

City of South Daytona

Office of the City Manager / Department of Public Works

Post Office Box 214960 • South Daytona, FL 32121-4960 • 386/322-3080 • FAX 386/322-3090



MEMORANDUM

AGENDA ITEM

C 16 DATE 7/20/2020

To: James L. Gillis Jr., City Manager

From: Brian Peek, Public Works Director *BP*

Re: Windle Lane Stormwater Improvement DEM Agreement Modification

Date: July 20, 2020

The stormwater pond enhancement on Windle Lane was approved by council action in the February council meeting. This project was able to occur through funding from Department of Emergency Management (DEM), St. Johns River Water Management District (SJRWMD), and the Department of Environmental Protection (DEP). The grant from DEM had an expiration date of April 30, 2020 but was eligible for extension. As such, a request for extension was submitted on February 20, 2020. The extension was accepted, however had not been returned to us until July 17, 2020. The attached document is a modification to the original agreement between DEM and South Daytona and states the agreement shall now end January 31, 2021. Two (2) copies are included, and both must be signed in **blue** ink by the official representative. In our case, the Mayor is this individual.

RESOLUTION NO. 2020-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA, AUTHORIZING THE MAYOR TO EXTEND THE LENGTH OF THE AGREEMENT BETWEEN THE DIVISION OF EMERGENCY MANAGEMENT AND THE CITY OF SOUTH DAYTONA FOR THE WINDLE LANE POND EXPANSION PROJECT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Division of Emergency Management (DEM) and the City have entered into an Agreement to provide \$262,500 in Federal Funds for the Windle Lane Pond Expansion Project; and

WHEREAS, the DEM and the City desired to extend the Agreement prior to its expiration date on April 30, 2020; and

WHEREAS, the DEM is requesting that the City execute and deliver an agreement modification that extends the term to January 31, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA THAT:

SECTION 1. The City Council of the City of South Daytona hereby authorizes the Mayor to execute the Modification to Subgrant Agreement Between the Division of Emergency Management and the City of South Daytona, incorporated into this Resolution as Exhibit A for reference.

SECTION 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED upon first and final reading at a regular meeting of the City Council of the City of South Daytona, Florida, on the 28th day of July, 2020.

SIGNED:

William C. Hall
Mayor

ATTEST:

James L. Gillis, Jr.
City Manager

Contract Number: H0075
Project Number: 4283-32-R

**MODIFICATION TO SUBGRANT AGREEMENT BETWEEN
THE DIVISION OF EMERGENCY MANAGEMENT AND
CITY OF SOUTH DAYTONA**

This Modification Number One made and entered into by and between the State of Florida, Division of Emergency Management ("the Division"), and the City of South Daytona ("the Sub-Recipient") to modify Contract Number H0075, dated July 18, 2018, ("the Agreement").

WHEREAS, the Division and the Sub-Recipient have entered into the Agreement, pursuant to which the Division has provided a subgrant to the Sub-Recipient under the Hazard Mitigation Grant Program of \$262,500.00, in Federal Funds; and

WHEREAS, the Division and the Sub-Recipient desire to modify the Agreement; and

WHEREAS, the Agreement expired on April 30, 2020; and

WHEREAS, the Division and the Sub-Recipient desire to reinstate and extend the terms of the Agreement.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

1. The Agreement is hereby reinstated and extended as though it had never expired.
2. Paragraph 8 of the Agreement is hereby amended to read as follows:

(8) PERIOD OF AGREEMENT

This Agreement shall begin July 18, 2018 and shall end January 31, 2021, unless terminated earlier in accordance with the provisions of Paragraph (17) of this Agreement.

3. The Budget and Scope of Work, Attachment A to the Agreement, are hereby modified as set forth in 1st Revision Attachment A to this Modification, a copy of which is attached hereto and incorporated herein by reference.
4. All provisions of the Agreement being modified and any attachments in conflict with this Modification shall be and are hereby changed to conform with this Modification, effective on the date of execution of this Modification by both parties.
5. All provisions not in conflict with this Modification remain in full force and effect, and are to be performed at the level specified in the Agreement.

