

**Amendment No. 1**  
Contract Y23-1008  
Providing Planning Council Support Services

Effective Date: March 1, 2024

By mutual consent, the subject contract is changed as follows. ADDITIONS are indicated with an underline and DELETIONS are indicated with a strikethrough.

This contract is changed as follows:

1. The contract is hereby renewed from March 1, 2024, to February 28, 2025.

All other terms, prices and conditions remain unchanged.

**HEART OF FLORIDA UNITED WAY,  
INC.**

**BOARD OF COUNTY COMMISSIONERS  
ORANGE COUNTY, FLORIDA**

**Jill Grevi**

Digitally signed by Jill Grevi  
Date: 2023.11.09 20:08:31  
-05'00'

Signature

Jill Grevi

Printed/Typed Name

CFO

Title

11/9/2023

Date



Signature

Tiffany Fulse

Printed/Typed Name

Contracting Agent, Procurement Division

Title

11/13/2023

Date

**FEDERAL SUBRECIPIENT AGREEMENT**

*between*

**Orange County, Florida and Heart of Florida United Way, Inc.**

*for a federal subaward of an amount not to exceed \$300,000*

*from a federal award issued by U.S. Department of Health and Human Services*

*for the specific purpose of*

**Providing Planning Council Support Services**

**SUBAWARD COVERSHEET**

<b>County Contract No.:</b>	Y23-1008
<b>County Department/Division:</b>	Health Services Department
<b>Subaward Budget Line:</b>	7013-060-7306-3197

**TABLE OF TERMS AND PROVISIONS**

Article 1: Notice of Federal Subaward ..... 1

Article 2: The Parties ..... 1

Article 3: Federal Award Information..... 2

Article 4: Federal Subaward Information..... 2

Article 5: Notice ..... 3

Article 6: Term of Agreement, Subaward Period of Performance, and Extensions..... 3

Article 7: Subrecipient’s Obligations and Responsibilities..... 4

Article 8: Compliance with the Uniform Administrative Requirements ..... 5

Article 9: Procurement Standards ..... 5

Article 10: Property Standards..... 7

Article 11: Budget ..... 7

Article 12: Invoices ..... 8

Article 13: Payment Terms ..... 9

Article 14: Return of Funds ..... 11

Article 15: Progress Reporting and Subaward Closeout..... 11

Article 16: Maintenance, Retention, and Access to Records..... 13

Article 17: Monitoring Requirements ..... 14

Article 18: Audit Requirements ..... 14

Article 19: Insurance ..... 15

Article 20: Indemnification, Sovereign Immunity, and Liability..... 17

Article 21: Independent Contractor, Non-Agent Subrecipient, and Third Parties ..... 18

Article 22: Confidentiality ..... 19

Article 23: Remedies for Noncompliance..... 20

Article 24: Termination..... 21

Article 25: Florida State Terms ..... 24

Article 26: Federal Contract Terms ..... 26

Article 27: General Provisions (Alphabetical)..... 35

Article 28: Attachments..... 37

Article 29: Entire Agreement ..... 38

**Article 1: Notice of Federal Subaward**

- A. **This is a Federal Subrecipient Agreement for a Federal Subaward.** *Documentation of the County's Receipt of the Federal Award* is attached as "**Attachment 1.**" The amount of the Federal Award Received by the County is: **\$11,429,611.**
- B. All references to the Code of Federal Regulations ("**CFR**") are either to 2 CFR Part 200 or, when the United States Department of Health and Human Services ("**HHS**") is the Federal Awarding Agency (as later defined), 45 CFR Part 75.
- C. This Subrecipient Agreement is a "**Standard Form Agreement.**" Any changes to this standard form may be noted separately using the *Standard Form Amendments* form attached as "**Form 1,**" which must be separately executed by the parties to this Agreement in order to be binding upon the parties.

**Article 2: The Parties**

- A. The tables in **Article 2, Paragraph B,** below detail the information for the parties to this Subrecipient Agreement ("**Agreement**"), the CFR references are as required by 2 CFR § 200.332(a)(1) (or, for HHS awards: 45 CFR § 75.352(a)(1)).
- B. This Agreement is entered into by and between the following parties:

<b>Pass-Through Name:</b>	Orange County, Florida (the " <b>County</b> ")
<b>Entity Type:</b>	Political Subdivision of the State of Florida
<b>Principal Address:</b>	201 South Rosalind Avenue Orlando, Florida 32801
<b>Awarding Official Contact:</b>	<b>Name:</b> John Goodrich <b>Email Address:</b> john.goodrich@ocfl.net

**AND**

<b>Subrecipient Name:</b>	Heart of Florida United Way, Inc. (the " <b>Subrecipient</b> ")
<b>Entity Type:</b>	Florida Not For Profit Corporation
<b>Principal Address:</b>	1940 Cannery Way Orlando, Florida 32804
<b>Unique Entity Identifier:</b>	59-0808854
<b>Subrecipient Contact Person:</b>	<b>Name:</b> Jill Grevi <b>Email Address:</b> jgrevi@hfuw.org

- C. **Unique Entity Identifier.** In accordance with 45 CFR § 75.300(b) and 2 CFR § 25.300(b), the County cannot issue this Subaward to the Subrecipient unless the Subrecipient has obtained a unique entity identifier, as required by this Article.

- D. The County and the Subrecipient may unilaterally re-designate their respective points of contact by providing written notice of such change to the other party pursuant to **Article 5 (“Notice”)** below.
- E. Both the County and the Subrecipient may be individually referred to as **“party”** or collectively referred to as **“parties”** in this Agreement.

**Article 3: Federal Award Information**

- A. The following table details the general Federal Award information, as required per 2 CFR § 200.332(a)(1) (or, for HHS awards: 45 CFR § 75.352(a)(1)):

<b>Fed Award Project Description:</b>	HIV Emergency Relief Project Grants
<b>Fed Awarding Agency:</b>	U.S. Department of Health and Human Services, Health Resources and Services Administration (the <b>“Federal Awarding Agency”</b> )
<b>FAIN:</b>	H8900030 (the <b>“Federal Award”</b> )
<b>Fed Award Date:</b>	03/29/2023
<b>CFDA No.:</b>	93.914
<b>CFDA Name:</b>	HIV Emergency Relief Project Grants

- B. Pursuant to 2 CFR § 200.332(a)(1)(xiii) (or, for HHS awards: 45 CFR § 75.352(a)(1)(xii)), this Subrecipient Agreement must state whether the Subaward (as later defined) is for Research and Development. **Is this Subaward related to Research and Development as defined in 2 CFR § 200.1 (or, for HHS awards: 45 CFR § 75.2)?**  **No.**

- C. **Budget Period.**

- 1. The **“Budget Period”** is the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the County is authorized to expend the funds award.
- 2. **Budget Period.** The Budget Period for the Federal Award is: **03/01/2023** to **02/29/2024**. If the date range provided in this provision exceeds the Budget Period provided in the Federal Award, the Federal Award’s Budget Period shall prevail.

**Article 4: Federal Subaward Information**

- A. **Subaward Amount.** This Agreement is for a federal subaward for an amount not to exceed **\$300,000** (the **“Subaward”**). This Agreement’s use of “an amount not to exceed” shall in no way be construed as entitling the Subrecipient to the maximum amount provided.
- B. **Subaward Period of Performance.**

1. The “**Subaward Period of Performance**” is the time during which the Subrecipient may incur obligations to carry out the work or services authorized under this Agreement. The Subrecipient may not invoice for any work completed, or services rendered, outside of the Subaward Period of Performance. This provision is required pursuant to 2 CFR § 200.332(a)(1)(v) (or, for HHS awards: 45 CFR § 75.352(a)(1)(v)).
2. The Subaward Period of Performance of this Agreement is: **05/01/2023 to 02/29/2024**. If the date range provided in this provision exceeds the Period of Performance provided in the Federal Award, the Federal Award’s Period of Performance shall prevail.

**Article 5: Notice**

Service of all notices under this Agreement shall be in writing and sent by certified or registered mail or courier service, postage prepaid, and addressed to the addresses set forth below until such addresses are changed by written notice. Notices sent by certified/registered mail or courier with signature receipt requested shall be deemed effective as of date of receipt.

<b>To the County:</b>	<p>Orange County Health Services Department  <b>Attn:</b> Manager          2002A East Michigan Street          Orlando, Florida 32806</p> <p><b>AND</b></p> <p>Orange County Administration, Public Safety  <b>Attn:</b> Deputy County Administrator          Administration Building, 5th Floor          201 South Rosalind Avenue          Orlando, Florida 32801</p>
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<b>To the Subrecipient:</b>	<p>Heart of Florida United Way, Inc.  <b>Attn:</b> Jill Grevi          1940 Cannery Way          Orlando, Florida 32804</p>
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**Article 6: Term of Agreement, Extensions, and Renewals**

- A. **Term of Agreement.** The term of this Agreement begins on the date that it is fully executed by both parties (the “**Effective Date**”) and shall conclude on: **02/29/2024**.

**B. Extensions.**

1. If the Federal Awarding Agency grants a County request for a no-cost extension (“**NCE**”), then the Subrecipient and the County may agree to a modification of the Term and Subaward Period of Performance, so long as such modification complies with the terms of the NCE. Such modification must be in writing and signed by authorized representatives of both parties.
2. As further described in the *Documentation of the County’s Receipt of the Federal Award* attached as “**Attachment 1**”, the Federal Award’s Project Period begins **03/01/2022** and ends **02/28/2025** (“**Project Period**”). In the event that the County receives a continuation award from the Federal Awarding Agency, the County and Subrecipient may mutually agree to extend the Term and Subaward Period of Performance of this Agreement for **one (1)** additional one-year period. Such extension must be in writing, signed by authorized representatives of both parties, and contain the terms and conditions of the extension, including, but not limited to, the terms and conditions of the continuation award.

- C. Renewals.** If the Federal Awarding Agency issues the County a new or renewed federal award authorizing the project beyond **02/28/2025**, then the County and Subrecipient may mutually agree to renew the terms of this Agreement for a maximum amount of **three (3)** additional one-year periods by entering into a written renewal amendment. Such renewal amendment must be signed by authorized representatives of both parties and must contain the terms and conditions of the renewal, including, but not limited to, the terms and conditions of the new or renewed federal award and the required information for federal subawards in a format substantially similar to the table attached to this Agreement as “**Exhibit C**”.

**Article 7: Subrecipient’s Obligations and Responsibilities**

- A.** The Subrecipient shall be responsible for meeting the objectives of this Subaward, as detailed in the *Scope of Services* attached to this Agreement as “**Exhibit A**,” in a manner that is satisfactory to the County and consistent with the standards set forth in this Agreement, the Federal Award, and any directives or guidance issued by the Federal Awarding Agency.
- B.** The Subrecipient shall ensure that the Subrecipient Contact Person identified in **Article 2, Paragraph B. (“The Parties”)** above is available to communicate and meet with the County’s staff to review activities on an “as needed” basis or as otherwise reasonably requested by the County. The County reserves the right to require that the Subrecipient change the Subrecipient Contact Person should the County believe so-doing best serves the performance or objectives of the Subaward.
- C. Authority to Practice.** The Subrecipient hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to meet its obligations under the *Scope of Services*, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County upon request, however, failure by the County to request such proof shall in no manner be construed to alleviate the Subrecipient’s obligations pursuant to this paragraph, nor shall it be construed as shifting any liability for failure to request such proof onto the County.
- D. Employees of the Subrecipient.**
1. All services or work provided pursuant to this Agreement shall be performed in a professional and skillful manner. The County may require, in writing, that the Subrecipient removes any employee, volunteer, associate, or agent of the Subrecipient that the County deems

incompetent, careless, or otherwise objectionable from performing work or services related to this Agreement. The County shall not be responsible for any costs related to such removal.

2. Pursuant to Section 448.095, Florida Statutes, the Subrecipient hereby certifies that is registered with, and uses, the E-Verify system to verify the work authorization status of all newly hired employees. The Subrecipient further certifies that it does not employ, contract with or subcontract with an unauthorized alien, and shall provide an affidavit affirming this prior to the effective date of the contract. Subrecipient further acknowledges violation of s. 448.09(1), F.S. may result in termination of this contract.

**E. Non-Discrimination.**

1. The Subrecipient shall, at no time during the provision of services funded through this Agreement, discriminate based on race, color, religion, national origin, sex, or sexual orientation.
2. The Subrecipient shall comply with any and all federal, state, and local anti-discrimination laws, rules, and regulations. For further information about the federal anti-discrimination requirements for this Agreement, see **Article 26, Paragraph D (“Federal Contract Terms”)**.

**F. Inherently Religious Activities.** If the Subrecipient engages in inherently religious activities, such as worship, religious instruction, or proselytization, then as a Subrecipient of public funds, and in connection with the public services to be funded by the Subaward, the Subrecipient must adhere to the following stipulations:

1. The Subrecipient must not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of its provision of the services funded by this Agreement;
2. Such inherently religious activities must be offered separately, in time or location, from the Subaward-funded services; and
3. Participation in such inherently religious activities must be purely voluntary for the beneficiaries of the Subaward-funded services and, therefore, the Subrecipient shall not implicitly or explicitly condition receipt of any Subaward-funded services on participation in any inherently religious activities.

**Article 8: Compliance with the Uniform Administrative Requirements**

- A. **Compliance with the Federal Uniform Administrative Requirements.** As a subrecipient of the Federal Award, the Subrecipient shall comply with all applicable provisions of the *Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* as found in 2 CFR Part 200. If the Federal Awarding Agency is HHS, the Subrecipient shall instead comply with all applicable provisions of the *Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for HHS Awards* as found in 45 CFR Part 75.
- B. The Subrecipient hereby acknowledges and understands that the specific provisions of the Federal Uniform Administrative Requirements referenced in this Agreement are referenced only for emphasis. The exclusion of a specific applicable provision of 2 CFR Part 200 (or, for HHS awards: 45 CFR Part 75) from this Agreement does not alleviate the Subrecipient from its obligation to comply with such applicable provisions.

- C. **By executing this Agreement, the Subrecipient hereby certifies that it has reviewed 2 CFR Part 200 (or, for HHS awards: 45 CFR Part 75), and any relevant Federal Awarding Agency guidance, and that it understands its obligations pursuant to such federal regulations and directives.**

#### Article 9: Procurement Standards

- A. **Procurement.** The Subrecipient must comply with 2 CFR §§ 200.317-200.327 (or, for HHS awards: 45 CFR §§ 75.326-75.335) (“**Procurement Standards**”) and must use such procedures when expending the Subaward. **Does the Subrecipient maintain written purchasing procedures in compliance with the aforementioned federal Procurement Standards?** **Yes.**

If “**Yes,**” then: By executing this Agreement, the Subrecipient hereby certifies that it maintains written purchasing procedures in compliance with 2 CFR §§ 200.317-200.327 (or, for HHS awards: 45 CFR §§ 75.326-75.335) (“**Procurement Standards**”) and will use such procedures when expending the Subaward.

If “**No,**” then: By executing this Agreement, the Subrecipient hereby certifies that it does not maintain written purchasing procedures that are in compliance with 2 CFR §§ 200.317-200.327 (or, for HHS awards: 45 CFR §§ 75.326-75.335) (“**Procurement Standards**”). As such, the Subrecipient hereby agrees to use the County’s purchasing procedures when expending the Subaward, which can be found at this link: <http://www.ocfl.net/vendorservices>.

B. **Simplified Acquisition Threshold.**

1. “**Simplified Acquisition Threshold**” means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. For the purposes of this Subaward, the Simplified Acquisition Threshold is: **\$250,000**.
2. The Simplified Acquisition provided for in this Agreement is the one that the Subrecipient must use when making its expenditures of the Subaward, as it is the County-approved Simplified Acquisition Threshold for this Agreement.

- C. **Federally Required Contract Provisions.** The Subrecipient shall insert the relevant contract provisions found in Appendix II of 2 CFR Part 200 (or, for HHS awards: Appendix II of 45 CFR Part 75) (“**Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**”) into all contracts into which it enters while expending the Subaward. The County has provided a copy of such *Federally Required Contract Provisions*, which are attached as “**Exhibit D.**”

D. **Small and Minority Business Enterprise (“MBE”), Women Business Enterprises (“WBE”), and Labor Surplus Area Firms.**

1. If the Subrecipient wishes to engage in sub-contracting or make any procurements pursuant to this Agreement, the Subrecipient will first:
  - a. Get written permission from the County’s Awarding Official Contact to enter into such a subcontract or make such procurement; and
  - b. Execute the *Small and Minority Business Enterprise (“MBE”), Women Business Enterprise (“WBE”), and Labor Surplus Area Firm Affidavit* attached as “**Form 2**” stating that the Subrecipient shall take the “Five Affirmative Steps” regarding Small



and Minority Business Enterprise, Women Business Enterprises, and Labor Surplus Area Firms as required by the Federal Government in 2 CFR § 200.321 (or, for HHS awards: 45 CFR § 75.330) in the solicitation and selection of such subcontractor(s) or procurements.

