understand and agree that they may not be awarded a PIDP Grant, either fully or partially. The Parties understand and agree that if a PIDP Grant is awarded, either fully or partially, that they will enter into a separate agreement related to the execution of the PIDP Grant and responsibilities associated with fulfilling the obligations thereof. The Parties understand and agree that County is not financially liable for any costs associated with preparing and submitting the PIDP Grant application, and, if awarded, will not be financially liable for costs associated with fulfilling its obligations for financial administration, reporting, or monitoring of the Project.

8. Representations. Each of the Parties represents and warrants it has all requisite power and authority to execute, deliver, and perform all of its obligations under this MOU. The execution and delivery by each Party of this MOU, and the performance by each Party of its obligations under this MOU, have been duly authorized by all necessary corporate action on the part of each such Party. Each of the Parties represents and warrants that each person signing below in its behalf is fully authorized to enter into the terms and conditions stated herein, to

execute this MOU, and to legally bind the Party on whose behalf they are signing. This MOU has been duly executed and delivered by each Party, and subject to the due execution and delivery by the other Party to this MOU, this MOU will be the valid and binding obligations of each Party, enforceable against such Party in accordance with its terms.

9. Public Records. FIT understands that all records created in connection with the Project, including the grant application, may be subject to public disclosure pursuant Section 119.07, Florida Statutes. FIT must comply with applicable public records law regarding any public records request seeking records relating to this MOU, including assisting County by providing the responsive records to County upon request; FIT shall be responsible for any award of attorneys' fees or costs for that FIT's noncompliance with applicable public records law.

10. Successors and Assigns. This MOU and the covenants contained herein shall inure to the benefit of and shall bind the respective Parties hereto and their respective successors and assigns.

11. Governing Law and Venue. This MOU shall be governed by the laws of the State of Florida without regard to conflict of law principles. Venue for any action arising under this MOU shall be in the Seventeenth Judicial Circuit in and for Broward County, Florida or the Southern District of Florida.

12. Modification. None of the terms and provisions of this MOU may be waived, altered, modified, or amended except by an instrument in writing executed by all Parties.

13. Severability. In the event any covenant, condition or provision of this MOU is held to be invalid by any court of competent jurisdiction, such determination of invalidity will not materially prejudice any Party as to their respective rights or other obligations contained in the valid covenants, conditions or provisions of this MOU that shall remain and continue in full force and effect.

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COUNTY

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

By: \_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
1850 Eller Drive, Suite 302  
Fort Lauderdale, Florida 33316  
Telephone: (954) 523-3404

By: \_\_\_\_\_  
Antonio Lozada (Date)  
Assistant County Attorney

By: \_\_\_\_\_  
Carlos Rodriguez-Cabarrocas (Date)  
Senior County Attorney

Florida International Terminal, LLC

By: \_\_\_\_\_  
Authorized Signer

\_\_\_\_\_  
Print Name and Title

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**BROWARD COUNTY STANDARD SUBGRANT AWARD AGREEMENT**

This Broward County Standard Subgrant Award Agreement ("Subgrant Award Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and \_\_\_\_\_, a [political subdivision of the State of Florida/constitutional officer of Broward County/other] ("Subrecipient"). County and Subrecipient are individually referred to as a "Party" and collectively as the "Parties."

**Recitals**

A. County has received a grant award from the Awarding Agency and in the amount specified in the Subgrant Award Details, pursuant to the grant attached as Exhibit A ("Grant").

B. The Grant permits County to distribute Grant funds to third parties that will implement the Grant as described in the Program Narrative attached as Exhibit B.