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

IN WITNESS WHEREOF, the parties hereto have executed this Modification as of the dates set out below.

SUB-RECIPIENT: CITY OF SOUTH DAYTONA

By: _____

Name and Title: William C. Hall, Mayor

Date: _____

**STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT**

By: _____

Name and Title: Jared Moskowitz, Director

Date: _____

Attachment A
(1st Revision)
Budget and Scope of Work

STATEMENT OF PURPOSE:

The purpose of this Scope of Work is to improve drainage of Windle Lane Retention Pond in South Daytona, Volusia County, Florida, funded through the Hazard Mitigation Grant Program (HMGP) DR-4283-32-R, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Sub-Recipient, City of South Daytona, agrees to administer and complete the project per sealed engineering designs and construction plans as submitted by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall complete the work in accordance with all applicable Federal, State and Local Laws, Regulations and Codes.

PROJECT OVERVIEW:

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to improve the drainage of Windle Lane Retention Pond; bounded by Windle Lane to the west, 3rd Street to the south, Business Park located at 3100 S. Ridgewood Avenue to the north, and Opportunity Court to the east, in the southwest area of the City of South Daytona, Florida 32119. Coordinates: (29.151898, -80.997469).

The HMGP construction scope of work proposes combining two small existing wet detention stormwater ponds located on 1.6 acres of city property into one larger wet detention system that shall expand the holding capacity and help prevent flooding.

The project also includes an outfall structure designed to prevent flooding, help in a quicker recovery of street flooding and stop tail water from Reed Canal backing up into the proposed pond system. The system also removes targeted contaminants to improve water quality. All activities are part of stormwater management – conveyance improvements for flood abatement.

The Windle Lane Retention Pond – Stormwater Management project shall provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

TASKS & DELIVERABLES:

A) Tasks:

- 1) The Sub-Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the scope of work as approved by the Division and FEMA. The Sub-Recipient shall select the qualified, licensed Florida contractor in accordance with the Sub-Recipient's procurement policy as well as all federal and state laws and regulations. All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

The Sub-Recipient shall be responsible for furnishing or contracting all labor, materials, equipment, tools, transportation and supervision and for performing all work per sealed engineering designs and construction plans presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA.

The Sub-Recipient and contractor shall be responsible for maintaining a safe and secure

worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.

The Sub-Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects.

The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed.

The Sub-Recipient shall provide documentation demonstrating the results of the procurement process. This shall include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Sub-Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Sub-Recipient.

The Sub-Recipient shall provide copies of professional licenses for contractors selected to perform services. The Sub-Recipient shall provide a copy of a current and valid occupational license or business tax receipt issued for the type of services to be performed by the selected contractor.

- 2) The Sub-Recipient shall monitor and manage the installation to improve the drainage and provide flood protection.

The project shall be implemented in accordance with sealed engineering designs and construction plans previously presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall ensure that all applicable state, local and federal laws and regulations are followed and documented, as appropriate.

The project consists of the general construction and furnishing of all materials, equipment, labor and fees to minimize recurring flooding and reduce repetitive flood loss to structures and roadways.

The Sub-Recipient shall fully perform the approved project, as described in the submitted documents, in accordance with the approved scope of work, budget line item, allocation of funds and applicable terms and conditions indicated herein. The Sub-Recipient shall not deviate from the approved project terms and conditions.

Construction activities shall be completed by a qualified and licensed Florida contractor. All construction activities shall be monitored by the professional of record. The Sub-Recipient shall complete the project in accordance with all required permits. All work shall be completed in accordance with applicable codes and standards.

Upon completion of the work, the Sub-Recipient shall schedule and participate in a final inspection of the completed project by the local municipal or county official, or other approving official, as applicable. The official shall inspect and certify that all installation was in accordance with the manufacturer's specifications. Any deficiencies found during this final inspection shall be corrected by the Sub-Recipient prior to Sub-Recipient's submittal of the final inspection request to the Division.

