

## TERMS AND CONDITIONS

Applicant has applied for financial assistance from Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funding, which is a financial aid package that provides financial assistance to families and businesses impacted by the COVID-19 pandemic. Applicant acknowledges that by submitting this application for financial assistance (Application) to Leon County, Florida (Leon County), if financial assistance is awarded, Applicant has read, understands, and agrees to be bound by the following terms and conditions:

1. Eligibility and Representations. Applicant represents and warrants that Applicant understands the conditions and requirements to be eligible for CARES Act financial assistance. Applicant also represents and warrants that the information and representations in the Application and supporting documentation are true and correct. Applicant further represents and warrants that, if financial assistance is awarded, Applicant will use the CARES Act financial assistance only for the purposes as represented in the Application and in compliance with the permissible uses of such financial assistance.
2. Reliance. Applicant acknowledges that Leon County will rely on Applicant's representations and supporting documentation in determining whether to award financial assistance to Applicant. If financial assistance is awarded, Applicant further acknowledges, covenants, and agrees that the CARES Act financial assistance shall be utilized only for the purposes authorized by the CARES Act and as represented in the Application and supporting documentation and approved by Leon County.
3. Independent Contractor. Applicant acknowledges that it is acting as an independent contractor and not as an agent, officer, representative, or employee of Leon County. In no event shall any provision of financial assistance by Leon County to Applicant render Leon County liable to any person or entity that contracts with or provides goods or performs to Applicant. There is no contractual relationship, either express or implied, between Leon County or any political subdivision of the State of Florida and any person or entity supplying any work, labor, services, goods, or materials to Applicant as a result of the provision of financial assistance by Leon County to Applicant.
4. Liability and Recovery. Applicant acknowledges and agrees that Leon County may seek to recover any monies paid to Applicant in the event Applicant is later deemed to have been ineligible to receive CARES Act financial assistance, or if Leon County determines that Applicant expended CARES Act financial assistance for anything other than the purposes represented in the Application and supporting documentation and approved by Leon County in compliance with the permissible uses of such financial assistance.
5. Availability of Funds. The obligation of Leon County to award financial assistance to Applicant is subject to the availability of funds lawfully appropriated for such purposes. In the event sufficient funds to award financial assistance to Applicant become reduced or unavailable, or Applicant is determined to be ineligible for such assistance, Leon County shall notify Applicant of such occurrence, and Leon County may terminate such assistance, without penalty or expense to Leon County, upon no less than twenty-four (24) hours written notice to Applicant. Leon County shall be the final authority as to eligibility, the availability of funds, and how available funds will be allotted.

6. Indemnification. Applicant shall indemnify, hold harmless, and defend Leon County from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs and attorneys' fees (at the trial and all appellate levels), that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any act of fraud or embezzlement or breach of any provision or covenant of its Application and supporting documentation, these terms and conditions, or applicable law by Leon County or by Applicant, its agents, subcontractors, assigns, heirs, and employees resulting from or arising under the provision of financial assistance by Leon County to Applicant.
7. Equal Opportunity; Non-Discrimination. Applicant shall comply with the Leon County Human Rights Ordinance codified in Chapter 9, Article 1 of the Code of Laws of Leon County, Florida, which prohibits all forms of discrimination, including discrimination based on age, race, color, religion, national origin, ancestry, disability, marital status, familial status, sex, gender, gender identity or expression, sexual orientation, or pregnancy.
8. Compliance with Laws. Applicant shall comply with the requirements of all applicable federal, state, and local laws and the rules and regulations promulgated thereunder, including, but not limited to, Florida's Public Records Act, Chapter 119, Florida Statutes, and specifically including, but not limited to, the CARES Act.
9. Governing Laws; Venue. These terms and conditions, the Application and supporting documentation, and provision of CARES Act financial assistance by Leon County to Applicant shall be governed by the laws, rules, and regulations of the State of Florida, and venue shall be in Leon County, Florida.
10. Project Publicity. Applicant represents and agrees that it will use the Leon CARES logo in any promotional materials or activities related to the purposes for which Applicant is receiving CARES Act financial assistance from Leon County. Any such materials or activities must recognize the contribution of Leon County. Any news release or other type of publicity must identify Leon County as a funding source. In written materials, the reference to Leon County must appear in the same size letters and font type as the name of any other funding sources.
11. Records.
  - a. Maintenance of Records. Applicant acknowledges and understands its obligation to maintain records is necessary to ensure a proper accounting and monitoring of all CARES Act financial assistance awarded. Accordingly, Applicant covenants and agrees that it will maintain all records pertaining to goods and services provided as a result of, in whole or in part, the financial assistance received for the purposes stated in its Application and supporting document and as approved by Leon County, including, but not limited to, property, personnel and financial records, and any additional records required as a result of or associated with the utilization of the CARES Act financial assistance, which, among other things, shall enable ready identification of Applicant's cost of goods, if applicable, and use of such financial assistance.
  - b. Examination, Audit, Inspection, and Copying of Records. With respect to Applicant's obligations to maintain records in Section 5.a. above, such records will be made available for examination, audit, inspection or copying purposes at any time during normal business hours and as often as Leon County may require. Applicant will permit same to be examined

and excerpts or transcriptions made or duplicated from such records, and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to such matters.