C. Subrecipient desires to accept a subgrant from County of funds awarded under the Grant, which shall be utilized by Subrecipient in accordance with the Grant and this Subgrant Award Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The recitals stated above are true and correct and are incorporated herein by reference.
2. Standard Subgrant Award Terms and Conditions. By signing this Subgrant Award Agreement, Subrecipient represents that it has read the Grant (Exhibit A) and County's Standard Subgrant Award Terms and Conditions ("Subgrant Award Terms") (available online at <http://www.broward.org/GrantTerms>) and understands all obligations and requirements of the Grant. The Subgrant Award Terms are incorporated herein as if fully set forth in this Subgrant Award Agreement.
3. Subgrant Award. Subrecipient will implement the program(s) described in Subrecipient's Program Narrative (Exhibit B) in accordance with this Subgrant Award Agreement and will comply with the provisions stated in the Subgrant Award Details in Section 8. In consideration for Subrecipient's performance and compliance with this Subgrant Award Agreement, including the Subgrant Award Terms and the Subgrant Award Details, County will provide the Subgrant Award Amount stated in the Subgrant Award Details.
4. Funding. The maximum amount payable to Subrecipient under this Subgrant Award Agreement is the Subgrant Award Amount specified in the Subgrant Award Details and more specifically described in the Subgrant Program Budget attached as Exhibit C. Subrecipient shall invoice County in accordance with the Invoicing Schedule stated in the Subgrant Award Details.

5. Modifications. Subrecipient must submit any proposed modifications to the Program Narrative or the Subgrant Program Budget in writing to County for approval. Subrecipient may not deviate from the Program Narrative or Subgrant Program Budget without prior approval from County (and from the Awarding Agency, if required by the Grant).

6. Reporting Obligations. Subrecipient represents and certifies it has reviewed the requirements in the Grant, the Subgrant Award Details, and the Subgrant Award Terms regarding the documentation, reports, and other information that must be provided by Subrecipient to County (collectively, "Reporting Obligations"). Subrecipient shall strictly comply with all Reporting Obligations, including time being of the essence.

7. Term. The duration of this Subgrant Award Agreement ("Term") shall be the Project Period stated in the Subgrant Award Details, as may be extended by the Awarding Agency.

8. Anti-Human Trafficking. By execution of this Subgrant Award Agreement by the undersigned authorized representative of Subrecipient, Subrecipient hereby attests under penalty of perjury that Subrecipient does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes; under penalties of perjury, the undersigned authorized representative of Subrecipient declares that they have read the foregoing statement and that the facts stated in it are true.

9. Subgrant Award Details

Grant Program Title	
Federal Award Identification Number ("FAIN")	
Subrecipient's Unique Entity Identifier	
Federal Award Date to County	
Grant Award amount to County	
Subgrant Award Amount	
Amount or percentage of Subgrant Award retained by County for administrative expenses	
Total amount of Grant Funds committed to Subrecipient by County	

Is any portion of the Grant federally funded? (if yes, Subrecipient must comply with federal requirements in the Subgrant Award Terms)	<input type="checkbox"/> No  <input type="checkbox"/> Yes:    Amount: \$ _____ Awarding Agency: _____
Insurance (only applicable if box is checked).	<input type="checkbox"/> If checked, Subrecipient must maintain insurance coverages in the types and amounts shown in Exhibit D for the duration of the Term.

Is this award for research & development?	<input type="checkbox"/> No <input type="checkbox"/> Yes
Assistance Listings number (the federal program that provided the Grant)	
Subgrant period of performance start and end date ("Project Period")	
Subrecipient Invoicing Schedule	
Subrecipient's address and contact information for Notices and payment	
Performance Report requirements	
Additional/Subgrant Award Program Guidelines (if any)	
<b>Subgrant Program Description and Scope of Services Summary</b>	
<b>Additional Subgrant Award Terms (if any)</b>	



IN WITNESS WHEREOF, the Parties hereto have made and executed this Subgrant Award Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and [Subrecipient], signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

BROWARD COUNTY, by and through  
its County Administrator

By: \_\_\_\_\_  
County Administrator

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

By \_\_\_\_\_  
De'Anne A. Jackson (Date)  
Assistant County Attorney

AL  
Short Form Subgrant Agreement  
3/14/2025

**BROWARD COUNTY STANDARD SUBGRANT AWARD AGREEMENT**

**SUBRECIPIENT**

By: \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name & Title

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form & legal sufficiency  
subject to the execution by the parties:

By: \_\_\_\_\_  
Name (Date)

**Exhibit A**  
**Grant**  
(To Be Provided After Grant Award)

**EXHIBIT B**  
**Program Narrative**  
(To Be Provided After Grant Award)

**EXHIBIT C**  
**Subgrant Program Budget**  
(To Be Provided After Grant Award)

**EXHIBIT D**  
**Minimum Insurance Requirements**  
(To Be Provided After Grant Award)

## BROWARD COUNTY STANDARD SUBGRANT AWARD TERMS AND CONDITIONS

These Standard Subgrant Award Terms and Conditions ("Subgrant Award Terms") state the terms for subgrant agreements entered into between Broward County ("County") and the subrecipient identified in the applicable Subgrant Award Agreement ("Subrecipient") (each a "Party" and collectively referred to as "Parties").

### RECITALS

A. For the applicable Grant, County serves as a pass-through entity, providing certain grant funds to Subrecipient pursuant to the Subgrant Award Agreement.

B. In order to receive Grant funding from County, Subrecipient agrees to comply with these Subgrant Award Terms in addition to all of the relevant requirements and conditions imposed by the Awarding Agency pursuant to the Grant.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE 1. DEFINITIONS

*All capitalized terms utilized in the Subgrant Award Agreement shall have the same meanings when used in these Subgrant Award Terms. In addition, the following terms shall have the following meanings:*

- 1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
- 1.2. **Awarding Agency** means the entity that awards or provides the Grant funding to County for allocation pursuant to the terms of the Grant.
- 1.3. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.4. **Code** means the Broward County Code of Ordinances.
- 1.5. **Contract Administrator** means the Director of the Broward County Office of Management and Budget or their designee.
- 1.6. **Grant** means the grant identified in the "Grant Award Details" section of the Subgrant Award Agreement or attached thereto as Exhibit A.
- 1.7. **Grant Funds** means the funding received by County pursuant to the Grant that is allocated to Subrecipient pursuant to the Subgrant Award Agreement.

1.8. **Services** means all activities and services to be performed by Subrecipient under the Subgrant Award Agreement, including all obligations imposed by the Grant upon County, as the Grant recipient, or Subrecipient, as the agency implementing the Grant Program(s).

1.9. **Subgrant Award Agreement** means the subgrant agreement entered into between County and Subrecipient that incorporates these Subgrant Award Terms.

1.10. **Subgrant Program** means the goods or services, including programs, purchases, reimbursements, or other activities, of the Subrecipient that the Grant was provided by the Awarding Authority to fund. The Grant Program may be detailed more specifically in the "Grant Award Details" section of the Subgrant Award Agreement.

## **ARTICLE 2. SUBGRANT PROGRAM SCOPE**

Subgrant Program. Subrecipient will implement the Grant Program stated in the Subgrant Award Agreement and perform all Services required of Subrecipient under the Grant.

## **ARTICLE 3. GRANT FUNDS**

3.1. The Grant Funds shall be utilized by Subrecipient solely in accordance with the Subgrant Award Agreement, these Subgrant Award Terms, and the Grant. The Subgrant Award Amount stated in the Subgrant Award Agreement is the maximum amount payable to Subrecipient.

3.2. Failure of Subrecipient to comply with the provisions in the Subgrant Award Agreement will result in required corrective action, up to and including financial consequences and termination. A financial consequence may be imposed by County for Subrecipient's noncompliance with these Subgrant Award Terms or the Subgrant Award Agreement, or 2 C.F.R. § 200.339 if the Grant is federally funded, including disallowance of Subgrant Program costs and withholding of funds.