2. Engaging in sub-contracting, pursuant to this Agreement without complying with both of these requirements is strictly prohibited.
3. Procurements specifically accounted for by line item in the *Budget* attached as “**Exhibit B**” are considered “approved in writing” by the County. However, the Subrecipient shall still be required to execute the *Small and Minority Business Enterprise (MBE)*, *Women Business Enterprise (WBE)*, and *Labor Surplus Area Firm Affidavit* for such budgeted procurements.

E. **Procurement Review.** The Subrecipient shall comply with 45 CFR § 75.333 and make available, upon request of the Federal Awarding Agency or the County, technical specifications on proposed procurements where the Federal Awarding Agency or County believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

#### Article 10: Property Standards

- A. By executing this Agreement, the Subrecipient hereby certifies that it shall comply with 2 CFR §§ 200.310-200.316 (or, for HHS awards: 45 CFR §§ 75.316-75.323) (“**Property Standards**”) and will use such procedures when handling and managing property procured with the Subaward.
- B. The Subrecipient shall maintain inventory records of all supplies, equipment, real estate, and other property procured with the Subaward and may not to sell, transfer, encumber, or otherwise dispose of any such property without the written permission of the County.

#### Article 11: Budget

- A. **Approved Budget.** The County-approved *Budget* for the Subaward is attached to this Agreement as “**Exhibit B**” and shall be the basis for which the County provides payment to the Subrecipient.
- B. **Budget Amendments.**
  1. **In General.** Requests to amend the *Budget* contemplated in this Agreement:
    - a. Must be received by the County no later than forty-five (45) days prior to the expiration of this Agreement’s term;
    - b. Shall be made prior to the Subrecipient incurring any expenses that are not expressly provided for in the *Budget*; and
    - c. Shall be considered and approved at the sole discretion of the County.
  2. **Informal Budget Amendments.** The County’s Awarding Official Contact noted in **Article 2, Paragraph B (“The Parties”)**, or as later re-designated pursuant to **Paragraph C** of that same Article, may, in writing, informally approve the following types of *Budget* amendments:
    - a. **Discretionary Federal Awards.** If the Federal Award is discretionary in nature, then the Awarding Official Contact may, in writing, informally approve requested

amendments to the *Budget* that:

- (1) Do not increase the maximum Subaward amount; and
  - (2) Are deemed by the Awarding Official Contact as being consistent with the *Scope of Services* attached as “**Exhibit A.**”
- b. **Non-Discretionary Federal Awards.** If the Federal Awarding Agency approved the *Budget* contemplated in this Agreement, then the Awarding Official Contact may, in writing, informally approve amendments to the *Budget* only upon receipt of written approval of such amendments by the Federal Awarding Agency.
3. **Formal Budget Amendments.** Budget amendments that do not meet either requirement of **Article 11, Paragraph C** above may not be informally amended by the Awarding Official Contact and, instead, must be made by formal written amendment mutually executed by both parties to this Agreement.

## Article 12: Invoices

- A. **In General.** Invoices shall be delivered to the County in a form and with supporting documentation as approved and/or requested, in writing, by the Awarding Official Contact noted in **Article 2, Paragraph B (“The Parties”)**, or as later re-designated pursuant to **Paragraph C** of that same Article.
- B. **Minimum Standards for Invoices.** At minimum, all invoices submitted by the Subrecipient must:
1. Include enough detail so that the County is able to confirm that the Subrecipient has only invoiced the County for reimbursement of funding-eligible expenses that were incurred by the Subrecipient in compliance with the Federal Award and the terms of this Agreement.
  2. If the *Budget* attached as “**Exhibit B**” has line-items or funding categories, indicate which line-item or funding category under which each item is being invoiced.
  3. Pursuant to 2 CFR § 200.415(a) (or, for HHS awards: 45 CFR § 75.415) (“**Required Certifications**”), include the following federally required attestation executed by an individual that is able to legally authorized to do so by the Subrecipient:

**“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal Award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”**
  4. By executing this Agreement, the Subrecipient hereby affirms that the above are minimum standards for invoices only and are not meant to represent an exhaustive list of what the County’s Awarding Official Contact noted in **Article 2, Paragraph B (“The Parties”)**, or as later re-designated pursuant to **Paragraph C** of that same Article, may request or require in order to consider an invoice complete or to approve an invoice for payment.

- C. **Invoice Frequency and Due Dates.** Unless otherwise stated in the *Scope of Services*, which hereby supersedes the frequency and due date for invoices noted in this provision if there is a conflict between the two, invoices are due as followed:
1. **General Invoices.** The period for submission of General Invoices shall be **monthly** with such invoices due to the County by the **15th of the month subsequent to the end of the month** for which the County is being invoiced for the provision of services.
  2. **Initial Reimbursement Invoices.**
    - a. If the Subaward Period of Performance began on a date prior to the execution of this Agreement, the Subrecipient must submit an Initial Reimbursement Invoice covering all eligible expenses for the period of time beginning on the first day of the Subaward Period of Performance (for this Agreement: **05/01/2023**) and ending on the date of execution of this Agreement. This Initial Reimbursement Invoice shall be submitted no later than the date that the first General Invoice is due to the County.
    - b. This Initial Reimbursement Invoice shall not be required if the Subaward Period of Performance and date of execution of this Agreement occur in the same month. If such occurs, the first General Invoice may include all expenses made for that month.
  3. **Final Invoices.** Final Invoices shall be due to the County by the **15th of the month subsequent** to the expiration or termination of this Agreement.
- D. **Withholding or Denial of Payment on Invoices.** The County reserves the right to withhold or deny payment of any invoice if such invoice:
1. Is incomplete or fails to provide the requisite supporting documentation;
  2. Fails to be provided in a timely fashion as determined by the terms of this Agreement; or
  3. Indicates expenditures that are not compliant with this Agreement, the Federal Award, or any directives issued by the Federal Awarding Agency.

### **Article 13: Payment Terms**

- A. **Payment by Reimbursement.** This Subaward shall be paid through reimbursement for actual Subaward-eligible costs as permitted by the Federal Award and this Agreement. In order to obtain payment, the Subrecipient shall make Subaward-eligible expenditures and thereafter invoice the County for such expenditures pursuant to the invoicing terms found in **Article 12 (“Invoices”)** of this Agreement.
- B. **Local Government Prompt Payment Act.** The County shall make payments to the Subrecipient for work performed, or services provided, pursuant to this Agreement, in accordance with the Local Government Prompt Payment Act, Section 218.70 et. seq, Florida Statutes.
- C. The County is only responsible for payments to the Subrecipient for which the County is provided funding by the Federal Awarding Agency. If the Federal Awarding Agency determines that a specific cost or expense invoiced by the Subrecipient to the County is not permitted to be reimbursed under the terms and conditions of the Federal Award, the County shall not be responsible for making payment to the Subrecipient for that specific cost or expense.

- D. Should the Federal Awarding Agency withhold or deny funding to the County for any reason, the County may subsequently withhold or deny funding to the Subrecipient.
- E. The County shall not make payments for, or in any way be responsible for, payment to the Subrecipient for:
1. Any goods or services provided that do not fall within the *Scope of Services* attached as “**Exhibit A**”;
  2. Any goods or services provided by the Subrecipient that the County determines to be unsatisfactory or in violation of federal, state, or local laws, rules, or regulations;
  3. Any goods or services that fall within the *Scope of Services*, but that such payment by the County would supplant current available, or already budgeted, funding for those goods or services; or
  4. Any goods or services that fall within the attached *Scope of Services*, but that such payment can be made through a third-party program or insurance provider.
- F. The Subrecipient shall not obligate, encumber, spend, or otherwise utilize funds provided pursuant to this Agreement for any activity or purpose not included in, or in conformance with, the *Scope of Services*.
- G. The Subrecipient may not accept duplicate funding for any cost, position, service, or deliverable funded by the Federal Award. Duplicative funding is defined as more than one hundred percent (100%) payment from all funding sources for any cost, position, service, or deliverable. If duplicate funding is discovered, this Agreement may be suspended while the extent of the overpayment is determined, or may be terminated. Such suspension or termination may be initiated at the sole discretion of the County.
- H. Any costs or expenses incurred by the Subrecipient that exceed the overall Subaward amount set forth in this Agreement, or which are incurred outside of the term of this Agreement, shall be the sole responsibility of the Subrecipient.
- I. **At no point shall the County be expected to, or responsible for, using general fund dollars or any non-Federal Award monies to make payment to the Subrecipient for any costs or expenses incurred by the Subrecipient pursuant or related to this Agreement or the Federal Award.**
- J. **Funds Paid in Advance.** If the Subrecipient is provided Subaward funds in advance pursuant to this Agreement, the Subrecipient and the County must agree to and execute the *Subaward Advance Terms and Affidavit* attached to this Agreement as “**Form 3.**” Additionally, the Subrecipient hereby certifies to the County that, if it receives an advance of the Subaward:
1. It shall comply with 2 CFR 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) (“**Payment**”) and therefore shall:
    - a. Maintain written procedures that minimize the time elapsing between: (i) the transfer of funds by the County to the Subrecipient, and (ii) the Subrecipient’s disbursement of those funds for direct project costs and the proportionate share of any allowable indirect costs;

- b. Review 2 CFR 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) and maintain financial management systems that comply with the standards therein for fund control and accountability; and
  - c. Make timely payment to its contractors and vendors.
2. **Fidelity & Employee Dishonesty Insurance.** If paid in advance, the Subrecipient shall present the following proof of insurance Fidelity & Employee Dishonesty Insurance with a limit of not less than the Subaward amount awarded under this Agreement. This insurance may be waived at the discretion of the County's Risk Management Division if the Subrecipient is a "state agency or subdivision" as defined by Section 768.28(2), Florida Statutes.

#### Article 14: Return of Funds

- A. **Unauthorized Expenditures.** The Subrecipient shall reimburse the County for all unauthorized expenditures.
- B. **Payment(s) in Error.** The Subrecipient shall return to the County any payments made to the Subrecipient that were made in error or were in any manner fraudulent or inconsistent with the *Scope of Services* attached as "**Exhibit A**" or the Federal Award ("**Payment(s) in Error**").
  - 1. In the event that the Subrecipient, or any outside accountant or auditor, determines that a Payment in Error was made, the Subrecipient shall return to the County any associated funds no later than ten (10) business days from when the Subrecipient became aware of such Payment in Error.
  - 2. In the event that the County discovers a Payment in Error, the County shall notify the Subrecipient and the Subrecipient shall return any associated funds to the County no later than ten (10) business days of the Subrecipient's receipt of such notice.
- C. **Federal Disallowance(s).** If the federal government demands reimbursement from the County due to a disallowance or finding that an expense or cost that the County provided to the Subrecipient was in any way improper or not in compliance with the Federal Award, the Subrecipient shall return any associated funds to the County within a reasonable time period as mutually agreed upon by the County and the Subrecipient, or within six (6) months, whichever is the later of the two dates.
- D. **Delay or Failure to Return Funds.** Should the Subrecipient fail to reimburse the County for any Payment in Error or Federal Disallowance within the time designated, the County may respond with any number of the following actions:
  - 1. Charge an interest rate as determined by the State of Florida, Chief Financial Officer, pursuant to Chapter 55, Florida Statutes, on the amount of the overpayment or outstanding balance thereof. Interest shall accrue from the date of the Subrecipient's initial receipt of overpayment funds up to the date of reimbursement of said overpayment funds to the County;
  - 2. Withhold any or all future payments until the amount of such overpayment has been recovered by the County;
  - 3. Terminate this Agreement; or

4. Bar the Subrecipient from being considered when issuing future Federal Subawards or other County agreements.

## Article 15: Progress Reporting and Subaward Closeout

### A. Progress Reporting

1. Progress reports shall be delivered to the County on a form approved by the County's Awarding Official Contact noted in **Article 2, Paragraph B ("The Parties")**, or as later re-designated pursuant to **Paragraph C** of that same Article.
2. At minimum, such progress reports must detail the outputs, outcomes, and progress the Subrecipient has made in accomplishing the objectives of the *Scope of Services* attached as "**Exhibit A.**" The County reserves the right to reasonably and unilaterally revise such approved form and request any additional supporting documentation from the Subrecipient as it deems necessary to meet its federal reporting requirements and monitoring obligations.
3. Unless otherwise stated in the *Scope of Services*, which hereby overwrites the frequency and due date of progress reports noted in this Article if there is a conflict between the two, progress reports shall be submitted on a **quarterly** basis and **are due by the 15th of the month subsequent to the provision of services of which the Subrecipient is reporting.**
4. Failure to provide the required progress reports in accordance with this Article may necessitate the County's withholding of payment on any subsequent invoices and shall be considered cause for termination by the County pursuant to the terms of termination in this Agreement.
5. If a portion of the Subaward was advanced, failure to provide the required Progress Reports in accordance with this Article will obligate the Subrecipient to, at the County's written request, return to the County the balance of any unexpended advanced Subaward funds.

### B. Subaward Closeout.

1. The closeout of the Federal Award, or this Subaward, does not affect any of the following:
  - a. The right of the Federal Awarding Agency or the County to disallow costs and recover funds on the basis of a later audit or other review. The Federal Awarding Agency or County must make any cost disallowance determination and notify the Subrecipient within the record retention period.
  - b. The requirement for the Subrecipient to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
  - c. The ability of the Federal Awarding Agency to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments.
  - d. Audit requirements in 2 CFR Part 200, Subpart F (or, for HHS awards: 45 CFR Part 75, Subpart F).

- e. Property management and disposition requirements in §§ 200.310 through 200.316 of 2 CFR Part 200 (or, for HHS awards: 45 CFR §§ 75.316 through 75.325).
  - f. Records retention as required in §§ 200.334 through 200.338 of 2 CFR Part 200 (or, for HHS awards: 45 CFR §§ 75.361 through 75.370).
2. After closeout of the Federal Award, or this Subaward, a relationship created under the Federal Award, or this Subaward, may be modified or ended in whole or in part with the consent of the Federal Awarding Agency or the County and the Subrecipient, provided the responsibilities of the Subrecipient, including those for property management as applicable, are considered and provisions made for continuing responsibilities of the Subrecipient, as appropriate.

**Article 16: Maintenance, Retention, and Access to Records**

- A. The Subrecipient, and its subcontractors (if any) that are providing services, or otherwise performing, pursuant to this Agreement shall abide by the requirements of this Article.
- 1. The Subrecipient shall establish and utilize generally accepted accounting principles in the maintenance of all records relating to this Agreement. Such practices shall comply with the general acceptable accounting principles and shall fully and accurately reflect, track, and document the Subrecipient's financial activities.
  - 2. The Subrecipient shall establish and maintain separate accounting records for the Subrecipient's activities in meeting its obligations pursuant to this Agreement with sufficient documentation to identify the associated expenditures (e.g. detailed invoices, cancelled checks, payroll journals, bank statement reconciliations, etc.) and establish that such expenditures are allowable, necessary, and reasonable under this Agreement, the Federal Award, and any directives issued by the Federal Awarding Agency.
  - 3. The Subrecipient shall furnish the County with any and all data needed for the purpose of monitoring, evaluation, auditing, and quality assurance. This data shall include information on the services provided or work performed, and any other data that may be required by the County, in its sole discretion, to adequately evaluate the Subrecipient's performance under this Agreement.
  - 4. All records that were created, utilized, or maintained for the purpose of fulfillment of the Subrecipient's obligations pursuant to this Agreement, whether paper or electronic ("**Relevant Records**"), shall be retained by the respective record holder for a period of five (5) years after termination of this Agreement, including any extensions or renewals of this Agreement.
  - 5. In the event of litigation, claims, or audit findings, all Relevant Records shall be retained for a period of five (5) years after the resolution of any such event.
  - 6. The Subrecipient shall permit the County, the Comptroller of Orange County (the "**Comptroller**"), the Federal Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives to access, review, or reproduce any and all Relevant Records.
  - 7. If the *Scope of Services* in "**Exhibit A**" is site-specific, or construction-related, access to the stated construction or work site shall be provided to the County, the Comptroller, the Federal

Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives.

8. Additional recordkeeping and accounting standards specific to this Agreement may be included in the *Scope of Services* attached to this Agreement as “**Exhibit A**”.