## 12. Public Records.

- a. Generally. Applicant acknowledges and agrees that all information provided to Leon County, including the Application and supporting documentation, is public record and subject to disclosure under Florida's public records law subject to limited applicable exemptions. Applicant acknowledges, understands, and agrees that, except as noted below, all information in its Application and supporting documentation will be disclosed, without any notice to Applicant, if a public records request is made for such information, and Leon County will not be liable to Applicant for such disclosure.
- b. Social Security Numbers. The collection, maintenance, and reporting of social security numbers associated with the administration of CARES Act funding financial assistance is imperative for the performance of Leon County's duties and responsibilities to comply with Internal Revenue Service 1099 reporting requirements. Applicant is entitled to a copy of this statement. Except as authorized by section 119.071(5), Florida Statutes, or other applicable law, social security numbers are exempt from disclosure.
- c. Confidential and Exempt Information. If Applicant believes that information in the Application or supporting documentation contains information that is confidential and exempt from disclosure, Applicant must include a general description of the information and provide reference to the Florida statute or other law that exempts such designated information from disclosure in the event Leon County receives a public records request. The County does not warrant or guarantee that information designated by Applicant as confidential and exempt from disclosure is, in fact, confidential and exempt; if the County disagrees that the information is confidential and exempt, the County will make such disclosures in accordance with its sole determination as to the applicable law.
- d. Records Retention. Applicant shall retain all records and supporting documentation that fall within the scope of Section 5.a. above for three (3) years from the date financial assistance is issued to Applicant. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, the records must be retained until completion of the action and resolution of all issues which arise from it.

## 13. LOBBYING PROHIBITION

- a. Section 216.347, Florida Statutes, prohibits "any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency."
- b. No funds or other resources received under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

- c. 2 C.F.R. §200.450 prohibits reimbursement for costs associated with certain lobbying activities.
- d. Section 216.347, Florida Statutes, prohibits “any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.”
- e. No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.
  - i. The Subrecipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:
  - ii. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
  - iii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Subrecipient must complete and submit Standard Form-LLL, “Disclosure of Lobbying Activities.”
  - iv. The Subrecipient must require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose.
  - v. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

15. EQUAL OPPORTUNITY EMPLOYMENT

- a. In accordance with 41 C.F.R. §60-1.4(b), the Subrecipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR

Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- i. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- ii. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- iv. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be

declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- viii. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### 16. COPELAND ANTI-KICKBACK ACT

- a. The Subrecipient hereby agrees that, unless exempt under Federal law, it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, the following clause:
  - i. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
  - ii. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
  - iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

- 17. CONTRACT WORK HOURS AND SAFETY STANDARDS. If the Subrecipient , with the funds authorized by this Agreement, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles

ordinarily available on the open market, or contracts for transportation.

#### 18. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a. If the Subrecipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$150,000, then any such contract must include the following provision:
  - i. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

#### 19. SUSPENSION AND DEBARMENT

- a. If the Subrecipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following provisions:
  - i. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
  - ii. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
  - iii. This certification is a material representation of fact relied upon by the Division. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
  - iv. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### 20. BYRD ANTI-LOBBYING AMENDMENT

- a. If the Subrecipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following clause:
  - i. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes

place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Subrecipient.

21. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

- a. If the Subrecipient, with the funds authorized by this Agreement, seeks to procure goods or services, then, in accordance with 2 C.F.R. §200.321, the Subrecipient must take the following affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used whenever possible:
  - i. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
  - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i). through v. of this subparagraph.
- b. The requirement outlined in subparagraph a. above, sometimes referred to as “socioeconomic contracting,” does not impose an obligation to set aside either the solicitation or award of a contract to these types of firms. Rather, the requirement only imposes an obligation to carry out and document the six affirmative steps identified above.
- c. The “socioeconomic contracting” requirement outlines the affirmative steps that the Subrecipient must take; the requirements do not preclude the Subrecipient from undertaking additional steps to involve small and minority businesses and women’s business enterprises.
- d. The requirement to divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises, does not authorize the Subrecipient to break a single project down into smaller components in order to circumvent the micro-purchase or small purchase thresholds so as to utilize streamlined acquisition procedures (e.g. “project splitting”).