## **ARTICLE 4. METHOD OF BILLING AND REIMBURSEMENT**

4.1. Unless otherwise stated in the Subgrant Award Agreement, Subrecipient shall submit invoices only for costs and expenses that are reimbursable under the Grant and that were incurred for purposes permitted under the Grant. County will not reimburse Subrecipient for costs or expenses incurred for any purpose other than those specified the Subgrant Award Agreement. Invoices shall be submitted to County at the address specified in the "Notices" provision using the Reimbursement Request Form provided by County. Invoices must be submitted within the Invoicing Schedule, but only after the Subgrant Program activities for which the invoices are submitted have been completed. All project expenditures requested by Subrecipient for reimbursement must be submitted in sufficient detail for proper pre-audit and post-audit review. Invoices must designate the nature of the Services completed and, as applicable, the personnel, hours, tasks, or other detail as requested by the Contract Administrator. County may, in its sole discretion, disallow and not provide reimbursement to Subrecipient for any amounts invoiced inconsistent with the Invoicing Schedule.



4.2. Subrecipient acknowledges that unless the Project Period for a Grant is modified by the Awarding Agency, County will not provide any portion of the Subgrant Award Amount for any Services performed before or after the Project Period. Subrecipient will not submit an invoice for, and will not seek reimbursement of, any costs or expenses other than those incurred during the Project Period. County shall have no obligation to reimburse Subrecipient for any costs or expenses not incurred during the Project Period. If the Project Period is modified by the Awarding Agency, such modified Project Period shall automatically be incorporated into the Subgrant Award Agreement upon written notice by the Contract Administrator to Subrecipient.

## **ARTICLE 5. SOVEREIGN IMMUNITY; INDEMNIFICATION**

5.1. Nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of the Subgrant Award Agreement or any other contract.

5.2. If Subrecipient contracts with a third party ("Contractor") for Subgrant Program goods or services, the contract with each such Contractor must include the following provision (the term "Contractor" in the provision may be replaced by the applicable term used in Subrecipient's agreement for that party):

Contractor shall indemnify, hold harmless, and defend Broward County and all of Broward County's past, present, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Contractor, its officers, employees, or agents, arising from, relating to, or in connection with this agreement (collectively, a "Claim"). In the event any Claim is brought against an Indemnified Party, Contractor shall, upon written notice from Broward County, defend each Indemnified Party against each such Claim by counsel satisfactory to Broward County or, at Broward County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this agreement. To the extent considered necessary by the Broward County Attorney, any sums due to Contractor under this agreement may be retained until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest.

Notwithstanding Subrecipient's use of a Contractor, Subrecipient shall remain solely liable to County for performance of all obligations under the Grant, the Subgrant Award Agreement, and these Subgrant Award Terms.

5.3. Subrecipient shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any breach of this Agreement by Subrecipient, or any intentional, reckless, or negligent act or omission of Subrecipient, its officers, employees, or agents, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Subrecipient shall, upon written notice from County, defend each Indemnified Party with counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Subgrant Award Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Subrecipient under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

5.4. To the extent provided by law, Subrecipient shall indemnify, defend, and hold harmless County and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Subrecipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Subrecipient.

## **ARTICLE 6. INSURANCE**

Subrecipient must comply with any and all applicable insurance requirements stated in the Grant or the Subgrant Award Agreement. Upon County's request, Subrecipient shall provide verification of compliance with the applicable insurance requirements.

## **ARTICLE 7. FINANCIAL REQUIREMENTS AND RESPONSIBILITIES**

7.1. Subrecipient shall ensure that all expenditures and cost accounting of Grant Funds fully complies with the Grant.

7.2. Subrecipient must maintain written procedures for procurement transactions relating to the Subgrant Program. Procedures must ensure that all solicitations comply with the requirements of 2 C.F.R. § 200.319, "Competition," if applicable to the Grant.

7.3. Subrecipient is required to establish and maintain adequate accounting systems and financial records and to accurately account for funds awarded to it pursuant to the Subgrant Award Agreement. Subrecipient shall have and maintain financial management systems in place that are able to record and report on the receipt, obligation, and expenditure of such funds. An

adequate accounting system for Subrecipient must be able to accommodate a fund and account structure to separately track receipts, expenditures, assets, liabilities for awards, and programs.