- B. **The Subrecipient shall ensure that the provisions of this Article and any relevant recordkeeping and accounting standards contained in the *Scope of Services* are incorporated into any agreements into which the Subrecipient enters that are related to this Agreement and the Federal Award.**

#### **Article 17: Monitoring Requirements**

- A. **Monitoring.** The Subrecipient hereby acknowledges that the County has an obligation to monitor the Subrecipient’s programmatic and financial activities, pursuant to the requirements found in 2 CFR § 200.332 (or, for HHS awards: 45 CFR § 75.352) (“**Requirements for pass-through entities**”). By executing this Agreement, the Subrecipient hereby agrees to permit the County, the Comptroller, or the designee of either, to perform such program and financial monitoring periodically.

- B. **Letter of Findings.**

1. If during a monitoring session the County, the Comptroller, or the designee of either, discovers any defect in the Subrecipient’s performance under this Agreement (whether programmatic, financial, etc.), a “Letter of Findings” shall be provided to the Subrecipient.
2. The Subrecipient shall respond to any such Letter of Findings with a Corrective Action Plan and Implementation Schedule, as instructed by the County, the Comptroller, or the designee of either, within thirty (30) calendar days of the date of the Letter of Findings. Failure to submit a Corrective Action Plan and Implementation Schedule shall constitute a material breach of this Agreement and may result in termination of this Agreement.

#### **Article 18: Audit Requirements**

- A. **Auditing.** The Subrecipient shall comply with the federal auditing requirements found in 2 CFR 200 Subpart F (or, for HHS awards: 45 CFR Subpart F) (“**Audit Requirements**”).

- B. **Authorization to Audit.** The County, the Comptroller, the Federal Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives shall have the right to audit Subrecipient’s:

1. Disbursement of the Subaward;
2. Service or program delivery; and
3. Compliance with the terms, conditions, and obligations set forth in this Agreement and the Federal Award.

- C. **Mandatory Audit, Certification, and Audited Financial Statement.** In determining the federal award amounts expended during its fiscal year, the Subrecipient shall consider all sources of federal awards including federal resources received from the State or other agencies.



1. If the Subrecipient expends seven hundred fifty thousand dollars (\$750,000) or more in federal awards during its fiscal year, the Subrecipient must have a single audit completed and conducted in accordance with 2 CFR § 200.514 (or, for HHS awards: 45 CFR § 75.514), unless the Subrecipient elects to have a program-specific audit in accordance with 2 CFR § 200.501(c) (or, for HHS awards: 45 CFR § 75.501(c)).
2. If the Subrecipient expends less than seven hundred fifty thousand dollars (\$750,000) in federal awards during the fiscal year, the Agency agrees to:
  - a. Provide an annual certification to the County that a single audit was not required; and
  - b. Annually submit an Audited Financial Statement to the County.
3. If the Subrecipient is mandated to have an audit performed due to its expenditure of seven hundred fifty thousand dollars (\$750,000) or more in federal awards within one fiscal year, that audit shall be completed no later than one-hundred and eighty (180) calendar days after the close of the Subrecipient's fiscal year.

**D. Submission of Audits and Audited Financial Statements.**

1. The Subrecipient shall submit to the Comptroller and the County any and all auditor's report received by the Subrecipient related to its obligations under this Agreement within ten (10) business days of receipt.
2. A copy of the Single Audit Reporting Package, including the associated management letter, which was conducted in accordance with 2 CFR § 200.512 (or, for HHS awards: 45 CFR § 75.512), or the applicable Audited Financial Statements, shall be forwarded to the County pursuant to the notice provision in this Agreement, with a copy provided to the Orange County Comptroller's Office, at the following:

**Orange County Comptroller's Office  
Finance and Accounting Department  
Attn: Grants Section  
P.O. Box 38  
Orlando, Florida 32802**

- E. The Federal Audit Clearinghouse.** Audits must be submitted to the Federal Audit Clearinghouse either thirty (30) calendar days after receipt of the auditor's report, or nine (9) months after the end of the entity's fiscal year end date. Such audits shall be submitted electronically via the following website: <https://harvester.census.gov/facweb/>.
- F. Failure to comply with any requirements in this Article shall be deemed as a breach of this Agreement and may result in the withholding or denial of any requests for payment or reimbursement to the Subrecipient.**

<b>Article 19: Insurance</b>
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- A.** The Subrecipient agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Agreement the following types of insurance coverage with limits and on forms (including endorsements) as described in this Article. These requirements, as well as the County's review or acceptance of insurance maintained by the Subrecipient is not intended to, and shall not in

any manner, limit or qualify the liabilities or obligations assumed by the Subrecipient under this Agreement.

- B. The Subrecipient shall require and ensure that each of its sub-contractors/consultants providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified in this Article.
- C. The Subrecipient shall have in full force the following insurance coverage, and will provide Certificates of Insurance to the County prior to commencing operations under this Agreement to verify such coverage:

1. **All Subrecipients:**

**Commercial General Liability** – The Subrecipient shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than one million dollars (\$1,000,000) per occurrence. Subrecipient further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured. The General Aggregate limit either shall apply separately to this contract or shall be at least twice the required occurrence limit.

The Subrecipient agrees to endorse the County as an Additional Insured with a CG 20 26 Additional Insured–Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The certificate holder and additional insured shall be listed in the name of the Orange County, Florida.

2. **Subrecipients Providing Services at County Facilities:**

**Workers’ Compensation** – The Subrecipient shall maintain coverage for its employees with statutory workers’ compensation limits and no less than one hundred thousand dollars (\$100,000) each incident of bodily injury or disease for Employer’s Liability. Said coverage shall include a waiver of subrogation in favor of the County if services are being provided at County facilities. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Agency using an employee leasing arrangement shall complete the *Leased Employee Affidavit* attached as “**Form 4.**”

**Business Automobile Liability** – The Subrecipient shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of ISO form as filed for use in Florida or its equivalent, with limits of not less than five hundred thousand dollars (\$500,000) per accident. In the event the Subrecipient does not own automobiles, the Subrecipient shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

3. **Subrecipients Providing Services to Vulnerable Populations:**

**Sexual Abuse and Molestation Coverage** with limits of not less than one hundred thousand dollars (\$100,000) per occurrence shall also be included for those programs that provide services directly to Vulnerable Person(s). “Vulnerable Person(s)” are minors as defined in Section 1.01(13), Florida Statutes, or vulnerable adults as defined in Section 415.102, Florida Statutes.

4. **Subrecipients Providing Services that are of a Professional Nature:**

**Professional Liability** with a limit of not less than one million dollars (\$1,000,000) per wrongful act or claim. For policies written on a claims-made basis, the Subrecipient agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement. In the event the policy is cancelled, non-renewed, switched to occurrence form or any other event that triggers the right to purchase a Supplemental Extended Reporting Period (“**SERP**”) during the life of this Agreement the Subrecipient agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Subrecipient of the obligation to provide replacement coverage.

- D. Insurance carriers providing coverage required in this “Insurance” subsection must be authorized or eligible to conduct business in the State of Florida and must possess a current A.M. Best Financial Strength Rating of A-Class VIII.
- E. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.
- F. The Subrecipient shall provide to the County current certificates of insurance evidencing all required coverage prior to execution and commencement of any operations/services provided under this Agreement. In addition to the certificate(s) of insurance the Subrecipient shall also provide copies of any applicable endorsements as required above.
- G. For continuing service contracts, renewal certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Subrecipient has obtained insurance of the type, amount and classification as required for certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Subrecipient has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) calendar days prior written notice to the County. Certificates shall specifically reference the respective Agreement number. The certificate holder shall read:

**Orange County, Florida  
Attention: Risk Management Division  
109 E Church Street, Suite 200  
Orlando, FL 32801**

- H. **State Agencies or Subdivisions.** If the Subrecipient is a “state agency or subdivision” (as defined by Section 768.28(2), Florida Statutes):
  - 1. **Article 19, Paragraphs A-G** are not applicable. However, such paragraphs do apply to any of the Subrecipient’s subcontractors that are not agencies or political subdivisions of the State of Florida.
  - 2. Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, the Subrecipient may self-insure its liability with coverage limits of \$200,000 per person and \$300,000 per occurrence or such other limited sovereign immunity as set forth by the Florida Legislature. A statement of self-insurance shall be provided to the County’s Risk Management Division at the address in **Article 19, Paragraph G** above.

## Article 20: Indemnification, Sovereign Immunity, and Liability

- A. **Indemnification.** Each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, or negligence of the other party, its officers, officials, employees, agents, or contractors.
- B. **Sovereign Immunity.**
1. The County's above indemnification is expressly limited to the amount set forth in Section 768.28(5), Florida Statutes, as amended by the Florida State Legislature. Nothing contained in this Article, or in any part of this Agreement, shall constitute a waiver of the County's sovereign immunity provisions or protections pursuant to Section 768.28, Florida Statutes.
  2. **State Agencies or Subdivisions.** If the Subrecipient is a "state agency or subdivision" (as defined by Section 768.28(2), Florida Statutes), then **Article 20, Paragraph B.1.** above applies to the Subrecipient in the same manner in which it applies to the County.
- C. **Liability.**
1. Unless otherwise explicitly stated in this Agreement, in no event shall either party be responsible to the other for any indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goods, lost profits, lost business, or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty, or a breach of term of this Agreement.
  2. Without waiving any of the provisions or protections under this Agreement or pursuant to Florida law, under no circumstances shall the County be liable to the Subrecipient under any contract, negligence, strict liability, or other legal or equitable theory for any amounts in excess of those limits per claim and per occurrence set forth for tort liability in Section 768.28 of the Florida Statutes, which limits are hereby made applicable to all manner of claims against the County related to this Agreement and are not confined to tort liability.
- D. **State Agencies or Subdivisions.** If the Subrecipient is a "state agency or subdivision" (as defined by Section 768.28(2), Florida Statutes), then **Article 20, Paragraph C.2.** above applies to the Subrecipient in the same manner in which it applies to the County.

## Article 21: Independent Contractor, Non-Agent Subrecipient, and Third Parties

- A. **Independent Contractor.** It is understood and agreed that nothing contained in this Agreement is intended to, or should be construed as, creating or establishing the relationship of copartners between the parties, or as constituting the Subrecipient as the agent, representative, or employee of the County for any purpose or in any manner whatsoever. The Subrecipient is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement, and that any individuals hired, or performing services or work, pursuant to this Agreement shall be considered to

be the employee of the Subrecipient for all purposes, including but not limited to for any worker's compensation matters.

- B. **Non-Agent Subrecipient.** The Orange County Board of County Commissioners has not delegated to any County officer or employee the authority to appoint any agent on the County's behalf regarding the subject matter of this Agreement. Accordingly, nothing in this Agreement is intended to, and shall not be construed as to, appoint the Subrecipient as an agent of the County. Additionally, no review or approval of services, invoices, or records may be construed as the County appointing the Subrecipient as an agent of the County.
- C. **No Third-Party Claims.** Nothing in this Agreement, express or implied, is intended to, or in any manner be construed to, confer upon any person other than the parties, their respective successors and permitted assigns, or the Federal Government, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

## Article 22: Confidentiality

- A. **Confidentiality.** The parties hereby agree to maintain any confidential information transmitted by the other party over the course of this Agreement confidential to the extent that such confidentiality is lawfully permitted pursuant to Florida or Federal law. See **Article 25 ("Florida State Terms")** for more information regarding the requirements of Florida's broad public records laws.
- B. **Health Insurance Portability and Accountability Act ("HIPAA")**
  - 1. **Generally.** If the Subrecipient meets the definition of "**Covered Entity**," as defined in 45 CFR § 160.103, or a "**Hybrid Entity**," as defined in 45 CFR § 164.103, then:
    - a. Before providing any services funded, in whole or in part, through this Agreement that may cause the Subrecipient to generate Protected Health Information ("**PHI**") as defined in 45 CFR § 160.103, the Subrecipient must first obtain legally sufficient medical release authorizations from each individual receiving such services.
    - b. Such required medical release authorizations may be limited in scope; however, they must at least permit the disclosure of any PHI that is in any way related to the Subaward-funded services that individual(s) receive to both the County and the Orange County Comptroller's Office for reporting, monitoring, and auditing purposes.
    - c. The County hereby reserves the right to deny payment for any costs the Subrecipient incurs in its provision of otherwise funding-eligible services to any individual(s) for whom it does not have a valid and current medical release authorization as required by this provision.
    - d. Additionally, the Subrecipient must require any of its subcontractors for which this provision is applicable to secure such requisite medical release authorizations as well.
  - 2. **Business Associate Agreements.** Should the Subrecipient's provision of services under this Agreement require access to PHI generated by the County, then the Subrecipient must execute a Business Associate Agreement that complies with the standards found in 45 CFR § 164.504(e).

C. **Florida Information Protection Act (“FIPA”)**

1. Pursuant to Section 501.171(g)1., Florida Statutes, “**Personal Information**” means either of the following:
  - a. An individual’s first name or first initial and last name in combination with any one or more of the following data elements for that individual:
    - (1) A social security number;
    - (2) A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
    - (3) A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to an individual’s financial account;
    - (4) Any information regarding an individual’s medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
    - (5) An individual’s health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
  - b. A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
2. If, pursuant to this Agreement, the Subrecipient is maintaining, storing, or processing personal information on behalf of the County, the Subrecipient is the County’s “Third-Party Agent” under FIPA and hereby agrees to comply with all obligations for such “Third-Party Agents” as detailed in Section 501.171, Florida Statutes. These obligations include, but are not limited to:
  - a. Taking reasonable measures to protect and secure data in electronic form containing personal information; and
  - b. Providing notice to the County in the event of a breach of security of the Subrecipient’s system as expeditiously as practicable, but no later than ten (10) calendar days following the determination of the breach of security or reason to believe the breach occurred.
3. The Subrecipient shall be responsible and liable for all costs associated with any required notices, fines, or fees assessed against the County for any breach of Personal Information that is the fault of the Subrecipient.

**Article 23: Remedies for Noncompliance**

- A. **Remedies for Noncompliance.** Pursuant to 2 CFR § 200.339 (or, for HHS awards: 45 CFR § 75.371) (“**Remedies for Noncompliance**”), if the Subrecipient fails to comply with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of a Federal Award or any additional conditions that the Federal Awarding Agency or County may impose, and the Federal Awarding

Agency or County determine that such noncompliance cannot be remedied by imposing additional conditions, the Federal Awarding Agency or County may 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 Subrecipient or more severe enforcement action by the Federal Awarding Agency or County;
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate this Agreement;
4. Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal Awarding Agency regulations, which may be initiated at the recommendation of the County;
5. Withhold further Federal Awards for the project or program; or
6. Take other remedies that may be legally available.

#### **Article 24: Termination**

- A. **Termination for Convenience.** Pursuant to 2 CFR Part 200, Appendix II, Paragraph B (or, for HHS Awards: 45 CFR Part 75, Appendix II, Paragraph B), contracts made pursuant to a Federal Award must address termination for convenience by the County including the manner by which it will be effected and the basis for settlement. As such, the County may terminate this Agreement at any time for any reason by providing a written thirty (30) calendar day notice to the Subrecipient.
- B. **Termination by the Subrecipient.** Pursuant to 2 CFR § 200.340(a)(4) (or, for HHS Awards: 45 CFR § 75.372(a)(4)), the Subrecipient may terminate this Agreement upon sending the County written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, in the case of partial termination, if the County determines that the reduced or modified portion of the Subaward will not accomplish the purposes for which the Subaward was made, the County may terminate the Subaward in its entirety. Additionally, a Subrecipient's failure to complete performance on a Subaward in the manner initially agreed upon may compromise the Subrecipient's ability to receive subawards, other grants, or any other contract opportunities from the County in the future.
- C. **Termination for Cause.**
  1. **Immediate Termination.**
    - a. The County reserves the right to terminate this Agreement immediately, to be effectuated as of the Subrecipient's receipt of written notice which may be hand-delivered or transmitted by electronic mail to the Subrecipient Contact Person noted in **Article 2, Paragraph B ("The Parties")**, or as later re-designated pursuant to **Paragraph C** of that same Article. Notwithstanding the foregoing, the County, as a

courtesy, will additionally provide the Subrecipient with such notice in the manner provided in **Article 5 (“Notices”)** of this Agreement.