Upon completion of Task 2, the Sub-Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary of all contract scope of work

and scope of work changes, if any. Additional documentation for closeout shall include:

- a) Signed and Sealed As-built project plans (drawings) by the Professional of Record, two hard copies and an electronic version (via email or CD).
 - b) Letter of Completion:
 1. Affirming that the project was completed in conformance with the approved project drawings, specifications and scope; and
 2. Certifying Compliance with all applicable codes.
 - c) Letter verifying compliance with the National Historic Preservation Act, to include if archeological materials or human remains were encountered during project activities, if so, how they were handled.
 - d) Permit(s) and verification of compliance or no permit required, as applicable:
 - e) Best Management Practices were utilized – Submit letter at closeout.
 - f) National Pollutant Discharge Elimination System (NPDES) storm water permit – Required for any drainage over one acre. Or If the area of disturbance was less than one acre, a letter stating the extent of the ground disturbance (by site).
 - g) Ground Dewatering Activities at the construction site:
Provide documentation of coverage under FDEP “Generic Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity”; or Letter stating that “No ground dewatering activities took place at this project’s site”.
 - h) Proof of compliance with Project Conditions and Requirements contained herein.
- 3) During the course of this agreement, the Sub-Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, all project activities may not be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Sub-Recipient shall submit an Affidavit signed by the Sub-Recipient’s project personnel with each reimbursement request attesting to the completion of the work, that disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Sub-Recipient shall maintain accurate time records. The Sub-Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation, which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

Construction Expense: The Sub-Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills, invoices, and/or charges. Sub-Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

Project Management Expenses: The Sub-Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be

detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the Division in coordination with the Sub-Recipient. Quarterly reports shall be submitted by the Sub-Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Sub-Recipient shall submit to the Division requests for reimbursement of actual construction and managerial costs related to the project as identified in the project application, sealed engineering designs, and construction plans. The requests for reimbursement shall include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Sub-Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount.

The Sub-Recipient's final request for reimbursement shall include the final construction project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

B) Deliverables:

Mitigation Activities consist of drainage improvements to Windle Lane Retention Pond; in the southwest area of the City of South Daytona, Florida 32119. This includes combining two small existing wet detention stormwater ponds located on 1.6 acres of city property into one larger wet detention system that shall expand the holding capacity and help prevent flooding.

The completed Windle Lane Retention Pond – Stormwater Management project shall provide protection against a 100-year storm event.

Provided the Sub-Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Sub-Recipient based on the percentage of overall project completion.

PROJECT CONDITIONS AND REQUIREMENTS:

C) Engineering:

- 1) The Sub-Recipient shall submit to the Division an official letter stating that the project is 100% complete and ready for the Division's Final Inspection of the project.
- 2) The Sub-Recipient shall submit a signed and sealed final copy of the completed project's As-built drawings and all necessary supporting documentation, and provide a summary of all contract scope of work changes, if any.
- 3) The Sub-Recipient shall provide a copy of the Notice of Commencement, and any local official Inspection Report and/or Final Approval, as applicable.
- 4) The Sub-Recipient shall submit a certified letter of completion from Engineer of Record. The Sub-Recipient's Engineer of Record shall provide a formal certificate or letter affirming that the project has been completed in conformance with the approved project drawings, specifications, scope, and applicable codes.
- 5) All installations shall be done in strict compliance with the Florida Building Code or any local codes and ordinances. All materials shall be certified to exceed the wind and impact standards of the current local codes.
- 6) The Sub-Recipient shall follow all applicable State, Local and Federal Laws, Regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate Federal, State, and Local permits and clearances may jeopardize federal funding.