7.4. If the Grant is federally funded, Subrecipient's obligations include the requirements outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented in 2 C.F.R. Part 200 (together, the "Part 200 Uniform Guidance"), as applied to the Grant. The Subgrant Award Agreement for any federally funded Grant is intended to be, and should be construed as, consistent with Part 200 Uniform Guidance, and includes the information required pursuant to 2 C.F.R. Part 200.332.

## **ARTICLE 8. MANAGEMENT AND REPORTING REQUIREMENTS**

8.1. Performance. In the event of Subrecipient's default, noncompliance, or violation of any provision of Applicable Law, the Grant, the Subgrant Award Agreement, or these Subgrant Award Terms, as determined in the sole discretion of County, County may impose sanctions it deems appropriate, which may include withholding payments or cancellation or termination of the Subgrant Award Agreement in whole or in part. In such event, County will provide written notice to Subrecipient of its decision at least thirty (30) days before the effective date of such sanction. If the sanction includes cancellation or termination of the Subgrant Award Agreement, such notice from County shall include the date by which Subrecipient must cease all Services ("Cessation Date"). If the Subgrant Award Agreement is cancelled or terminated pursuant to this section, Subrecipient shall be reimbursed only for those Services satisfactorily completed in compliance with Applicable law, the Grant, and the Subgrant Award Agreement (including these Subgrant Award Terms) prior to the Cessation Date, unless otherwise approved in writing by the County Administrator.

### **8.2. Performance Reports.**

8.2.1. Subrecipient must submit project performance reports ("Performance Reports") as stated in the Subgrant Award Agreement. These reports shall be submitted to the Contract Administrator within the timeframe(s) specified in the Subgrant Award Agreement.

8.2.2. Report Contents. The Performance Reports must include the following: (1) a summary of the goals for the Subgrant Program; (2) the Services performed during the reporting period; (3) the progress to date toward achieving each goal for the Subgrant Program; and (4) a description of any issues that may negatively impact achieving the goals for the Subgrant Program. County may request additional information or modifications to the Performance Report if necessary to comply with any applicable reporting requirements in the Grant, and Subrecipient shall promptly modify and resubmit the Performance Report within the required timeframe for the Performance Reports provided in the Grant Award Details.

### 8.3. Financial Reports.

8.3.1. Subrecipient must submit financial reports ("Financial Expenditure Reports") in accordance with the requirements of the Grant. Financial Expenditure Reports must be submitted even when no reimbursement is requested. Financial Expenditure Reports must be electronically signed by Subrecipient and Subrecipient's chief financial officer or the chief financial officer's designee. Subrecipient must submit to County any outstanding Financial Expenditure Reports no later than sixty (60) days after the end or termination of the Grant, whichever is earlier.

8.3.2. Subrecipient must also submit a Federal Financial Report (FFR or SF-425) to County if required by the Grant.

8.4. Unless otherwise stated in the Subgrant Award Agreement, all reports required pursuant to this section or the Reporting Obligations must be submitted to the Contract Administrator. After County reviews and approves the reports, County will submit the reports to the Awarding Agency if required by the Grant. Failure to comply with any of the requirements of this article may result in forfeiture of Grant Funds.

## **ARTICLE 9. MONITORING AND AUDITS**

9.1. Access to Records. County, the Awarding Agency, the U.S. Comptroller General (for federally funded Grants), and any of their duly authorized representatives shall have access to books, documents, papers, and records of Subrecipient and Subrecipient's Contractors related to the Grant or the Subgrant Award Agreement for the purpose of audit and examination. County may unilaterally terminate the Subgrant Award Agreement if Subrecipient or Subrecipient's Contractor refuses to allow public access to all documents, papers, letters, or other materials made or received in conjunction the Grant and subject to Chapter 119, Florida Statutes, or other applicable public records law, unless specifically exempted or made confidential by Applicable Law.