- b. Immediate Termination pursuant to this provision shall be permitted for any of the following reasons:
  - (1) The Federal Awarding Agency terminates the Federal Award;
  - (2) Any circumstance under which the County is no longer receiving Federal Award funds to reimburse the Subrecipient occurs;
  - (3) The amount invoiced by the Subrecipient meets or exceeds the amount of the Subaward provided for in this Agreement;
  - (4) The Subrecipient uses Subaward funds for a purpose not authorized under the terms of this Agreement;
  - (5) The Subrecipient files bankruptcy or otherwise becomes insolvent;
  - (6) The Subrecipient is determined to be ineligible to do business in the State of Florida;
  - (7) If the Subrecipient is a non-profit agency, loss of the Subrecipient’s non-profit status;
  - (8) If the County has a Business Associate Agreement with the Subrecipient, the County has terminated that Business Associate Agreement for cause; or
  - (9) As otherwise expressly provided for in this Agreement.
2. **Standard Termination for Cause.** The County may terminate this Agreement for cause upon providing a written fourteen (14) calendar day breach of contract and termination notice. Such termination for cause may be for any material breach of this Agreement, or if the County, using its sole discretion, determines that the Subrecipient is unable to perform under this Agreement.
3. **Opportunity to Cure.** Without creating an obligation to provide an opportunity to cure or accept the Subrecipient’s proposed cure if such an opportunity is provided, the County reserves the right to provide the Subrecipient the opportunity to cure any stated breach. If the County provides such opportunity to cure, the County will:
  - a. Provide the opportunity to cure as a part of the County’s breach of contract and termination notice; and
  - b. Allot an appropriate deadline by which the Subrecipient must provide its proposed cure to the County.
4. **In the Event of Wrongful Termination for Cause.** If a court of competent jurisdiction determines that this Agreement was wrongfully terminated for cause, then the Subrecipient’s damages for such termination, if any, shall be the same as if the County terminated this Agreement for convenience.



- D. **Reporting to Federal Awarding Agency.** If the County determines that termination of this Agreement was due to the Subrecipient's material failure to comply with the Subaward's terms and conditions, the County reserves the right to report the Subrecipient to the Federal Awarding Agency so that it may report the termination to the OMB-designated integrity and performance system accessible through the federal System of Award Management ("**SAM**").
- E. **In the Event of Termination.** After receipt of a notice of termination, except as otherwise directed, the Subrecipient shall take all of the following actions:
1. Pursuant to 2 CFR § 200.340(c) (or, for HHS Awards: 45 CFR § 75.372(c)) continue to remain responsible for compliance with the requirements in 2 CFR §§ 200.344 ("**Closeout**") and 200.345 ("**Post-Closeout Adjustments and Continuing Responsibilities**") (or, for HHS Awards: the requirements in 45 CFR §§ 75.381 and 75.386);
  2. Within fourteen (14) calendar days, remit to the County any advanced funds paid that have not yet been recouped by the County (if any);
  3. Stop working under this Agreement on the date of receipt of the notice of termination unless otherwise stated in such notice;
  4. Place no further orders and enter into no further agreements to the extent that either relate to the performance of the work which was terminated and direct any subcontractors to do the same;
  5. Terminate all orders and subcontracts to the extent that they relate to the performance of the work, which was terminated;
  6. Finalize all necessary reports, invoices, and other documentation required under the terms of this Agreement up to the date of termination, up to and including the final invoice due at the end of the project without reimbursement beyond that due as of the date of termination for services rendered to the termination date;
  7. Take any other actions as reasonably directed in writing by the County; and
  8. If the *Scope of Services* attached as "**Exhibit A**" includes the provision of care to individuals, take any reasonable steps to, in good faith, assist the County in transferring care of such individuals to another organization, if necessary.
- F. **Payment in Event of Termination.** If this Agreement is terminated before performance is completed, the Subrecipient shall be paid for the work or services satisfactorily performed. In the event the Agreement is terminated for cause, any funds owed to the County due to any overages paid to, or breach of contract by, the Subrecipient shall be deducted from the amount due the Subrecipient. No other damages, fees, or costs may be assessed against the County for its termination of the Agreement.
- G. **Force Majeure.**
1. The Subrecipient shall not be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by explosion, war, embargo, government requirement, civil or military authority, pandemic, act of God, or other similar causes beyond the Subrecipient's control so long as the Subrecipient's delay is not caused by

the Subrecipient's own fault or negligence. Notwithstanding the foregoing, the Subrecipient cannot claim *Force Majeure* under this provision for any emergency, exigency, or "Act of God" that is specifically contemplated within the *Scope of Services* of this Agreement, or which in any way existed at the time this Agreement was executed.

2. The above notwithstanding, in order to claim delay pursuant to this provision, the Subrecipient shall notify the County in writing within seven (7) business days after the beginning of any such cause that would affect its performance under this Agreement. Failure to notify the County in a timely manner of any claim of Force Majeure made pursuant to this provision is cause for termination of this Agreement.
3. If the Subrecipient's performance is delayed pursuant to this provision for a period exceeding seven (7) business days from the date the County receives the required Force Majeure notice, the County shall have the right to terminate this contract thereafter and shall only be liable to the Subrecipient for any work performed pursuant to this Agreement prior to the date of the County's termination.
4. No other damages, fees, or costs may be assessed against the County for its termination of this Agreement pursuant to this provision. Nothing in this provision shall prevent the County from terminating this Agreement for any purpose otherwise expressly stated in this Agreement.

## Article 25: Florida State Terms

### A. Public Records.

1. Pursuant to Section 119.0701, Florida Statutes, the Subrecipient shall:
  - a. Keep and maintain public records required by the County to perform the service.
  - b. Upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the amount set by the County.
  - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of this Agreement if the Subrecipient does not transfer the records to the County.
  - d. Upon completion, or termination, of this Agreement, transfer, at no cost, to the County all public records in possession of the Subrecipient or keep and maintain public records required by the Subrecipient to perform the service in accordance with Florida law.
  - e. If the Subrecipient transfers all public records to the County upon completion of the Agreement, the Subrecipient shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Subrecipient keeps and maintains public records upon completion of this Agreement, the Subrecipient shall meet all applicable requirements for retaining public records in accordance with applicable federal and Florida law.

- f. All records stored electronically shall be provided to the County, upon request from the County, in a format that is compatible with the information technology systems of the County.

**IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE SUBRECIPIENT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE SUBRECIPIENT SHALL CONTACT THE PROCUREMENT PUBLIC RECORDS LIAISON AT 400 EAST SOUTH STREET, 2ND FLOOR, ORLANDO, FLORIDA 32801, PROCUREMENTRECORDS@OCFL.NET, (407) 836-5897.**

- 2. **Florida Agencies.** If the Subrecipient is an “Agency” as defined by Section 119.011, Florida Statutes, then the Subrecipient shall comply with its own obligations under Chapter 119, Florida Statutes. The Subrecipient additionally agrees to cooperate in good faith with the County in the handling of public records created under this Agreement. Notwithstanding anything set forth in any provision of this Agreement to the contrary, the Subrecipient will not be required to destroy any records in its custody in violation of Chapter 119, Florida Statutes.

**B. Scrutinized Companies.**

- 1. By executing this Agreement, the Subrecipient certifies that it is eligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes.
- 2. Specifically, by executing this Agreement, the Subrecipient certifies that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel.
- 3. Additionally, if this Agreement is for an amount of one million dollars (\$1,000,000) or more, by executing this Agreement, the Subrecipient certifies that it is not:
  - a. On the “Scrutinized Companies with Activities in Sudan List” or the “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List,” created pursuant to Section 215.473, Florida Statutes; or
  - b. Engaged in business operations in Cuba or Syria.
- 4. The County reserves the right to terminate this Agreement immediately should the Subrecipient be found to:
  - a. Have falsified its certification of eligibility to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes; or
  - b. Have become ineligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes, subsequent to entering into this Agreement with the County.

5. If this Agreement is terminated by the County as provided in **Article 25, Paragraph B.4.a.** above, the County reserves the right to pursue any and all available legal remedies against the Subrecipient, including but not limited to the remedies as described in Section 287.135, Florida Statutes. If this Agreement is terminated by the County as provided in **Article 25, Paragraph B.4.b.** above, the Subrecipient shall be paid only for the funding-applicable work completed as of the date of the County's termination.
6. Unless explicitly stated in this Article, no other damages, fees, or costs may be assessed against the County for its termination of the Agreement pursuant to this Article.

## **Article 26: Federal Contract Terms**

### **Section 1: Federal Terms (For: All Contracts)**

- A. Non-Obligation by Federal Government.** The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, the Subrecipient, or any other party pertaining to any matter resulting from this Agreement.
- B. Federal Awarding Agency Seal, Logo, and Flags.** The Subrecipient shall not use the seal(s), crest(s), or reproduction of flags or likenesses of the Federal Awarding Agency without specific pre-approval therefrom.
- C. Suspension and Debarment.**
  1. The Subrecipient acknowledges and understands that the regulations at 2 CFR Part 180 ("**OMB Guidelines to Agencies on Governmentwide Debarment And Suspension**") specifically prohibit the County from entering into a "**Covered Transaction,**" as defined in 2 CFR § 180.200, with a party listed on the System for Award Management ("**SAM**") Exclusions list.
  2. By executing this Agreement, the Subrecipient hereby certifies that:
    - a. It does not appear on the SAM Exclusions list;
    - b. It shall maintain an active registration with SAM for the entire Term of this Agreement; and
    - c. It shall notify the County within five (5) business days if is added to the SAM Exclusions list, or should its status under the SAM system change in any way, during the Term of this Agreement.
  3. The Subrecipient shall comply with 2 CFR Part 180, Subpart C and shall include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
  4. The County reserves the right to institute additional restrictions and conditions to this Agreement, terminate this Agreement, and pursue any other remedy available under local, state, and federal law, should the Subrecipient:
    - a. Be found to have misrepresented its SAM system status in any manner; or
    - b. Fail to notify the County of any change in its status under the SAM system.

5. By executing this Agreement, the Subrecipient certifies that it complies with the terms of this Article and 2 CFR Part 180, Subpart C (“**Responsibilities of Participants Regarding Transactions Doing Business with Other Persons**”). This certification is a material representation of fact relied upon by the County. If it is later determined that the Subrecipient fails to comply with 2 CFR Part 180, Subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to, suspension or debarment.

**D. Federal Non-Discrimination.**

1. The Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, English proficiency, or disability.
2. The Subrecipient shall not, on the grounds of race, color, creed, national origin, sex, age, English proficiency, or disability, exclude a person from participation in, deny him/her benefits, or subject him/her to discrimination.
3. The Subrecipient shall adhere to any and all federal implementing regulations and other requirements that the Funding Agency has with respect to nondiscrimination.
4. The Subrecipient shall ensure that any and all of its subcontractors are bound to the terms of this Non-Discrimination provision.

**E. Rights to Inventions Made Under this Agreement.** If the Federal Award or this Agreement meet the definition of “**Funding Agreement**” under 37 CFR § 401.2(a), and the Subrecipient is a small business firm or nonprofit organization, then the Subrecipient hereby acknowledges and understands that the County is obligated to comply with the requirements of 37 CFR § 401 (“**Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements**”), and any implementing regulations issued by the Federal Awarding Agency.

**F. Program Fraud and False or Fraudulent Statements or Related Acts.** The Subrecipient acknowledges that 31 USC Chapter 38 (“**Administrative Remedies for False Claims and Statements**”) applies to the Subrecipient’s actions pertaining to this Agreement.

**G. Domestic Preferences for Procurements.**

1. As appropriate, and to the extent consistent with law, the Subrecipient should, to the greatest extent practicable under this Subaward, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to: iron, aluminum, steel, cement, and other manufactured products). Pursuant to federal law, this provision must be included in all subawards (including all contracts and purchase orders) for work or products under the Federal Award. The Subrecipient shall include this provision in any contracts or agreements in which the Subaward is being utilized.
2. For the purposes of this provision:
  - a. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- b. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**H. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

The Subrecipients is prohibited from obligating or expending any portion of the Subaward funds to:

- 1. Procure or obtain;
- 2. Extend or renew a contract to procure or obtain; or
- 3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

**I. Procurement of Recovered Materials.** If the Subrecipient is a state agency, a political subdivision of a state, or a contractor of a state agency or political subdivision of a state, then it must comply with the requirements of 2 CFR § 200.323 (or, for HHS awards: 45 CFR § 75.331) ("**Procurement of Recovered Materials**"). For the purposes of this provision, the Subrecipient does not meet the applicable definition of "contractor" of a state or political subdivision of a state.

**J. Reporting Criminal Violations.** In accordance with 45 CFR § 75.113, the Subrecipient must disclose, in a timely manner, in writing to the County and to the U.S. Department of Health and Human Services Office of Inspector General (DHHS/OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The County must also disclose same to the DHHS/OIG. Failure to make required disclosures can result in any of the remedies for noncompliance described in 45 CFR § 75.371, including suspension or debarment. (See also 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

**K. Statutory and National Policy Requirements.** The Subrecipient shall comply with all requirements of the Federal Award including the provisions of the Federal Funding Accountability and Transparency

Act of 2006 ("FFATA") Public Law 109-282, as amended by § 6202(a) of Public Law 110-252 (31 U.S.C. 6101), which includes requirements on executive compensation, and also requirements implementing the FFATA at 2 CFR Part 25 and 2 CFR Part 170. See also statutory requirements for whistleblower protections at 10 U.S.C. 2324 and 2409, and 41 U.S.C. 4304, 4310, and 4712.

**Section 2: Federal Terms (For: Contracts that Exceed \$100,000)**

A. **Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended).** If this Agreement exceeds one-hundred thousand dollars (\$100,000) in value, the Subrecipient shall:

1. File a *Certification Regarding Lobbying* attached to this Agreement as "**Form 5**" (if applicable);
2. Certify to the County that it shall not use, and has not used, federally 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 USC § 1352; and
3. Disclose to the County any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded to the Federal Awarding Agency.

B. **Contract Work Hours and Safety Standards Act.** If the value of this Agreement exceeds one hundred thousand dollars (\$100,000) in value and involves the employment of mechanics or laborers (not related to transportation or transmission of intelligence), then the Subrecipient must comply with 40 U.S.C. 3702 as supplemented by Department of Labor regulations (29 CFR Part 5). Specifically:

1. **Overtime requirements.** No subrecipient or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph 1 of this provision, the Subrecipient and any of its subcontractors that are responsible therefor shall be liable for the unpaid wages. In addition, the Subrecipient and its subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph 1 of this provision, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph 1 of this provision.
3. **Withholding for unpaid wages and liquidated damages.** The Federal Awarding Agency shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the Subrecipient or its subcontractor under this Agreement, or any other Federal contract with the same Subrecipient, or any other federally-assisted contract subject to the "Contract Work Hours and Safety Standards Act," which is held by the Subrecipient,

such sums as may be determined to be necessary to satisfy any liabilities of such Subrecipient or its subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 2 of this provision.

4. **Subcontracts.** The Subrecipient or its subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 4 of this provision and shall also insert a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Subrecipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs 1 through 4 of this provision.

**Section 3: Federal Terms (For: Contracts that Exceed \$150,000)**

- A. **Clean Air Act.** If this Agreement's value exceeds one hundred and fifty thousand dollars (\$150,000) in value, the Subrecipient agrees to:
  1. Comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC § 7401 et seq.;
  2. Report each violation to the County. Additionally, the Subrecipient hereby acknowledges that the County shall, in turn, report each violation as required to assure notification to the Federal Awarding Agency and the appropriate Environmental Protection Agency Regional Office; and
  3. Include these requirements in each subcontract that exceeds one hundred and fifty thousand dollars (\$150,000) financed in whole, or in part, with federal assistance provided by the Federal Awarding Agency.
- B. **Federal Water Pollution Control Act.** If this Agreement's value exceeds one hundred and fifty thousand dollars (\$150,000), the Subrecipient agrees to:
  1. Comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq.;
  2. Report each violation to the County. Additionally, the Subrecipient hereby acknowledges that the County shall, in turn, report each violation as required to assure notification to the Federal Awarding Agency and the appropriate Environmental Protection Agency Regional Office; and
  3. Include these requirements in each subcontract that exceeds one hundred and fifty thousand dollars (\$150,000) financed in whole, or in part, with federal assistance provided by the Federal Awarding Agency.

**Section 4: Federal Terms (For: Contracts that Exceed the Simplified Acquisition Threshold)**

- A. **Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014).** If this Agreement exceeds the Simplified Acquisition Threshold, the following applies:
  1. This Agreement and employees working on this Agreement shall be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 USC § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.



2. The Subrecipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 USC § 4712, as described in section 3.908 of the Federal Acquisition Regulation.
3. The Subrecipient shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the Simplified Acquisition Threshold, which for the purposes of this Agreement is: \$250,000.