D) Environmental:

- 1) Sub-Recipient shall follow all applicable state, local and federal laws, regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding. If project work is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies shall be redone.
- 2) Any change, addition or supplement to the approved Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, shall require re-submission of the application to FEMA through the Division for National Environmental Policy Act (NEPA) re-evaluation before starting project work.
- 3) The Sub-Recipient shall monitor ground-disturbing activities during construction, and if any potential archeological resources are discovered, shall immediately cease construction in that area and notify the Division and FEMA.

If human remains or intact archaeological deposits are uncovered, work in the vicinity of the discovery shall stop immediately and all reasonable measures to avoid or minimize harm to the finds shall be taken. The Sub-Recipient shall ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries.

The Sub-Recipient's contractor shall provide immediate notice of such discoveries to the Sub-Recipient. The Sub-Recipient shall notify the Florida Division of Historic Resources, the Division's State Environmental Liaison Officer and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA and the Division have completed consultation with SHPO, Tribes, and other consulting parties as necessary.

In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with **Florida**

Statutes, Section 872.05.

- 4) Construction vehicles and equipment used for this project shall be maintained in good working order to minimize pollutant emissions.
- 5) Best management practices shall be used during project work to minimize soil erosion, sediment migration and turbidity with special focus on work in or around wetlands and other sensitive areas, as applicable.
- 6) An Environmental Resource Permit shall be obtained prior to any construction activities. Verification of compliance and copies of all permits shall be provided at project closeout, as applicable.

E) Programmatic:

- 1) A change in the scope of work *must* be approved by the Division and FEMA in advance regardless of the budget implications.
- 2) The Sub-Recipient must notify the Division as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 3) The Sub-Recipient must "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 4) Project is approved with the condition that the enclosed list of deliverables shall be submitted, 30 days prior to the Period of Performance date, for review and approval by the Division, for submittal to FEMA for closeout.
- 5) Any extension of the Period of Performance shall be submitted to FEMA 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall be in writing and submitted, along with substantiation of the new expiration date and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.
- 6) The Sub-Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.
- 7) A copy of the executed subcontract agreement must be forwarded to the Division within 10 days of execution.
- 8) If the Sub-Recipient is not the current titleholder of the affected properties, the Sub-Recipient shall provide documentation confirming the property acquisition and easement rights were obtained voluntarily. If condemnation or eminent domain is used to obtain easement rights, FEMA shall not pay for any associated costs or payments to the property owner. Furthermore, FEMA shall not consider it an eligible contribution to the non-Federal cost share requirement and shall not financially participate in that component of a project if land or easements are obtained involuntarily.

This is FEMA project number **4283-32-R**. It is funded under HMGP, FEMA-4283-DR-FL and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster 4283.

FEMA awarded this project on April 9, 2018; this Agreement was executed on July 18, 2018, and the Period of Performance for this project shall end on **January 31, 2021**.

F) FINANCIAL CONSEQUENCES:

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

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;
- 2) Disallow all or part of the cost of the activity or action not in compliance;
- 3) Wholly or partly suspend or terminate the current award for the Sub-Recipient's program;
- 4) Withhold further awards for the program; or
- 5) Take other remedies that may be legally available.

SCHEDULE OF WORK

State and Local Contracting:	3 Months
Construction Plan/Technical Specifications:	3 Months
Bidding:	3 Months
Construction:	18 Months
State and Local Inspections:	3 Months
Closeout Compliance:	3 Months
Total Period of Performance:	33 Months

BUDGET

Line Item Budget*

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Non-Federal Share</u>
Materials:	\$208,313.00	\$156,235.00	\$52,078.00
Labor:	\$141,687.00	\$106,265.00	\$35,422.00
Fees:	\$0.00	\$0.00	\$0.00
Initial Agreement Amount:	\$350,000.00	\$262,500.00	\$87,500.00
***Contingency Funds:	\$0.00	\$0.00	\$0.00
Project Total:	\$350,000.00	\$262,500.00	\$87,500.00

**Any line item amount in this Budget may be increased or decreased 10% or less, with the Division's approval, without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