9.2. Monitoring. Subrecipient must comply with County's grant-monitoring guidelines, protocols, and procedures, and cooperate with County on all grant-monitoring requests, including requests related to desk review, enhanced programmatic desk reviews, site visits, and contract reviews and audits. Subrecipient must provide all documentation deemed necessary by County to complete monitoring of the Grant Funds and verify Subrecipient's expenditures. Further, Subrecipient must abide by deadlines set by County for providing requested documents. Failure of Subrecipient to cooperate with grant-monitoring activities may result in sanctions, including, but not limited to withholding or other restrictions on Subrecipient's access to funds, referral to the County Auditor for audit review, or termination of the Subgrant Award Agreement.

9.3. Property Management. Subrecipient must establish and administer a system to protect, preserve, use, maintain, and dispose of any property furnished to it by County or procured with Grant Funds, consistent with any federal property management standards set forth in the Grant.

The obligations of this section continue for as long as Subrecipient retains the property, notwithstanding expiration or termination of the Subgrant Award Agreement.

9.4. Retention of Records. Unless a longer period is specified in the Subgrant Award Agreement, Subrecipient must maintain all records relating to the Grant for a minimum of five (5) years after the date of the final financial report. Subrecipient must comply with applicable retention schedules established by Applicable Law, including without limitation the State of Florida General Records Schedule, including, as applicable, GS1-SL for State and Local Government Agencies or GS2 for Law Enforcement, Correctional Facilities and District Medical Examiners.

9.5. Single Annual Audit.

9.5.1. Subrecipient must have a single audit or program-specific audit conducted for each fiscal year in which Grant Funds are received or expended. If the Grant is federally funded, the audit must be performed in accordance with 2 C.F.R. Part 200, Subpart F, "Audit Requirements," and other applicable federal law, and the Subgrant Award Agreement must be identified in Subrecipient's schedule of federal financial assistance in the subject audit. Subrecipient's audit report must identify the Subgrant Award Agreement and include the contract number, award amount, contract period, funds received, and funds disbursed.

9.5.2. The complete audit report must be submitted to County within thirty (30) days after completion and must be finalized no later than nine (9) months after the audit period. In order to be complete, the submitted audit report to County must include Subrecipient management's written response to all findings, management letters, if any, and Subrecipient management's response to the management letters, if any.

9.5.3. Audits must be completed by an Independent Public Accountant ("IPA") and according to Generally Accepted Government Auditing Standards. The IPA must be either a Certified Public Accountant or a Licensed Public Accountant. Subrecipient must procure audit activities according to the Part 200 Uniform Guidance (if Grant is federally funded), and include clear objectives and scope of the audit in addition to peer review reports to strengthen audit quality and ensure effective use of audit resources.

9.5.4. Subrecipient must promptly follow up and take appropriate corrective action for any findings in the audit report in instances of noncompliance with Applicable Law, including but not limited to, preparation of a summary schedule of prior audit findings and a corrective action plan. Subrecipient's follow-up audit findings must comply with the requirements in Part 200 Uniform Guidance, to the extent applicable.

9.5.5. Subrecipient must make copies of the audit available for public inspection and ensure respective parts of the reporting package do not include protected personally identifiable information. The audit and its supporting records must be made available

upon request for a period of three (3) years after the date the audit report is issued. County, in its sole discretion, may extend this records retention period upon written notice to Subrecipient.

9.5.6. If the Grant is closed without audit(s) that include the entirety of Grant Funds received by Subrecipient and the expenditure of all such funds, County reserves the right to recover any disallowed costs identified in an audit completed after such closeout.

9.5.7. If the Grant is federally funded, the Federal Audit Clearinghouse is the repository of record for 2 C.F.R. § 200(F). Audits performed pursuant to 2 C.F.R. § 200(F) must be completed and submitted to the Federal Audit Clearinghouse by thirty (30) calendar days after receipt of the auditor's reports or nine (9) months after the end of the audit period, whichever is earlier. Such submissions must include required elements described in Appendix X to Part 200 Uniform Guidance on the specified Data Collection Form (Form SF-SAC) and be signed by Subrecipient's chief financial officer or designee.