**Section 5: Terms Specific to this Federal Award.**

- A. **Client Eligibility.** The Subrecipient shall establish, implement, and monitor policies and procedures to determine client eligibility based on each of the following three factors: (1) a documented diagnosis of HIV; (2) low-income; and (3) residency in the service area. Clarification of this requirement can be found in the HRSA Policy Clarification Notice 21-02. See <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-21-02-determining-eligibility-polr.pdf>.
- B. **Clinical Quality Management.** The Subrecipient shall generally contribute to the County's Clinical Quality Management ("CQM") Program, conduct CQM activities within its own organization, and work toward the implementation of a CQM program within its own organization. Clarification of this requirement can be found in the HRSA Policy Clarification Notice 15-02. See <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-02-cqm.pdf>.
- C. **Prescription Drugs.**
  1. If the Subrecipient or its subcontractors purchase prescription drugs with Subaward funds, then the Subrecipient shall secure the best prices available for such products.
  2. Subaward funds may only be spent on the purchase of prescription drugs to assist clients who have been determined not eligible for other pharmaceutical programs, especially the AIDS Drug Assistance Program and/or for drugs that are not on the State ADAP or Medicaid formulary.
  3. Subaward funds cannot pay for pre-exposure prophylaxis (PrEP) or non-occupational Post-Exposure Prophylaxis (nPEP) as the person using PrEP is not an individual living with HIV and the person using nPEP is not diagnosed with HIV prior to the exposure and therefore are not eligible for RWHAP funded medications or medical services. If authorized by the *Scope of Services*, the Subrecipient may provide some limited services under the EIS service category. (See the HIV/AIDS Bureau June 22, 2016 Program Letter available online at <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/prep-letter-06-22-2016.pdf>.)
- D. **Prohibited Uses of Subaward Funds.**
  1. The Subaward may not be used for the following: purchasing or construction of real property, international travel, payments for any item or service to the extent that payment has been made, or reasonably can be expected to be made, with respect to that item or service under any State compensation program, insurance policy, Federal or State health benefits program or by an entity that provides health services on a prepaid basis (except for a program administered by or providing the services of the Indian Health Services or the U.S. Department of Veterans Affairs; see HAB PCN 16-01 available online at

<https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/clarificationservices-veterans.pdf> for additional information regarding services provided to veterans).

2. RWHAP funds may not be used to make cash payments to intended clients of core medical or support services. This prohibition includes cash incentives and cash intended as payment for RWHAP services.
  3. In accordance with Policy Clarification Notice 16-02, grant funds may not be used for outreach programs which have HIV prevention education as their exclusive purpose. See <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf>.
  4. Funds may not be used by the Subrecipient for the purchase of vehicles without written prior approval from the County and the Division of Grants Management Operations (DGMO).
- E. **Policy Notes and Program Letters.** The Subrecipient shall follow the guidance in all applicable HIV/AIDS Bureau Policy Notices and Program Letters to ensure compliance with programmatic requirements. See <https://ryanwhite.hrsa.gov/grants/policy-notices> and <https://ryanwhite.hrsa.gov/grants/program-letters>.
- F. **Program Income.** The Subrecipient shall track, appropriately use, and report program income generated by the Subaward including sources of Service reimbursement. Any program income earned must be used to further the objectives of the RWHAP program. For additional information, see PCN #15-03 available online at <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-03-programincome.pdf>.
- G. **HHS Grants Policy Statement.** The Subrecipient agrees to comply with the policies of the HHS Grants Policy Statement to the extent that said terms are applicable to subrecipients including, but not necessarily limited to, the following policies contained in Part II of the Statement (“Terms and Conditions of HHS Grant Awards”):
1. **Acknowledgement of Federal Funding.** As required by HHS appropriations acts, all HHS recipients must acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds. Recipients are required to state (1) the percentage and dollar amounts of the total program or project costs financed with Federal funds and (2) the percentage and dollar amount of the total costs financed by nongovernmental sources.
  2. **Activities Abroad.** HHS recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
  3. **Age Discrimination Act of 1975.** The Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance. The HHS implementing regulations are codified at 45 CFR part 91.
  4. **Confidentiality of Patient/Client Records.** Section 543 of the PHS Act, 42 U.S.C. 290dd-2, requires that records of substance abuse patients be kept confidential except under specified circumstances and purposes. The covered records are those that include the identity, diagnosis, prognosis, or treatment of any patient maintained in connection with any program

or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States. This requirement is implemented in 42 CFR part 2.

5. **Controlled Substances.** The Subrecipient is prohibited from knowingly using appropriated funds to support activities that promote the legalization of any drug or other substance included in Schedule I of the schedule of controlled substances established by section 202 of the Controlled Substances Act, 21 U.S.C. 812. This limitation does not apply if the recipient notifies the GMO that there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **Education Amendments of 1972.** Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, 1682, 1683, 1685, and 1686, provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. The HHS implementing regulations are codified at 45 CFR part 86.
7. **Hatch Act.** The Hatch Act restricts political activity of executive branch employees of the federal government and District of Columbia government employees (5 U.S.C. 7321–7328) and State or local officers or employees (5 U.S.C. 1501–1528). “State or local officer or employee” means an individual employed by a State or local agency whose principal employment is in connection with an activity that is financed in whole or in part by loans or grants made by the United States or a Federal agency. (Certain State educational or research institutions are excluded from this definition.)
8. **Pro-Children Act.** If the Subrecipient is providing Services in a facility where children are served, then it shall comply with the Pro-Children Act. HHS grants are subject to these requirements only if they meet the Act’s specified coverage. The Act specifies that smoking is prohibited in any indoor facility (owned, leased, or contracted for) used for the routine or regular provision of kindergarten, elementary, or secondary education or library services to children under the age of 18. In addition, smoking is prohibited in any indoor facility or portion of a facility (owned, leased, or contracted for) used for the routine or regular provision of federally funded health care, day care, or early childhood development, including Head Start services to children under the age of 18. The statutory prohibition also applies if such facilities are constructed, operated, or maintained with Federal funds. The statute does not apply to children’s services provided in private residences, facilities funded solely by Medicare or Medicaid funds, portions of facilities used for inpatient drug or alcohol treatment, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per violation and/or the imposition of an administrative compliance order on the responsible entity. Any questions concerning the applicability of these provisions to an HHS grant should be directed to the GMO.
9. **Public Health Security and Bioterrorism Preparedness and Response Act.** The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 201 Note, is designed to provide protection against misuse of select agents and toxins, whether inadvertent or the result of terrorist acts against the U.S. homeland, or other criminal acts (see 42 U.S.C. 262a). The act was implemented, in part, through regulations published by CDC at 42 CFR part 73, Select Agents and Toxins. Copies of these regulations are available from the Import Permit Program and the Select Agent Program, respectively, CDC, 1600 Clifton Road,

MS E-79, Atlanta, GA 30333; telephone: 404-498-2255. These regulations also are available at <http://www.cdc.gov/od/ohs/biosfty/shipregs.htm>.

10. **Rehabilitation Act of 1973 (Section 504).** Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment. The HHS implementing regulations are codified at 45 CFR parts 84 and 85.
  11. **Restriction on Abortions.** Subaward funds may not be spent for an abortion.
  12. **Restriction on Distribution of Sterile Needles.** Generally, funds appropriated for HHS may not be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. However, some aspects of Syringe Services Programs are allowable with HRSA's prior approval and in compliance with HHS and HRSA policy. See <https://www.hiv.gov/federal-response/policies-issues/syringe-services-programs>.
  13. **Uniform Relocation Assistance and Real Property Acquisition Policies Act.** The HHS requirements for complying with the Uniform Relocation Act are set forth in 49 CFR part 24. Those regulations include uniform policies and procedures regarding treatment of displaced people. They encourage entities to negotiate promptly and amicably with property owners so property owners' interests are protected and litigation can be avoided.
  14. **USA PATRIOT Act.** The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) amends 18 U.S.C. 175–175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent (see "Public Health Security and Bioterrorism Preparedness and Response Act" in this subsection).
- H. **Anti-Kickback Statute.** The Subrecipient shall comply with the Medicare and Medicaid anti-kickback statute (42 USC § 1320a-7b(b)). There is a risk of criminal and administrative liability under this statute, specifically under the illegal remunerations provision codified at 42 USC § 1320-7b(b).
- I. **Trafficking Victims Protection Act of 2000.** Awards under this Agreement are subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 USC § 7104), and its implementing regulations codified in 2 CFR part 175; which includes provisions applicable to a recipient that is a private entity, provisions applicable to a recipient other than a private entity, and provisions applicable to any recipient. Additional information can be found at the following HRSA website: [https://www.ecfr.gov/cgi-bin/textidx?SID=168659567ddecc29cf79c97b0b5b04a2&mc=true&node=se2.1.175\\_115&rgn=div8](https://www.ecfr.gov/cgi-bin/textidx?SID=168659567ddecc29cf79c97b0b5b04a2&mc=true&node=se2.1.175_115&rgn=div8) or at <https://www.state.gov/j/tip/laws/>.
- J. **Consolidated Appropriations Act.** The Consolidated Appropriations Act, 2022, § 202, (P.L 117-103), enacted March 15, 2022, restricts the amount of direct salary that may be paid to an individual under a HRSA grant or cooperative agreement to a rate no greater than Executive Level II of the Federal

Executive Pay Scale. Effective January 2022, the Executive Level II salary level is \$203,700. This amount reflects an individual's base salary exclusive of fringe benefits.

- K. **Conflict of Interest.** Subrecipient shall adhere to the Federal Conflict of Interest Policy as defined in 45 CFR § 75.112, whereby potential conflicts related to a significant financial interest that could directly compromise or bias professional judgment and objectivity related to the management of federal financial assistance must be disclosed to the County and Federal Awarding Agency in writing.

#### Article 27: General Provisions (Alphabetical)

- A. **Assignments and Successors.** The parties deem the services to be rendered pursuant to this Agreement to be personal in nature. Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.
- B. **Attorneys' Fees and Costs.** Unless otherwise expressly stated in this Agreement, the parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any action or proceeding arising out of or relating to this Agreement (an "**Action**").
- C. **Conflicts.** The Subrecipient shall comply with all applicable local, state, and federal laws, regulations, executive orders, and the policies, procedures, and directives of the Federal Awarding Agency. Should there be conflict between the various applicable laws and this Agreement, the most restrictive shall govern.
- D. **Construction and Representations.** Each party acknowledges that it has had the opportunity to be represented by counsel of such party's choice with respect to this Agreement. In view of the foregoing, and notwithstanding any otherwise applicable principles of construction or interpretation, this Agreement shall be deemed to have been drafted jointly by the parties and in the event of any ambiguity, shall not be construed or interpreted against the drafting party. Neither party has relied upon any representations or statements made by the other party to this Agreement which are not specifically set forth in this Agreement.
- E. **Counterparts and Electronic Transmission of Signatures.** This Agreement may be executed in counterparts, both of which shall be deemed an original and which taken together shall constitute one agreement. Any counterpart may be delivered by any party by electronic transmission of the full Agreement as executed by that party to the other party as mutually agreed upon by the parties, and delivery shall be effective and complete upon completion of such transmission.
- F. **Governing Law.** This Agreement shall be considered as having been entered into in the State of Florida, United States of America, and shall be construed and interpreted in accordance with the laws of that state.
- G. **Headings.** The headings or captions of articles, sections, or subsections used in this Agreement, including the Table of Contents or Table of Terms and Provisions, are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

- H. **Jury Waiver.** Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right that party does or might have to a trial by jury related to any Action.
- I. **Remedies.** No remedy conferred upon any party in this Agreement is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.
- J. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant, or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.
- K. **Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform under this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.
- L. **Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.
- M. **Use of County and Subrecipient Logos.** Both parties are prohibited from use of any and all of the other party's emblems, logos, or identifiers without written permission from that party. For more information about the use of the County's logos, refer to Section 2-3, Orange County Code.
- N. **Venue.** Each of the parties hereby irrevocably submits to the jurisdiction of any federal or state court of competent jurisdiction sitting in Orange County, Florida, regarding any Action, and further agrees that any such Action shall be heard and determined in such Florida federal or state court. Each party hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any Action in Orange County, Florida.
- O. **Waiver.** No delay or failure on the part of any party to this Agreement to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.
- P. **Written Modification.**
1. No modification of this Agreement shall be binding upon any party to this Agreement unless it is reduced to writing and is signed by a duly authorized representative of each party to this Agreement.

2. Notwithstanding the above subparagraph, the parties hereby recognize that the Federal Awarding Agency may issue unilateral changes to the Federal Award that the County is permitted to unilaterally “pass-down” to the Subrecipient without formal amendment to this Agreement.
  - a. By execution of this Agreement, the parties hereby agree that the contents of the *Required Information for Federal Subawards Table* found in “**Exhibit C,**” and as located in **Article 3 (“Federal Award Information”)** and **Article 4 (“Federal Subaward Information”)** are able to be unilaterally amended by the County and that such unilateral amendment shall be binding upon the parties of this Agreement so long as they are based on the Federal Awarding Agency’s Notice of Award or a Federal Grant Adjustment Notice issued by the Federal Awarding Agency.
  - b. The County shall provide notice such unilateral amendments to the Subrecipient in a timely fashion to both by electronic mail to the Subrecipient Contact Person noted in **Article 2, Paragraph B (“The Parties”)**, or as later re-designated pursuant to **Paragraph C** of that same Article, and in compliance with **Article 5 (“Notice”)**.
3. The Subrecipient hereby agrees to work with the County in good faith to make any additional amendments to this Agreement as may be necessary pursuant to directive provided by the Federal Awarding Agency.

**Article 28: Attachments**

The documents provided for in the table below are hereby incorporated by both reference and attachment and therefore form a material part of this Agreement.

<b>Attachment Name</b>	<b>Attachment Title</b>
<b>Exhibit A</b>	Scope of Services
<b>Exhibit B</b>	Budget
<b>Exhibit C</b>	Required Information for Federal Subawards Table
<b>Exhibit D</b>	Federally Required Contract Provisions
<b>Form 1</b>	Standard Form Amendments
<b>Form 2</b>	Small and Minority Business Enterprise (“MBE”), Women Business Enterprise (“WBE”), and Labor Surplus Area Firm Affidavit
<b>Form 3</b>	Subaward Advance Terms and Affidavit
<b>Form 4</b>	Leased Employee Affidavit
<b>Form 5</b>	Certification Regarding Lobbying
<b>Appendix Coversheet</b>	Any additional attachments required by the Federal Awarding Agency or the County.
<b>Attachment 1</b>	Documentation of the County’s Receipt of the Federal Award
<b>Attachment 2</b>	Business Associate Addendum

**Article 29: Entire Agreement**

This Agreement, and any documents incorporated, referenced, or attached to this Agreement, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter of this

Agreement. In regards to such subject matter, this Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

**[ SIGNATURES ON FOLLOWING PAGES ]**



**ORANGE COUNTY, FLORIDA SIGNATURE PAGE**

The County has executed this Agreement on the date set forth below.

**ORANGE COUNTY, FLORIDA**

By: The Board of County Commissioners

By: Carrie Mathes

Carrie Mathes, Procurement Division Manager or

Zulay Millan, Procurement Division Assistant Manager

Date: 5.9.2023

**SUBRECIPIENT SIGNATURE  
ON FOLLOWING PAGE**

SUBRECIPIENT SIGNATURE PAGE

ORANGE COUNTY, FLORIDA'S SIGNATURE  
ON PREVIOUS PAGE

The Subrecipient has executed this Agreement on the date set forth below.

HEART OF FLORIDA UNITED WAY, INC.

By: *jill grevi*

Printed Name: Jill Grevi

Official Title: CFO

Date: 4/25/2023

**Exhibit A**  
**Scope of Service**

**I. Agency Responsibilities.**

**A. Administrative Responsibilities.**

- 1) The Agency shall create an annual work plan of PCS activities outlining the projects, reports, trainings, presentations, research, and/or activities required to be completed to support the Planning Council, its committees, chair, and Grantee for the fiscal year. The Agency must present the work plan to the Grantee for approval, and subsequently to the Planning Council for approval, prior to carrying out any activities listed.
- 2) Ryan White Part A Grant Application:
  - a. The Agency shall conduct research and assist with writing the Planning Council section of the grant application as directed by the recipient.
  - b. The Agency shall prepare a letter assuring Planning Council reflectiveness is in accordance with Health Resources and Services Administration (HRSA) requirements.
  - c. The Agency shall prepare a letter of funding and priority concurrence in accordance with HRSA requirements.
  - d. The Agency shall coordinate the Assessment of Administrative Mechanism (AAM).
- 3) The Agency shall prepare the Planning Council Annual Report utilizing results of clinical quality management (CQM) activities, outcomes measures, subcommittee final reports, and client satisfaction survey results for review by the Planning Council and the recipient.
- 4) The Agency shall ensure all meetings of the Planning Council, and any subcommittees thereof, comply with Florida Sunshine Law requirements as found in F.S. 286.011 as amended. Specifically, meetings of two or more members of the Planning Council where items that could foreseeably come before the Planning Council are discussed must:
  - a. Be advertised on the County’s calendar and open to the public. To ensure this requirement is met, the Agency will provide the County with the full list of regularly-scheduled meetings for the upcoming fiscal year provided to the County no later than fourteen (14) calendar days prior to the first meeting of that fiscal year. Any additional “special” meetings must be advertised on the County’s calendar no later than seven (7) calendar days prior to that meeting.