***** This project has an estimated \$0.00 in contingency funds. Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.**

Project Management costs are included for this project in the amount of \$0.00

Funding Summary

Federal Share:	\$262,500.00	(75.00%)
Non-Federal Share:	\$87,500.00	(25.00%)
Total Project Cost:	\$350,000.00	(100.00%)

Contract Number: H0075

Project Number: 4283-32-R

**MODIFICATION TO SUBGRANT AGREEMENT BETWEEN
THE DIVISION OF EMERGENCY MANAGEMENT AND
CITY OF SOUTH DAYTONA**

This Modification Number One made and entered into by and between the State of Florida, Division of Emergency Management ("the Division"), and the City of South Daytona ("the Sub-Recipient") to modify Contract Number H0075, dated July 18, 2018, ("the Agreement").

WHEREAS, the Division and the Sub-Recipient have entered into the Agreement, pursuant to which the Division has provided a subgrant to the Sub-Recipient under the Hazard Mitigation Grant Program of \$262,500.00, in Federal Funds; and

WHEREAS, the Division and the Sub-Recipient desire to modify the Agreement; and

WHEREAS, the Agreement expired on April 30, 2020; and

WHEREAS, the Division and the Sub-Recipient desire to reinstate and extend the terms of the Agreement.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

1. The Agreement is hereby reinstated and extended as though it had never expired.

2. Paragraph 8 of the Agreement is hereby amended to read as follows:

(8) PERIOD OF AGREEMENT

This Agreement shall begin July 18, 2018 and shall end January 31, 2021, unless terminated earlier in accordance with the provisions of Paragraph (17) of this Agreement.

3. The Budget and Scope of Work, Attachment A to the Agreement, are hereby modified as set forth in 1st Revision Attachment A to this Modification, a copy of which is attached hereto and incorporated herein by reference.

4. All provisions of the Agreement being modified and any attachments in conflict with this Modification shall be and are hereby changed to conform with this Modification, effective on the date of execution of this Modification by both parties.

5. All provisions not in conflict with this Modification remain in full force and effect, and are to be performed at the level specified in the Agreement.

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

IN WITNESS WHEREOF, the parties hereto have executed this Modification as of the dates set out below.

SUB-RECIPIENT: CITY OF SOUTH DAYTONA

By: _____

Name and Title: William C. Hall, Mayor

Date: _____

**STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT**

By: _____

Name and Title: Jared Moskowitz, Director

Date: _____

Attachment A
(1st Revision)
Budget and Scope of Work

STATEMENT OF PURPOSE:

The purpose of this Scope of Work is to improve drainage of Windle Lane Retention Pond in South Daytona, Volusia County, Florida, funded through the Hazard Mitigation Grant Program (HMGP) DR-4283-32-R, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Sub-Recipient, City of South Daytona, agrees to administer and complete the project per sealed engineering designs and construction plans as submitted by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall complete the work in accordance with all applicable Federal, State and Local Laws, Regulations and Codes.

PROJECT OVERVIEW:

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to improve the drainage of Windle Lane Retention Pond; bounded by Windle Lane to the west, 3rd Street to the south, Business Park located at 3100 S. Ridgewood Avenue to the north, and Opportunity Court to the east, in the southwest area of the City of South Daytona, Florida 32119. Coordinates: (29.151898, -80.997469).

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The project also includes an outfall structure designed to prevent flooding, help in a quicker recovery of street flooding and stop tail water from Reed Canal backing up into the proposed pond system. The system also removes targeted contaminants to improve water quality. All activities are part of stormwater management – conveyance improvements for flood abatement.

The Windle Lane Retention Pond – Stormwater Management project shall provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

TASKS & DELIVERABLES:

A) Tasks:

- 1) The Sub-Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the scope of work as approved by the Division and FEMA. The Sub-Recipient shall select the qualified, licensed Florida contractor in accordance with the Sub-Recipient's procurement policy as well as all federal and state laws and regulations. All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

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The Sub-Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects.

The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed.

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The project consists of the general construction and furnishing of all materials, equipment, labor and fees to minimize recurring flooding and reduce repetitive flood loss to structures and roadways.