## **ARTICLE 10. TERMINATION**

10.1. Termination for Cause. The Subgrant Award Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. The Subgrant Award Agreement may be terminated for cause by County for Subrecipient's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in the Subgrant Award Agreement, or repeated submission (whether negligent or intentional) for payment of false or incorrect invoices or requests for reimbursement.

Termination for cause by County may be made by the County Administrator, the County representative expressly authorized under the Subgrant Award Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. If County erroneously, improperly, or unjustifiably terminates the Subgrant Award Agreement for cause, such termination shall be deemed a termination for convenience pursuant to Section 10.2 effective thirty (30) days after such notice was provided and Subrecipient shall be eligible for the compensation provided in Section 10.3 as its sole remedy.

10.2. Termination for Convenience; Other Termination. The Subgrant Award Agreement may also be terminated for convenience by the Board with at least thirty (30) days advance written notice to Subrecipient. Subrecipient acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate the Subgrant Award Agreement for convenience including in the form of County's obligation to provide advance notice to Subrecipient of such termination in accordance with this section. The Subgrant Award Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare.

10.3. Effect of Termination on Reimbursement. If the Subgrant Award Agreement is terminated by either Party, any reimbursement(s) requested by Subrecipient for Subgrant Program activities properly performed prior to the date of written notice of termination or the Cessation Date, whichever is earlier, shall be reimbursed by County pursuant to the terms of the Subaward Agreement, subject to any right of County to retain any sums otherwise due and payable to Subrecipient. Any Subgrant Program activities or expenditures performed or incurred by Subrecipient after such date shall not be subject to reimbursement by County.

10.4. Notice of termination shall be provided in accordance with the “Notices” section of these Subgrant Award Terms except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice promptly confirmed in writing.

10.5. In addition to any termination rights stated in the Subgrant Award Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

## **ARTICLE 11. MISCELLANEOUS**

11.1. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Subrecipient to manage and supervise the performance of the Subgrant Award Agreement. In addition to any other authority provided to the Contract Administrator in these Subgrant Award Terms or the Subgrant Award Agreement, the Contract Administrator may approve modifications to the Program Narrative or Program Budget and may execute amendment(s) to the Subgrant Award Agreement that the Contract Administrator deems necessary to effectuate the purpose of the Grant, subject to compliance with the Grant and provided there is no increase in cost to County.

11.2. Public Records. Notwithstanding anything else in the Subgrant Award Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of the Subgrant Award Agreement. If Subrecipient is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Subrecipient shall:

11.2.1. Keep and maintain public records required by County to perform the Services;

11.2.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

11.2.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of the Subgrant Award Agreement and after completion or termination of the Subgrant Award Agreement if the records are not transferred to County; and

11.2.4. Upon expiration of the Term or termination of Subgrant Award Agreement, transfer to County, at no cost, all public records in possession of Subrecipient or keep and maintain public records required by County to perform the services. If Subrecipient transfers the records to County, Subrecipient shall destroy any duplicate public records that are exempt or confidential and exempt. If Subrecipient keeps and maintains the public records, Subrecipient shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

If Subrecipient receives a request for public records regarding the Subgrant Award Agreement or the Services, Subrecipient must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

Subrecipient must separately submit and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that Subrecipient contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which Subrecipient asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, “Restricted Material”). In addition, Subrecipient must, simultaneous with the submission of any Restricted Material, provide a sworn affidavit from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, Subrecipient must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by Subrecipient as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by Subrecipient, or the claimed exemption is waived. Any failure by Subrecipient to strictly comply with the requirements of this section shall constitute Subrecipient’s waiver of County’s obligation to treat the records as Restricted Material.

**IF SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SUBRECIPIENT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE SUBGRANT AWARD AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-357-6348, GRANTS@BROWARD.ORG, 115 SOUTH ANDREWS AVENUE, ROOM 404, FORT LAUDERDALE, FLORIDA 33301.**

11.3. Independent Contractor. Subrecipient is an independent contractor of County, and nothing in the Subgrant Award Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In performing Services, neither Subrecipient nor its agents shall act as officers, employees, or agents of County. Subrecipient shall not have the right to bind County to any obligation not expressly undertaken by County under the Subgrant Award Agreement.