The Agency will notify the County of any changes to its regularly-scheduled meetings with enough time for the County to correct the posted advertisement no later than ten (10) days prior to the next regularly-scheduled meeting;

- b. Have a meeting agenda that is available to the public;
  - c. Have recorded minutes that are made available to the County and the public upon request.; and
  - d. Provide an opportunity for public comment.
- 5) The Agency shall respond to requests for information from the public pertaining to Planning Council business in compliance with F.S. Chapter 119 as amended. Whenever possible, response to such requests shall be made in writing within 48 hours of receipt and shall include all necessary follow-up action required to address the request in its entirety. If, for some reason, a written response is not possible, or the 48 hour response time is inadequate, the Agency must inform the County prior to the 48 hour post-request time period expiring. The Agency shall maintain a log of all such requests, actions, and responses to requests and present them to the recipient when needed. The Agency is also responsible for redacting any information that is exempt from public records requests.
- 6) The Agency shall maintain copies of all written and electronic records, including meeting notices, monthly calendars, minutes, audio recordings, attendance sheets, and all documents or reports distributed to, written by, or produced on behalf of the recipient and Planning Council. “Electronic records” includes, but is not in any way limited to, emails and/or text messages to and from the members of the Planning Council and Agency staff regarding the Planning Council.
- 7) The Agency shall ensure all Planning Council Support Employees receive the recipient’s Sunshine/ Public Records and HIPAA trainings prior to accessing any Protected Health Information (PHI) or Personal Identifiable Information (PII). The Agency shall retain and maintain proof that each Planning Council member and employee has completed the trainings and make such proof available to the County upon request.
- 8) The Agency shall submit a monthly narrative to the recipient of Planning Council activities which shall include:

- a. Current status of the PCS work plan.
  - b. Summary of each meeting including:
    - i. Whether quorum was met;
    - ii. Outline of motions made and their outcome;
    - iii. Requests for information or recipient action; and
    - iv. Issues or problems
  - c. Membership update
  - d. Updated list of Planning Council members by reflectiveness and category.
- 9) The Agency shall comply with all duties listed in the Memorandum of Understanding (MOU) between the recipient, Planning Council, and the Agency.
  - 10) The Agency shall create Planning Council Support policies and procedures which shall be approved by the Planning Council.

**B. Operational Responsibilities.**

- 1) The Agency shall provide staff, research, and technical support to the Planning Council and all of its standing and ad hoc committees.
- 2) The Agency shall facilitate a data presentation, priority settings, and resource allocation process in accordance with the Planning Council Bylaws and Planning Council Policies and Procedures.
- 3) The Agency shall facilitate Planning Council participation in the development of information for the local Comprehensive Plan.
- 4) The Agency shall facilitate Planning Council participation with needs assessments and standards of care revisions.
- 5) The Agency shall prepare formal correspondence on behalf of the Planning Council, its committees and committee chairs as requested and in accordance with Planning Council policies and procedures.

- 6) The Agency shall assist the Planning Council in recruiting and maintaining Planning Council members that meet HRSA's mandated membership categories and reflectiveness of the local epidemic.
- 7) The Agency shall provide meeting space to accommodate Planning Council meetings that is accessible by public transportation.
- 8) The Agency shall provide staff at all Planning Council meetings to assist in facilitation of the meetings.
- 9) The Agency shall be responsible for all Planning Council activities pertaining to grievance resolution in accordance with the Planning Council's Grievance Procedures. The Agency shall notify the recipient of all grievances, track all received and processed grievances, and maintain records of grievances heard by the Planning Council.
- 10) The Agency shall develop and maintain the Planning Council's website to make important information on HIV/AIDS services and programs easily accessible to the public, clients, and local service providers. The calendar of Planning Council meetings shall be posted on this website, along with the agendas for previous and upcoming meetings.
- 11) The Agency shall maintain an e-mail list of local service providers, members of the public, and Planning Council members, which will be used to distribute meeting notices and related documents.
- 12) The Agency shall analyze the impact of policy changes under consideration by the Planning Council and its committees.
- 13) The Agency shall research best practices to ensure the Planning Council bylaws, polices, and procedures are amended as needed.
- 14) The Agency shall conduct Planning Council trainings based on the approved work plan.

## **II. Grant Award.**

- A. The total Grant award amount to the Agency, under this Contract, shall not exceed **\$300,000** for the term of the Contract. The disbursement of Funds shall be subject to availability and appropriate budget authority. Should the Agency receive any

overpayment, the Agency is responsible for returning stated overpayment to the County. At no point will the County be responsible to the Agency for any general fund dollars.

- B. Until otherwise provided with written notification from the Recipient, the Agency shall be authorized to incur costs not to exceed the amount issued by the Recipient on the Delivery Order (DO). The Recipient shall notify the Agency of any increase to this dollar amount in writing in the form of a DO. In no event shall a DO authorize the reimbursement of costs exceeding the total Grant award identified in subsection A above.
- C. Any increase in the total Grant award for this Contract shall require an amendment to the Contract which shall be approved by the County in writing and executed by both parties.
- D. Requests for payment or reimbursement that exceed the authorized award amount, without an approved Delivery Order or executed amendment to this Contract, may be denied at the sole discretion of the Recipient.

### **III. Funding.**

- A. The Grant Funds received under this Contract shall be used solely for Planning Council Support services as contemplated herein.
- B. Use of Grant Funds for any provisions not set forth in this Section, may be deemed as a breach which may result in termination of this Contract.
- C. The Recipient reserves the right to deny payment for any requests for payment or reimbursement from the Agency whereby the services rendered do not comply with this Contract.
- D. Funding is limited and shall be based on availability. Funding amounts are not guaranteed and may be subject to change at the sole discretion of the Recipient.

### **IV. Categorical Line-Item Budget:**

- A. The Agency shall submit to the Recipient a categorical line-item budget for each term of the Contract, whether the payment method is line-item budget, fixed-price unit rate, or another form of payment. If the Contract amount is increased or decreased at any time during the Contract term, the Agency shall provide a revised budget within thirty (30) days of the funding change.
- B. The categorical line-item budget shall be approved by the Recipient and the Agency shall make all necessary changes recommended by the Recipient.
- C. The Agency shall use their approved condition of award budget (which shall include the categorical line-item budget) as an original budget. Any expenditure made by the Agency relating to this Contract, and the associated Grant, shall not exceed ten-percent (10%) of the total Contract amount, as applicable.
- D. The Agency shall maintain sufficient resources to meet any expenses incurred during the period of time between the provision of Services and payment by the Recipient.

**V. Recordkeeping and Accounting Standards.**

- A. The Federal requirement for receiving a grant is that organizations receiving funding have an adequate accounting system. Agencies (as sub-recipients) who receive grant funds shall demonstrate that they can adequately track, manage, and account for grant funds.
- B. The Agency's financial management system shall have the capacity to segregate direct costs.
- C. In addition, the Agency shall incorporate a timekeeping system that identifies employees' time and effort by Service, funding source for each Service category, and documentation for cost allocation.
- D. The Agency shall provide monthly postings and closing of account records.
- E. The Agency shall be responsible for maintaining an acceptable recordkeeping system which organizes and summarizes transactions in a form that provides the



basis to maintain adequate documentation to support all costs charged to the Ryan White Part A funding source.

- F. The Agency shall have a basic accounting system which identifies the total cost of the Agency's organization, and the Agency shall make full use of the Agency's financial accounting system to separate costs into cost centers.
- G. The Agency shall be mindful in the establishment of cost centers in its accounting system so as to minimize adjustments and allow many expenses to be assigned directly to the appropriate cost center.
- H. Any cost analysis system shall involve cost cooperation between the fiscal and program staff.
- I. Consultation and agreement with organization officials on the structure of general ledger accounts and the treatment of each type of cost will facilitate appropriate allocation of costs.
- J. Service categories shall be as defined by the Recipient in the Contract to allow for Service category cost identification. All activities involved in delivering the service category shall then be identified so that costs related to those activities can be captured in the service category cost center.

## **VI. Billing Requirements and Payments:**

### **A. Billing Requirements.**

#### **1) Billing for Services.**

- a. The Agency shall submit all invoices and/or requests for reimbursement/invoice to the Recipient by the tenth (10th) business day of each month. The Agency understands that any unspent funds from any given calendar year shall not be carried forward to the following year.
- b. The Agency shall not receive payment for work found by the Recipient to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, or regulation.

- c. Agency (sub-recipient) invoices shall be reviewed by the Recipient and their fiscal staff for appropriateness and thoroughness. If, after review of an invoice, an issue or concern with the sub-recipient is identified, the Recipient's staff shall be responsible for working with the Agency to resolve the issue or concern. As part of this attempt, the Recipient's staff may request clarification of any unusual, miscellaneous, excessive, or potentially unallowable charged invoiced by the Agency. If the explanation is sufficient to render a reasonable judgment on whether the cost is allowable, the Recipient's office shall contact the Agency who shall provide detailed justifications and support. In the event the Agency fails to provide such justification or clarification, the invoice amount shall be reduced and expenses disallowed.
- d. Invoices submitted to the Recipient shall contain a minimum level of information including, but not limited to, the following:
  - i. Name of Agency;
  - ii. Agency address;
  - iii. Date of invoice;
  - iv. Invoice number;
  - v. Period of performance covered by invoice;
  - vi. Description of goods and services reflected by the billings;
  - vii. Current period of costs (with sufficient detail and backup information);
  - viii. Sub-recipient contact person with respect to the invoice;
  - ix. Statement that the funds expended are reasonable, allowable, and allocable;
  - x. Statement that the costs are in compliance with the terms and conditions of the Contract; and
  - xi. A provider report or such additional information as may be requested by the Recipient.

**B. Payments.**

- 1. This is a fixed-price and cost reimbursement contract. The Grantee shall pay the Agency for all costs incurred, more specifically as described below, in accordance with the terms and conditions of this Contract for a total dollar amount not to exceed **\$300,000**.
- 2. Fixed Price

- a. Reimbursement for personnel costs, including direct and indirect costs, shall be paid in monthly payments of **\$23,000** based on the approved budget. A complete invoice for the monthly fee shall include the service period and the amount billed.
- b. At the end of the contract year, the Agency shall submit a Line Item Budget detailing actual expenses incurred for approved services.
- c. The Agency shall reimburse the County no later than thirty (30) days after the termination of this contract for any and all monies identified as over-payment or ineligible under this contract.

3. Cost Reimbursement

- a. The total amount of the contract paid on a cost reimbursement basis shall not exceed **\$24,000**.
- b. Food related expenses for approved planning Council meetings/events and local travel expenses for eligible clients attending approved Planning Council meetings/events shall be paid on cost reimbursement basis only as documented by receipts, travel vouchers and proof of payment.
- c. For local travel, the mileage rate, number of miles, reason for travel, and client(s) completing the travel shall be outlined.
- d. Upon receipt, review, and approval of the Agency's completed payment package for compliance with Contract provisions, the Grantee will authorize payment.
- e. Administrative Expenses.

- i. There shall be an administrative cost cap that shall not exceed ten percent (10%) of the contractual amount expended. Indirect costs shall be included as part of the administrative costs.
- ii. All expenses submitted under this category shall be related to the administrative costs which shall include, but not be limited to, executive, clerical and bookkeeping payroll, rent, office equipment, phone, and insurance.
- iii. The Agency shall only submit invoices for indirect costs if the Agency has developed a “Costs Allocation Plan” and has an approved rate from Federal Cognizant Agency or the non-federal entity may elect to charge “de minimis” rate of ten-percent (10%) of modified total direct costs (MTDC), which may be used indefinitely, as described in 45 CFR 75, as applicable Indirect (F&A) costs of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The only administrative costs that will be reimbursed are indirect costs. Modifications within each category of the above line-item budget of less than ten percent (10%) of any permitted line-item are permitted without prior approval by the Grantee, so long as notification of such modification(s) are submitted to the Grantee. Budget line-item shifts of ten percent (10%) or more shall require the submittal of a written request, prior review and approval by the Grantee.
- iv. Completed invoices shall include a copy of the approved annual budget, the current month requested expenditures, and copies of invoices with documentation evidencing proof of payment. All expenses shall require necessary supporting documentation and sufficient detail to verify and validate that the expenses were incurred. All requests for authorized expenses shall be submitted to the Grantee’s office and will be processed for payment only after documentation has been verified for completeness.

- v. All financial transactions and invoices will be on a reimbursement basis only as documented by receipts, travel vouchers, timesheets, etc., with proof of payment. The Grantee shall review Program expenditures to ensure that Funds are expended by the end of the Grant year to promote the efficient use of all resources and prevent the reversion of Funds to the federal government.
  - vi. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Agency shall provide such supplementary budget information in a timely fashion and in the form and content as may be prescribed by the Grantee.
  - vii. The Agency shall provide monthly invoices with complete supporting documentation for all units of Service billed.
4. The overall period for reimbursement of an approved payment package may take up to forty-five (45) days from the date of approval by the Grantee. Invoices submitted by the Agency which are determined by the Grantee to be incomplete, or those failing to include all of the required supporting documentation, shall be rejected and may result in a delay in processing or potential denial of payment.

The Grantee shall not pay more than twenty-five percent (25%) of the Contract amount per quarter, as identified in the approved budget, without permission from the Grantee's Ryan White Part A Office. If the Contract amount is decreased, the remaining quarterly allocations shall be decreased proportionately.

## **VII. Indemnification, Safety and Insurance Requirements:**

- A. **Indemnification.** To the fullest extent permitted by law, the Agency shall defend, indemnify, and hold harmless the County, as Recipient, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part

by any act or omission of the Agency or its sub-contractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. In the event the Agency is a State Department or division, or a political subdivision of the State of Florida, indemnification shall follow the provisions of Section 768.28, Florida Statutes.

**B. Protection of Persons and Property.** The Agency shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of this Contract.

1) The Agency shall take all reasonable precautions for the safety and protection of:

- 1) All employees and all persons whom the Agency suffers to be on the premises and other persons who may be affected thereby;
- 2) All property, material, and equipment on the premises under the care, custody, or control of the Agency; and
- 3) The Agency agrees that the County does not guarantee the security of any equipment or personal property brought by the Agency, its agents or employees, onto the County property and that the County shall in no way be liable for damage, destruction, theft or loss of any equipment and appurtenances regardless of the reason for such damage, destruction, theft or loss.

2) The Agency shall comply with, and shall ensure that its contractors comply with, all applicable safety laws or ordinances, rules, regulations, standards and lawful orders from authority bearing on the safety of persons or property for their protection from damage, injury or loss. This includes, but is not limited to, the follow:

- a. Occupational Safety & Health Act (OSHA)
- b. National Institute for Occupational Safety & Health (NIOSH)
- c. National Fire Protection Association (NFPA)

3) The Agency must also comply with the guidelines set forth in the Orange County Safety and Health Manual. The manual can be accessed by use of

the following link:

<http://www.orangecountyfl.net/VendorServices/OrangeCountySafetyandHealthManual.aspx>

- 4) In any emergency affecting the safety of persons or property, the Agency will act with reasonable care and discretion to prevent any threatened damage, injury or loss.

**Exhibit B  
Budget**

**Subaward Period of Performance 05/01/2023 to 02/28/2024**

This is a Flat-Fee, Fixed-Price (unit rate) and cost reimbursement Agreement. The County shall pay the Subrecipient for delivery of services provided in accordance with the terms of this Agreement including the Scope of Services and the Budget.