The Sub-Recipient shall fully perform the approved project, as described in the submitted documents, in accordance with the approved scope of work, budget line item, allocation of funds and applicable terms and conditions indicated herein. The Sub-Recipient shall not deviate from the approved project terms and conditions.

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Upon completion of the work, the Sub-Recipient shall schedule and participate in a final inspection of the completed project by the local municipal or county official, or other approving official, as applicable. The official shall inspect and certify that all installation was in accordance with the manufacturer's specifications. Any deficiencies found during this final inspection shall be corrected by the Sub-Recipient prior to Sub-Recipient's submittal of the final inspection request to the Division.

Upon completion of Task 2, the Sub-Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary of all contract scope of work

and scope of work changes, if any. Additional documentation for closeout shall include:

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 - g) Ground Dewatering Activities at the construction site:
Provide documentation of coverage under FDEP “Generic Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity”; or Letter stating that “No ground dewatering activities took place at this project’s site”.
 - h) Proof of compliance with Project Conditions and Requirements contained herein.
- 3) During the course of this agreement, the Sub-Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, all project activities may not be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Sub-Recipient shall submit an Affidavit signed by the Sub-Recipient’s project personnel with each reimbursement request attesting to the completion of the work, that disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Sub-Recipient shall maintain accurate time records. The Sub-Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation, which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

Construction Expense: The Sub-Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills, invoices, and/or charges. Sub-Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

Project Management Expenses: The Sub-Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be

detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the Division in coordination with the Sub-Recipient. Quarterly reports shall be submitted by the Sub-Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Sub-Recipient shall submit to the Division requests for reimbursement of actual construction and managerial costs related to the project as identified in the project application, sealed engineering designs, and construction plans. The requests for reimbursement shall include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Sub-Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount.

The Sub-Recipient's final request for reimbursement shall include the final construction project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

B) Deliverables:

Mitigation Activities consist of drainage improvements to Windle Lane Retention Pond; in the southwest area of the City of South Daytona, Florida 32119. This includes combining two small existing wet detention stormwater ponds located on 1.6 acres of city property into one larger wet detention system that shall expand the holding capacity and help prevent flooding.

The completed Windle Lane Retention Pond – Stormwater Management project shall provide protection against a 100-year storm event.

Provided the Sub-Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Sub-Recipient based on the percentage of overall project completion.

PROJECT CONDITIONS AND REQUIREMENTS:

C) Engineering:

- 1) The Sub-Recipient shall submit to the Division an official letter stating that the project is 100% complete and ready for the Division's Final Inspection of the project.
- 2) The Sub-Recipient shall submit a signed and sealed final copy of the completed project's As-built drawings and all necessary supporting documentation, and provide a summary of all contract scope of work changes, if any.
- 3) The Sub-Recipient shall provide a copy of the Notice of Commencement, and any local official Inspection Report and/or Final Approval, as applicable.
- 4) The Sub-Recipient shall submit a certified letter of completion from Engineer of Record. The Sub-Recipient's Engineer of Record shall provide a formal certificate or letter affirming that the project has been completed in conformance with the approved project drawings, specifications, scope, and applicable codes.
- 5) All installations shall be done in strict compliance with the Florida Building Code or any local codes and ordinances. All materials shall be certified to exceed the wind and impact standards of the current local codes.
- 6) The Sub-Recipient shall follow all applicable State, Local and Federal Laws, Regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate Federal, State, and Local permits and clearances may jeopardize federal funding.

D) Environmental:

- 1) Sub-Recipient shall follow all applicable state, local and federal laws, regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding. If project work is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies shall be redone.
- 2) Any change, addition or supplement to the approved Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, shall require re-submission of the application to FEMA through the Division for National Environmental Policy Act (NEPA) re-evaluation before starting project work.
- 3) The Sub-Recipient shall monitor ground-disturbing activities during construction, and if any potential archeological resources are discovered, shall immediately cease construction in that area and notify the Division and FEMA.