11.4. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under the Subgrant Award Agreement is as a Party and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from the Subgrant Award Agreement and shall not be attributable in any manner to County as a Party to the Subgrant Award Agreement.

11.5. Third-Party Beneficiaries. Neither Subrecipient nor County intends to directly or substantially benefit a third party by the Subgrant Award Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to the Subgrant Award Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon the Subgrant Award Agreement.

11.6. Notice and Payment Address. Unless otherwise stated in the Subgrant Award Agreement, for notice to a Party to be effective, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Notice and payment to Subrecipient shall be made to the address shown for Subrecipient in the Subaward Grant Agreement. Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

FOR COUNTY:

Broward County Office of Management and Budget  
115 South Andrews Avenue, Suite 404  
Fort Lauderdale, FL 33301  
[Grants@broward.org](mailto:Grants@broward.org)

11.7. Assignment. The Subgrant Award Agreement may not be assigned, transferred, or encumbered by Subrecipient without the prior written consent of County, which may be withheld in its sole discretion. Any assignment, transfer, or encumbrance in violation of this section shall be void and ineffective, constitute a breach of the Subgrant Award Agreement, and permit County to immediately terminate the Subgrant Award Agreement, in addition to any other remedies available to County at law or in equity.

11.8. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth is substantial and important to the formation of the Subgrant Award Agreement, and each is, therefore, a material term. County's failure to enforce any provision of the Subgrant Award Agreement shall not be deemed a waiver of such provision or modification of the Subgrant Award Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the Subgrant Award Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.9. Compliance with Laws. Subrecipient and the Services must comply with all Applicable Law, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of the Grant.

11.10. Severability. If any part of the Subgrant Award Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from the Subgrant Award Agreement and the balance of the Subgrant Award Agreement shall remain in full force and effect.

11.11. Joint Preparation. The Subgrant Award Agreement shall not be construed more strictly against either Party.

11.12. Interpretation. The titles and headings contained in the Subgrant Award Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of the Subgrant Grant Award Agreement. All personal pronouns used in the Subgrant Award Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to the Subgrant Award Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

11.13. Priority of Provisions. Unless expressly specified in the Subgrant Award Agreement, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in the Subgrant Award Agreement and any provision of the articles of these Subgrant Award Terms, the provisions contained in Sections 1-8 of the Subgrant Award Agreement prevail and will be given effect.

11.14. Law, Jurisdiction, Venue, Waiver of Jury Trial. The Subgrant Award Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with the Subgrant Award Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with the Subgrant Award Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THE SUBGRANT AWARD AGREEMENT.**

11.15. Amendments. Unless expressly authorized herein, no modification, amendment, or alteration of any portion of the Subgrant Award Agreement is effective unless contained in a written document executed with the same or similar formality as the Subgrant Award Agreement and by duly authorized representatives of County and Subrecipient.

11.16. Prior Agreements. Unless otherwise stated in the Subgrant Award Agreement, the Subgrant Award Agreement represents the final and complete understanding of the Parties regarding the Grant and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the Grant are contained herein.

11.17. Payable Interest

11.17.1. Payment of Interest. Unless prohibited by Applicable Law, County shall not be liable for interest to Subrecipient for any reason, whether as prejudgment interest or for any other purpose, and Subrecipient waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with the Subgrant Award Agreement.

11.17.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under the Subgrant Award Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.18. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in these Subgrant Award Terms by reference.

11.19. Counterparts and Multiple Originals. The Subgrant Award Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.20. Use of County Name or Logo. Subrecipient shall not use County's name or logo in marketing or publicity materials without prior written consent from the Contract Administrator.

11.21. Time of the Essence. Time is of the essence for Subrecipient's performance of all obligations under the Subgrant Award Agreement and these Subgrant Award Terms.

DAJ/cv  
Subgrant Award Terms and Conditions  
File #614410v2  
11/01/22