**Flat-Fee FOR PERSONNEL Categorial Line-Item Budget**

<b><u>Direct Cost</u></b>	\$23,000 per month
<b><u># of Months</u></b>	12
<b><u>Total</u></b>	<b>\$276,000</b>

**COST REIMBURSEMENT FOR FOOD AND TRANSPORTATION**

<b><u>Total</u></b>	<b>\$24,000</b>
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**Exhibit C**  
**Required Information for Federal Subawards Table**

**ALL “CFR” REFERENCES IN THE TABLE BELOW ARE TO EITHER 2 CFR § 200.332(a)(1) OR, WHEN HHS IS THE FEDERAL AWARDING AGENCY, 45 CFR § 75.352(a)(1):**

Federal Requirements	Subaward-Specific Information	
Subrecipient Name (registered name in SAM.gov)	Heart of Florida United Way, Inc.	
Subrecipient's Unique Entity Identifier	59-0808854	
Federal Award Identification Number (FAIN)	H8900030	
Federal Award Date:	01/17/2023	
Subaward Period of Performance Start and End Date	<b>Start:</b> 05/01/2023	<b>End:</b> 02/29/2024
Federal Award Budget Period Start and End Date	<b>Start:</b> 03/01/2023	<b>End:</b> 02/29/2024
Amount of Federal Funds obligated by this action by the Pass-Through Entity to the Subrecipient	\$300,000	
Total Amount of Federal Funds Obligated to the Subrecipient by the Pass-Through Entity including the current financial obligation	\$643,731.57	
Total Amount of the Federal Award committed to the Subrecipient by the Pass-Through Entity	\$300,000	
Federal Award Project Description	HIV Emergency Relief Project Grants	
Name of Federal Awarding Agency	U.S. Department of Health and Human Services, Health Resources and Services Administration	
Name of Pass-Through Entity	Orange County, Florida	
Pass-Through Entity's Awarding Official Contact Information	<b>Name:</b> John Goodrich <b>Email:</b> John.Goodrich@ocfl.net	
Assistance Listings Number and Name	93.914 – HIV Emergency Relief Project Grants	
Is the Subaward R&D related?	No	
Is there an indirect cost rate for the Subaward?	Yes, see the terms of the Agreement and attached exhibits and forms.	
Requirements of the Federal Award imposed on the Subrecipient?	Yes, see the terms of the Agreement and attached exhibits and forms.	
Are there any additional requirements imposed on Subrecipient in order for the Pass-Through Entity to meet its own reporting responsibilities to the Federal Awarding Agency?	Yes, see the terms of the Agreement and attached exhibits and forms.	
Is there a requirement that the Subrecipient must permit the Pass-Through Entity and auditors to have access to the Subrecipient's records and financial statements?	Yes, see: <b>Article 16 (“Maintenance, Retention, and Access to Records”)</b> and <b>Article 18 (“Audit Requirements”)</b> .	
Are there appropriate terms and conditions concerning closeout of the Subaward?	Yes, see: <b>Article 15 (“Progress Reporting and Subaward Closeout”)</b>	

**Exhibit D**  
**Federally Required Contract Provisions**

**Appendix II to Part 200 –  
Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal Awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal Awarding agency.
- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers 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 or transmission of intelligence.

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal Award to agree 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). Violations must be reported to the Federal Awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal Award.
- (J) See § 75.331.

**Form 1  
Standard Form Amendments**

Please select one of the choices below.

- There are **no amendments or additional provisions** to the Standard Form Agreement found in this Agreement. Continue to "Form 2."
- There **are amendments and/or additional provisions** to the Standard Form Agreement found in this Agreement. They are as followed:

Amendments		
Article	Paragraph	Amendment

Additional Provisions

Pursuant to **Article 1, Paragraph C**, of this Agreement, the parties have agreed to the above-provided amendments to the Standard Form Agreement. Such amendments shall be held as binding upon the parties with the remainder of the Agreement remaining in full force and effect.

*Carrie Mathes*  
**Signature**  
 Carrie Mathes  
**Printed Name**  
 Procurement Manager  
**Official Title**  
 Orange County, Florida  
**County Name**  
 5.9.2023  
**Date**

*Jill Grevi*  
**Signature**  
 Jill Grevi  
**Printed Name**  
 CFO  
**Official Title**  
 Heart of Florida United Way, Inc.  
**Subrecipient Name**  
 4/25/2023  
**Date**

**Form 2**  
**Small and Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Labor Surplus Area Firm Affidavit**

Please select one of the choices below.

- The Subrecipient **will not be subcontracting or making any procurements** pursuant to this Agreement and understands that should that change during the course of the Subrecipient's performance under this Agreement, that it must receive written permission from the County Awarding Official and complete the affidavit below. Continue to "Form 3."
- The Subrecipient **will be subcontracting, making procurements, or both**, pursuant to this Agreement and therefore the Subrecipient hereby executes the following affidavit:

**AFFIDAVIT OF COMPLIANCE WITH  
2 CFR § 200.321 (or, for HHS awards: 45 CFR § 75.330)**

The undersigned hereby certifies on behalf of the Subrecipient, that:

- A. When selecting subcontractors and making procurements with the Subaward, the Subrecipient shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus firms are used whenever possible while expending the Subaward.
- B. Pursuant to 2 CFR § 200.321 (or, for HHS awards: 45 CFR § 75.330), such affirmative steps must include:
1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  3. 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;
  4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
  5. 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.
- C. The Subrecipient understands that it must pass this obligation down to its subcontractors (if any).

**Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in this affidavit.**

*Jill Grevi*  
Signature of Subrecipient Representative

Jill Grevi  
Printed Name

CFO  
Official Title

4/25/2023  
Date

**Form 3**  
**Subaward Advance Terms and Affidavit**

Please select one of the choices below.

- The Subrecipient **will not be receiving funds in advance** pursuant to this Subrecipient Agreement. Continue to **“Form 4.”**
  
- The Subrecipient **will be receiving an advance** of the Subaward pursuant to this Subrecipient Agreement and, therefore, the therefore hereby executes the following affidavit agreeing to the terms of such advance:

**Part 1: Subaward Advance Terms**

1. 2 CFR 200.305(b) (or, for HHS awards: 45 CFR 75.305(b)) (**“Payment”**) permits the County to issue advance payments of the Subaward to the Subrecipient as long as such advanced payments are: (1) limited to the minimum amounts needed; and (2) timed to be in accordance with the actual, immediate cash requirements of the Subrecipient in carrying out the Scope of Services.
  
2. As such, the following **“Subaward Advance Budget”** was prepared:

3. Based upon the foregoing, the County shall issue an advance of \$\_\_\_\_\_ at the beginning of the Agreement’s term, or when such advance is agreed upon by the parties in writing. **All advanced Subaward funds must be spent no later than thirty (30) calendar days from the Subrecipient’s receipt of the advance.**
  
4. **Subaward Advance Reconciliation.**
  - A. The Subrecipient shall provide the County with a *Subaward Advance Reconciliation Report* with all documentation necessary (paid invoices, receipts, etc.) showing that the advance was appropriately spent no later than forty-five (45) calendar days after the Subrecipient receives the advance of the Subaward.
  
  - B. Such *Subaward Advance Reconciliation Report* must be: (a) executed by the Subrecipient’s authorized representative; and (b) include the federal attestation language outlined in **Article 12, Paragraph B.3. (“Invoices”)**.
  
  - C. If the Subrecipient failed to expend all of the advanced Subaward funds within the thirty (30) days provided, the balance of unspent funds shall be deducted from subsequent invoices received by the County until it is fully exhausted. Any such advanced funds remaining at the end of the Agreement’s term must be returned to the County.

**Form 3**  
**Subaward Advance Terms and Affidavit (Continued)**

- D. The County reserves its right to suspend any further payments to the Subrecipient until it receives a sufficient *Subaward Advance Reconciliation Report* from the Subrecipient. Nothing in this **Form 3** should be construed as limiting the County from pursuing any additional remedies contemplated in the Agreement or at law.
5. The Subrecipient shall comply with all terms found in the Agreement regarding advances, including but not limited to, those found in **Article 13** (“**Payment Terms**”) and shall provide evidence to the County that it has obtained the Fidelity & Employee Dishonesty Insurance as contemplated therein.

**Part 2: Subaward Advance Affidavit**

The undersigned hereby certifies on behalf of the Subrecipient, that:

1. The Subrecipient understands and will comply with the *Subaward Advance Terms* provided in **Part 1** above.
2. The *Subaward Advance Budget* provided for in **Part 1** above is a true and accurate representation of the Subrecipient’s actual, immediate cash requirements for carrying out the *Scope of Services*.
3. The Subrecipient shall comply with 2 CFR § 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) and therefore shall maintain written procedures that minimize the time elapsing between: (1) the transfer of funds by the County to the Subrecipient, and (2) the Subrecipient’s disbursement of such funds for direct project costs and the proportionate share of any allowable indirect costs.
4. The Subrecipient has reviewed 2 CFR § 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) and maintains financial management systems that comply with the standards therein for fund control and accountability.
5. The Subrecipient shall make timely payment to its contractors, vendors, and any agencies providing services to the Subrecipient pursuant to the Agreement.
6. Should the Subrecipient be found to have mismanaged the Subaward advanced by the County, the County may consider such mismanagement cause for termination of the Agreement.

**Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in this affidavit.**

*Jill Grevi*  
Signature of Subrecipient Representative

Jill Grevi  
Printed Name

CFO  
Official Title

4/25/2023  
Date

**Form 4  
Leased Employee Affidavit**

Please select one of the choices below.

- None** of the services in the *Scope of Services* will be provided on County property. Continue to “**Form 5.**”
- All or a portion** of the services in the *Scope of Services* will be provided on County property. If selected, select an option below:
  - The Subrecipient **will not be using an employee leasing arrangement** and therefore is not obligated to complete the below Leased Employee Affidavit pursuant to **Article 19** of this Agreement. Continue to “**Form 5.**”
  - The Subrecipient **will be using an employee leasing arrangement** and therefore hereby executes the following affidavit:

**LEASED EMPLOYEE AFFIDAVIT**

The undersigned hereby certifies on behalf of the Subrecipient, that:

- A. The Subrecipient hereby certifies that it has workers’ compensation coverage for all of my workers through the employee leasing arrangement specified below:

**Name of Employee Leasing Company:** TriNet  
**Workers’ Compensation Carrier:** Indemnity Insurance Co. of North America  
**A.M. Best Rating of Carrier:** A++  
**Inception Date of Leasing Arrangement:** 9/9/2019

- B. The Subrecipient understands that its contract with the employee leasing company limits its workers’ compensation coverage to enrolled worksite employees only and that the Subrecipient’s leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure. Accordingly, the Subrecipient affirms that 100% of its workers are covered as worksite employees with the employee leasing company.
- C. The Subrecipient further certifies that it does not hire any casual or uninsured labor outside the employee leasing arrangement and hereby agrees to notify the County in the event that it has any workers not covered by the employee leasing workers’ compensation policy. In the event that the Subrecipient has any workers not subject to the employee leasing arrangement, the Subrecipient hereby agrees to obtain a separate workers’ compensation policy to cover such workers. The Subrecipient further agrees to provide the County with a certificate of insurance providing proof of workers’ compensation coverage prior to such workers entering the County’s worksite or performing any obligation pursuant to this Agreement.
- D. The Subrecipient hereby agrees to notify the County if its employee leasing arrangement terminates with the employee leasing company and it understands that it is required to furnish proof of replacement workers’ compensation coverage prior to the termination of the employee leasing arrangement and further agrees to notify the County in the event that it switches employee-leasing companies.
- E. The Subrecipient hereby acknowledges that it has an obligation to supply an updated workers’ compensation certificate to the County that documents the change of carrier.

**Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in this affidavit.**

*Jill Grevi*  
Signature of Subrecipient Representative  
Jill Grevi  
Printed Name

CFO  
Official Title  
4/25/2023  
Date



**Form 5**  
**Certification Regarding Lobbying**

Please select one of the choices below.

- The Subaward does not exceed one hundred thousand dollars (\$100,000). Continue to the “**Appendix.**”
- The Subaward does exceed one hundred thousand dollars (\$100,000) and therefore, the Subrecipient hereby executes the following *Certification Regarding Lobbying* as required by 31 USC § 1352:

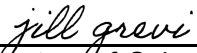
**Part 1: Certification for Contracts, Grants, Loans, and Cooperative Agreements.** The undersigned certifies on behalf of the Subrecipient that:

- A. No Federal appropriated funds have been paid or shall be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of an 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.
- B. If any funds other than Federal appropriated funds have been paid or shall 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 shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- C. The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- D. 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.

**Part 2: Statement for Loan Guarantees and Loan Insurance.** The undersigned certifies on behalf of the Subrecipient that:

- A. If any funds have been paid or shall 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 commitment providing for the United States to insure or guarantee a loan, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- B. Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in both Part 1 and Part 2 this certification.**

  
\_\_\_\_\_  
Signature of Subrecipient Representative  
Jill Grevi  
\_\_\_\_\_  
Printed Name

CFO  
\_\_\_\_\_  
Official Title  
4/25/2023  
\_\_\_\_\_  
Date

**Appendix Coversheet**

**Please select one of the choices below.**

- There is no Appendix to this Agreement.
- There is an Appendix to this Agreement which can be found attached to this **“Appendix Coversheet.”**  
It is as followed:

<b>Appendix No.</b>	<b>Document Title</b>
<b>Attachment No. 1</b>	Documentation of the County’s Receipt of the Federal Award
<b>Attachment No. 2</b>	Business Associate Addendum

**Attachment 1**  
**Documentation of the County's Receipt of the Federal Award**

Please see the following pages marked "Attachment 1" for the Documentation of  
the County's Receipt of the Federal Award.

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**BUSINESS ASSOCIATE ADDENDUM TO CONTRACT NO. Y23-1008**

*between*

**ORANGE COUNTY, FLORIDA**

*and*

**HEART OF FLORIDA UNITED WAY, INC.**

*related to*

**PROVISION OF ADEQUATE ASSURANCES OF COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (“HIPAA”) PRIVACY, BREACH, AND SECURITY RULES, THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC HEALTH ACT (“HITECH”) BREACH NOTIFICATION RULES, AND THE FLORIDA INFORMATION PROTECTION ACT OF 2014 (“FIPA”)**

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**THIS ADDENDUM** (“Addendum”) is by and between **ORANGE COUNTY, FLORIDA** (the “County”), a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its Health Services Department, and **HEART OF FLORIDA UNITED WAY, INC.** (the “Business Associate”), a not-for-profit corporation organized under the laws of the State of Florida and located at 1940 Cannery Way Orlando, Florida 32804. The County and the Business Associate may be referred to herein individually as “party”, or collectively as “parties”.

**RECITALS**

**WHEREAS**, the County is a “Hybrid Entity” under the HIPAA Privacy and Security rules, 45 CFR §164.105; and

**WHEREAS**, pursuant to 45 CFR §164.105(a)(2)(iii)(D), the County, as a Hybrid Entity, documented that its Health Services Department is one of the County’s “Covered Healthcare Component(s)” and, as such, when the County is acting through one of its Covered Healthcare Component(s), it is treated as a though it is a “Covered Entity”; and

**WHEREAS**, the County, on behalf of its Covered Healthcare Component, and the Business Associate entered into Contract No. Y23-1008 (the “Agreement”) regarding the Business Associate’s provision of services to the County (the “Services”); and

**WHEREAS**, in providing the Services, the Business Associate shall be provided certain Protected Health Information (“PHI”) and/or Personally Identifiable Information (“PII”) by the County that is subject to protection under the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended; and

**WHEREAS**, the HIPAA Privacy and Security rules require that a Covered Entity – as well as a Hybrid Covered Entity when it is acting through one of its Covered Healthcare Components – receives adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received and/or generated in the course of providing Services to, or on behalf of, that Covered Entity or Hybrid Covered Entity; and

**WHEREAS**, the purpose of this Addendum is to have the Business Associate provide adequate assurances that the Services provided by the Business Associate pursuant to the Agreement shall be provided in compliance with the requirements of the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended; and

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, agreements, and obligations herein stated, the parties agree as follows:

**Section 1.    Incorporation.**

A.    **Recitals Incorporated.** The above recitals are true and correct and are hereby incorporated as a material part of this Addendum.

B.    The HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended, are hereby incorporated into this Addendum.

C.    To the extent that this Addendum, or the Agreement, imposes more stringent requirements than those contained in the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended, the most stringent requirements shall control.

**Section 2.    Definitions.**

A.    Terms that are used herein, but not otherwise defined, shall have the same meaning as those terms in the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended

1.    ***Breach*** shall have the meaning given to such term as found in 45 CFR §164.402, regarding the HIPAA Privacy and Security and HITECH Act Breach Notification rules, and §501.171, Florida Statutes, regarding FIPA.
2.    ***Designated Record Set*** shall mean a group of records maintained by or for a covered entity that is: (a) the medical records and billing records about individuals

maintained by or for a covered health care provider; (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used, in whole or in part, by or for the covered entity to make decisions about individuals. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.