If human remains or intact archaeological deposits are uncovered, work in the vicinity of the discovery shall stop immediately and all reasonable measures to avoid or minimize harm to the finds shall be taken. The Sub-Recipient shall ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries.

The Sub-Recipient's contractor shall provide immediate notice of such discoveries to the Sub-Recipient. The Sub-Recipient shall notify the Florida Division of Historic Resources, the Division's State Environmental Liaison Officer and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA and the Division have completed consultation with SHPO, Tribes, and other consulting parties as necessary.

In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with **Florida**

Statutes, Section 872.05.

- 4) Construction vehicles and equipment used for this project shall be maintained in good working order to minimize pollutant emissions.
- 5) Best management practices shall be used during project work to minimize soil erosion, sediment migration and turbidity with special focus on work in or around wetlands and other sensitive areas, as applicable.
- 6) An Environmental Resource Permit shall be obtained prior to any construction activities. Verification of compliance and copies of all permits shall be provided at project closeout, as applicable.

E) Programmatic:

- 1) A change in the scope of work *must* be approved by the Division and FEMA in advance regardless of the budget implications.
- 2) The Sub-Recipient must notify the Division as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 3) The Sub-Recipient must "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 4) Project is approved with the condition that the enclosed list of deliverables shall be submitted, 30 days prior to the Period of Performance date, for review and approval by the Division, for submittal to FEMA for closeout.
- 5) Any extension of the Period of Performance shall be submitted to FEMA 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall be in writing and submitted, along with substantiation of the new expiration date and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.
- 6) The Sub-Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.
- 7) A copy of the executed subcontract agreement must be forwarded to the Division within 10 days of execution.
- 8) If the Sub-Recipient is not the current titleholder of the affected properties, the Sub-Recipient shall provide documentation confirming the property acquisition and easement rights were obtained voluntarily. If condemnation or eminent domain is used to obtain easement rights, FEMA shall not pay for any associated costs or payments to the property owner. Furthermore, FEMA shall not consider it an eligible contribution to the non-Federal cost share requirement and shall not financially participate in that component of a project if land or easements are obtained involuntarily.

This is FEMA project number **4283-32-R**. It is funded under HMGP, FEMA-4283-DR-FL and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster 4283.

FEMA awarded this project on April 9, 2018; this Agreement was executed on July 18, 2018, and the Period of Performance for this project shall end on **January 31, 2021**.

F) FINANCIAL CONSEQUENCES:

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

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;
- 2) Disallow all or part of the cost of the activity or action not in compliance;
- 3) Wholly or partly suspend or terminate the current award for the Sub-Recipient's program;
- 4) Withhold further awards for the program; or
- 5) Take other remedies that may be legally available.

SCHEDULE OF WORK

State and Local Contracting:	3 Months
Construction Plan/Technical Specifications:	3 Months
Bidding:	3 Months
Construction:	18 Months
State and Local Inspections:	3 Months
Closeout Compliance:	3 Months
Total Period of Performance:	33 Months

BUDGET

Line Item Budget*

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Non-Federal Share</u>
Materials:	\$208,313.00	\$156,235.00	\$52,078.00
Labor:	\$141,687.00	\$106,265.00	\$35,422.00
Fees:	\$0.00	\$0.00	\$0.00
Initial Agreement Amount:	\$350,000.00	\$262,500.00	\$87,500.00
***Contingency Funds:	\$0.00	\$0.00	\$0.00
Project Total:	\$350,000.00	\$262,500.00	\$87,500.00

**Any line item amount in this Budget may be increased or decreased 10% or less, with the Division's approval, without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

***** This project has an estimated \$0.00 in contingency funds. Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.**

Project Management costs are included for this project in the amount of \$0.00

Funding Summary

Federal Share:	\$262,500.00	(75.00%)
Non-Federal Share:	\$87,500.00	(25.00%)
Total Project Cost:	\$350,000.00	(100.00%)