3. **Disclosure** shall mean the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
4. **Individual** shall mean the person who is the subject of PHI, and shall include a person who qualifies as a personal representative, in accordance with 45 CFR §164.502(g).
5. **Individually Identifiable Health Information** shall mean information that is a subset of health information, including demographic information collected from an individual, and: (a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (c) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
6. **Privacy Officer** shall mean the individual designated by the County pursuant to 45 CFR §164.530, who is responsible for the development and implementation of the County's policies and procedures as they relate to its – and its Covered Healthcare Component's – compliance with the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and the Florida Information Protection Act, §501.171, Florida Statutes; all where applicable and as amended.
7. **Personally Identifiable Information (“PII”)** shall mean the following:
  - a. An individual's social security number; and/or
  - b. An individual's initials, first name, or first initial and last name in combination with any one or more of the following data elements for that individual:
    - i. A driver's license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;

- ii. A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;
  - iii. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
  - iv. An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
  - v. Any other identifier, as referenced in the Department of Health & Human Services "Safe Harbor Standards."
  - vi. The term "Personally Identifiable Information" does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.
- c. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
  - d. The PII provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
8. **Protected Health Information ("PHI")** shall mean an individual's identifiable health information, as defined under 42 U.S.C. §1320d, as amended, with the exception of education records covered by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, as amended, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student's request. The PHI provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
9. **Required by Law** shall have the same meaning as the term "required by law" in 45 CFR §164.103.

10. ***Secretary of Health and Human Services*** shall mean the Secretary of the Health and Human Services (“HHS”) or any other officer or employee of HHS to whom the authority involved has been delegated.
11. ***Security Incident*** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PII contained in any form or interference with system operations in an information system that contains PHI or PII.
12. ***Use*** shall mean the sharing, employment, application, utilization, examination, or analysis of PII or PHI within an entity that maintains such information.

### **Section 3. Scope of this Addendum.**

- A. **Independent Status of Parties.** The parties agree that they are, and shall be, independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and the Florida Information Protection Act, §501.171, Florida Statutes; all where applicable and as amended.
- B. The parties further agree that they are, and shall be, responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. Additionally, the parties agree that they shall maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.
- C. The Business Associate acknowledges that the confidentiality requirements set forth herein shall apply to all of its employees, agents, and/or representatives. The Business Associate assumes responsibility and liability for any damages or claims, including (but not limited to):
  1. State and federal administrative proceedings and sanctions brought against the County; and/or
  2. Costs and attorneys' fees resulting from the breach by the Business Associate of the confidentiality requirements of this Addendum or the Agreement.

### **Section 4. Privacy of PHI and Confidentiality of PII.**

- A. **Permitted Uses and Disclosures of PHI and PII by Business Associate.** The Business Associate may use, or disclose, PHI and PII received from the County to its officers and employees. The Business Associate may disclose PHI and PII to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI and PII on its behalf if the Business Associate obtains satisfactory assurances, in accordance with 45 CFR § 164.504(e)(1)(i) and § 501.171(2), Florida Statutes, that the subcontractor will appropriately safeguard the information. All other uses or disclosures not otherwise authorized by this Addendum or otherwise governed by law are prohibited.



B. **Responsibilities of the Business Associate.** Regarding the use or disclosure of PHI and PII, the Business Associate agrees to:

1. Only use or disclose the PHI and PII as allowed under this Addendum or otherwise by applicable law.
2. Only use or disclosure PHI and PII in a manner that would not violate the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, or FIPA, if done so by a Covered Entity.
3. Establish and implement appropriate procedures, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and PII for mitigating, to the greatest extents possible under the circumstances, any deleterious effects from any improper access, use, or disclosure of PHI and PII that the Business Associate reports to the County. Safeguards shall include, but are not limited to: (a) the implementation and use of electronic security measures to safeguard electronic data; (b) requiring employees to agree to access, use, or disclose PHI and PII only as permitted or required by this Addendum; and (c) taking related disciplinary action for inappropriate access, use or disclosure as necessary.
4. Ensure that the Business Associate's subcontractors or agents to whom the Business Associate provides PHI or PII that is created, received, maintained, or transmitted on behalf County agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI and PII, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of all PHI and PII that it creates receives, maintains, or transmits on behalf of the County.
5. Make the Business Associate's records, books, accounts, agreements, policies, and procedures available to the Secretary of HHS for determining the County's compliance with the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and also, with the State of Florida's Department of Legal Affairs to determine the County's compliance with FIPA.
6. Limit use by, or disclosure to, its subcontractors, agents, and other third parties, to the minimum PHI and PII necessary to perform or fulfill a specific function required or permitted hereunder.
7. Provide information to the County to permit the County to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from the County, if the Business Associate maintains a Designated Records Set on behalf of the County.

8. Provide access to the PHI and PII maintained by the Business Associate to the County or individual, if the Business Associate maintains a Designated Records Set on behalf of the County, at the request of, and in the time and manner designated by, the County.
9. Make any amendment(s) to the PHI and PII when directed by the County, if the Business Associate maintains a Designated Record Set on behalf of the County, at the request of, and in the time and manner designated by, the County.
10. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI and PII the Business Associate creates, receives, maintains, or transmits on behalf of the County.
11. Report to the County any Security Incident involving PHI and PII that the Business Associate discovers in the manner detailed in Section 7 below.

C. **Compliance with the County's Policies.** The Business Associate hereby agrees to abide by the County's policies and practices for its Covered Healthcare Component that relate to the confidentiality, privacy, and security of PHI and PII.

D. **Use of PHI and PII for Management and Administration or Legal Responsibilities of the Business Associate.** The Business Associate may use PHI and PII received by the County pursuant to the Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. However, the Business Associate will only be allowed to use PHI and PII for the aforementioned uses if:

1. the disclosure is required by law; or
2. the Business Associate obtains reasonable assurances from the person to whom the PHI and PII is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI or PII.

E. **Data Aggregation Services.** With respect to PHI and PII created or received by the Business Associate in its capacity as the Business Associate of the County, the Business Associate may combine such PHI and PII it has received from the County with the PHI and PII received by the Business Associate in its capacity as a Business Associate of another Covered Entity, or Hybrid Covered Entity, to permit data analysis that relates to the health care operation of the respective Covered Entity, or Hybrid Covered Entity, if data analyses is part of the Services that Business Associate is to provide to the County pursuant to the Agreement.

F. **Compliance.** The Business Associate agrees to keep all PHI and PII confidential and secure in compliance with the provisions of this Addendum and according to current state and federal laws.

**Section 5. Confidentiality.**

A. In the course of performing under this Addendum, each party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables, and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential (“Confidential Information”) of the other party.

B. For purposes of this Addendum, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Addendum. The parties, including their employees, agents, or representatives shall:

1. Not disclose to any third party the Confidential Information of the other party except as otherwise permitted by this Addendum, or as mandated by the State of Florida’s Public Records Laws;
2. Only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under the Agreement; and
3. Advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.

C. This provision shall not apply to Confidential Information:

1. After it becomes publicly available through **no fault** of either party;
2. Which is later publicly released by either party in writing;
3. Which is lawfully obtained from third parties without restrictions; and/or
4. Which can be shown to be previously known or developed by either party independently of the other party.

**Section 6. Security.**

A. **Security of Electronic Protected Health Information and Personal Information.** The Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (as defined in 45 C.F.R. §160.103) (“Electronic PHI”) and PII (as defined by §501.171, Florida Statutes) that the Business Associate creates, receives, maintains, or

transmits on behalf of the County consistent with the HIPAA Privacy and Security rules, HITECH Act Breach Notification rules, and FIPA.

B. **Reporting Security Incidents.** The Business Associate will report to the County any Security Incident of which the Business Associate becomes aware that is:

1. A successful unauthorized access, use or disclosure of Electronic PHI or PII;
2. A modification or destruction of Electronic PHI or PII; or
3. Interference with system operations in an information system containing Electronic PHI or PII.

**Section 7. Reporting Requirements.**

A. **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Addendum.

B. **Reporting to the County.**

1. The Business Associate will report to the County within:
  - a. Two (2) days of any suspected—or confirmed—access, use, or disclosure of PHI or PII, regardless of form, not permitted or required by this Addendum of which the Business Associate becomes aware; and
  - b. Twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware.
2. Such report shall include the identification of each individual whose unsecured PHI and PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
3. Reports of Security Incidents shall include a detailed description of each Security Incident, at a minimum, to include: (a) the date of the Security Incident; (b) the nature of the Security Incident; (c) the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc.; (d) the identities of the individual(s) and their relationship to the Business Associate; (e) a description of the Business Associate’s response to each Security Incident; (f) and the name and title of the individual the County should contact for additional information.
4. The Business Associate will conduct such further investigation as is reasonably required by the County and promptly advise the County of additional information pertinent to the Security Incident.

5. The Business Associate will cooperate with the County in conducting any required risk analysis related to such Security Incident(s).
6. The Business Associate will cooperate with the County in complying with any applicable notification requirements pursuant to the HITECH Act Breach Notification rules and/or pursuant to Florida law (including, but not limited to, §501.171, Florida Statutes), and in taking steps determined by the County to be necessary to mitigate any potential harm caused by a Security Incident. The Business Associate will pay and/or reimburse the County for any reasonable expenses the County incurs in notifying individuals of, and/or mitigating potential harm caused by, a Security Incident caused by the Business Associate and/or its subcontractors or agents.

C. **Reporting to Individuals.** In the case of a breach of PHI or PII discovered by the Business Associate, the Business Associate shall first notify the County of the pertinent details of the breach and, upon prior approval of the County's Privacy Officer, shall notify each individual whose unsecured PHI or PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including – in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information – a conspicuous posting on the web site of the Business Associate involved or notice in major print of broadcast media, including major media in the geographic areas where the individuals affected by the breach are likely to reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI or PII, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.

D. **Reporting to Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons or unsecured PII of more than five hundred (500) persons is reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall provide notice to prominent media outlets serving the state or relevant portion of the state involved.

E. **Reporting to HHS and the State of Florida Department of Legal Affairs.** The Business Associate shall cooperate with the County to provide notice of unsecured PHI and/or PII that has been acquired or disclosed in a breach to the Secretary of HHS and to the State of Florida's Department of Legal Affairs. If the breach was with respect to five hundred (500) or more individuals, such notice shall be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate shall maintain a log of such breach

occurring and shall annually submit such log to the County so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.

F. **Content of Notices.** All notices and reports required under this Addendum shall include the content set forth 45 C.F.R §164.404, the HITECH Act Breach Notification rules, and FIPA, each as amended. Notification to individuals sent by the Business Associate pursuant to this Agreement shall clearly state that the breach was on the Business Associate's part.

1. Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:
  - a. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
  - b. A description of the types of unsecured PHI and PII that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code);
  - c. The steps individuals should take to protect themselves from potential harm resulting from the breach;
  - d. A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; and
  - e. Contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.

G. **Notice to Credit Reporting Agencies.** In the case of a breach of PII discovered by the Business Associate where the unsecured PII of more than one thousand (1000) individuals has reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall notify all consumer reporting agencies nationwide, that complete and maintain files in accordance with the provisions of §501.171(5), Florida Statutes.

H. **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required herein.

I. **Mitigation.** The Business Associate shall mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of use or disclosure of PHI or PII in violation of this Addendum, the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and FIPA.

J. A violation of any paragraph and/or subsection of this Section shall be a material violation of this Addendum.

**Section 8. Termination.**

A. **Immediate Termination.** The County is authorized to immediately terminate the Agreement if it determines – based in its sole discretion – that the Business Associate has violated a material term of this Addendum. The County shall hand deliver or send certified notice of such termination to the Business Associate and shall only be liable to the Business Associate for any work performed prior to the date of the Business Associate’s receipt termination.

B. **Opportunity to Cure.** At its sole discretion, the County may:

1. Provide the Business Associate an opportunity to cure the breach within a time period deemed reasonable by the County; and
2. Terminate the Agreement should the Business Associate fail to cure the breach to the County’s satisfaction within the time period provided.

C. **Effects of Termination.** Termination of the Agreement shall not affect any claim or rights that may arise based on the acts or omissions of the parties prior to the effective date of termination. It will also not in any way impact the survival of any term by which its nature is intended to survive the expiration, cancellation, or termination of the Agreement and/or this Addendum.

D. **Duties of Business Associate Upon Termination of the Agreement.**

1. When the Agreement is terminated, the PHI and PII that the Business Associate received from, created, or received on behalf of the County shall, at the Business Associate’s sole expense, be returned to the County with any copies and/or duplicates thereof destroyed. This mandate includes all PHI and PII in the possession of the Business Associate's subcontractors and/or agents.
2. If the Business Associate determines that returning and/or destroying copies and duplicates of the relevant PHI and PII is not feasible, the Business Associate must maintain the privacy protections under this Addendum and according to applicable law for as long as the Business Associate retains the PHI and PII. Additionally, the Business Associate may only use or disclose the PHI and PII for specific uses or disclosures that make it necessary for the Business Associate to retain the PHI and PII.
3. If the Business Associate determines that it is not feasible for it to return PHI or PII in the possession of one of its subcontractors or agents, the Business Associate must provide a written explanation to the County of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Addendum to the subcontractor's or agent's use or disclosure of any PHI and PII retained after the termination of the Agreement, and

to limit any further uses or disclosures for the purposes that make the return and destruction of all copies and duplicates of the PHI or PII not feasible.

**Section 9. General Terms.**

- A. **Agreement Subject to All Applicable Laws.** The parties recognize and agree that the Agreement, and any and all activities performed thereunder, is governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security rules, FIPA, and their accompanying regulations. The parties further recognize and agree that the Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Addendum accordingly.
- B. **No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties any rights, remedies, obligations, or liabilities whatsoever.
- C. **Survival.** The rights and obligations of the parties in Sections 4, 5, 6, 7 in their entirety, as well as subsections 8D., 9E., 9G., and 9H., shall survive termination of the Agreement indefinitely.
- D. **Written Modification.** No modification of this Agreement shall be binding upon any party to this Agreement unless reduced to writing and signed by a duly authorized representative of each party to this Agreement.
- E. **Enforcement Costs and Attorneys' Fees.** If legal action or other proceedings, including arbitration, is brought for the enforcement of this Addendum, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Addendum, each party will hereby be responsible for its own costs and attorneys' fees. This does not negate any of the Business Associate's responsibilities for costs and/or attorneys' fees that are otherwise specifically provided for herein.
- F. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the County to comply with the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and FIPA.
- G. **Indemnification.** To the fullest extent permitted by law, the Business Associate shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorneys' fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or part by any act or omission of the Business Associate, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. In the event the Business Associate is a state department or division, or a political subdivision of the State of Florida, indemnification shall follow the provisions of Section 768.28, Florida Statutes.



H. **Signatory Authority.** Each signatory to this Addendum represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.

I. **Notice.** All notices and other communications under this Addendum shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other party(ies).

**To the County:** Orange County HIPAA Privacy Officer  
2002-A East Michigan Street  
Orlando, FL 32806  
(407) 836-9214

**AND**

Orange County Administrator  
Administration Building, 5th Floor  
201 S Rosalind Avenue  
Orlando, FL 32801

**To the Business Associate:** Heart of Florida United Way, Inc.  
1940 Cannery Way  
Orlando, Florida 32804

J. **Severability.** If any provision of this Addendum, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Addendum, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Addendum shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the parties that if any provision of this Addendum were capable of two constructions – one that rendered the provision void and one that renders the provision valid – then the provision shall have the meaning that renders it valid.

K. **Successors and Assigns.** The Business Associate shall not assign either its obligations or benefits under this Addendum without the expressed written consent of the County, which shall be at the sole discretion of the County. Given the nature of this Addendum, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

L. **Governing Law.** This Addendum shall be governed by and construed in accordance with the laws of the State of Florida to the extent not preempted by the HIPPA Privacy and Security rules or other applicable federal law.

M. **Venue.** For any legal proceeding arising out of or relating to this Addendum, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

N. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Addendum.

O. **Waiver and Breach.** No failure by a party to insist upon the strict performance of any covenant, agreement, term, or condition of this Addendum shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any party may waive compliance by the other party with any of the provisions of this Addendum if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.

P. **Entire Agreement.** The Agreement, this Addendum and/or any additional addenda or amendments to the Agreement, any documents incorporated herein by reference, and/or attachments hereto, shall construe the entire understanding between the parties as to the rights, obligations, duties, and services to be performed hereunder.

**IN WITNESS HEREOF**, the parties, attesting that they are duly authorized to enter into this Addendum, have executed this Addendum on the dates indicated below.

**ORANGE COUNTY, FLORIDA**

By: The Board of County Commissioners

By: Carrie Mathes  
 Carrie Mathes, Procurement Division Manager **or**  
 Zulay Millan, Procurement Division Assistant Manager

Date: 5.9.2023

**[ REMAINING SIGNATURE ON FOLLOWING PAGE ]**

**HEART OF FLORIDA UNITED WAY, INC.**

By: *jill grevi*

Printed Name: Jill Grevi

Official Title: CFO

Date: 4/25/2023