

# **St. Johns County**

## **Community Development Block Grant — Disaster Recovery**

### **Multifamily New Construction Program Policies and Procedures**

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## SUMMARY

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The U.S. Department of Housing and Urban Development (HUD) allocated Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the State of Florida Department of Economic Opportunity (DEO). This funding is being distributed in federally-declared disaster counties impacted by Hurricane Matthew including St. Johns County for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C) 5301 et seq.) and described in the State of Florida CDBG-DR Action Plan. DEO has provided \$45,837,520 in CDBG-DR funding to St. Johns County to implement programs in support of the County's recovery from Hurricane Matthew. Allocations, waivers, and alternative requirements applicable to this funding are published in the Federal Register on August 7, 2017 at 82 FR 38812; January 18, 2017 at 82 FR 5591; and November 21, 2016 at 81 FR 83254.

The County entered into a subrecipient agreement with DEO to implement a Multifamily New Construction Program, including the following projects:

- San Marcos Heights - the construction of approximately 132 new rental housing units and service center on a site located on State Road 207.
- Victoria Crossing - the construction of approximately 132 new rental units and service center located in St Johns County.

This document describes the general program guidelines and policies and procedures for these projects.

Of the \$89,632,120 allocated to St. Johns, \$32,000,000 has been set aside for the development of rental units with accompanying integrated services centers to provide services to the low- and moderate-income (LMI) residents of the housing complexes.

## VERSION POLICY

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### St. Johns County CDBG-DR General Policies and Procedures

Version history is tracked in the table above, with notes regarding version changes. The date of each publication is also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and issuance of a new primary version number.

Non-substantive changes within this document that do not affect the interpretation or applicability of the policy (such as minor editing or clarification of existing policy) will be included in minor version updates denoted by a sequential number increase after the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

## Version History

Version	Date	Page	Description
#1	09/26/2019	NA	NA
#2	01/25/2021	NA	Entire document updated to reflect contract amendments and current St Johns County policies and procedures
#3	01/28/2022	NA	Minor corrections
#4	03/29/2022	NA	Add PII and Complaint/Appeal Policies and Procedures
#5	04/22/2022	11	Added the process for de-conflicting funding sources on draw requests

## MULTIFAMILY NEW CONSTRUCTION PROGRAM OVERVIEW

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The primary focus of the Program is to develop new rental housing with the purpose to increase the availability of affordable rental housing, while simultaneously increasing access to social services for low- and moderate-income persons in St. Johns County. The CDBG-DR funds will be used to address remaining unmet housing needs and to support the long-term recovery and restoration of housing in the most impacted and distressed areas.

### National Objective

The Program will meet one of the following National Objectives:

- Benefit to LMI Persons

The County's CDBG-DR Programs, as a whole, are designed to ensure that 70% of CDBG-DR grant amount awarded is expended for activities that benefit LMI persons. St. Johns County intends to meet the LMI National Objective by requiring that no less than 51% of the units in the multifamily structure be leased to LMI qualified households or persons.

### Eligible Activities

The eligible and ineligible categories of activities are determined by HUD. All activities and potential projects must be compliant with CDBG National Objectives per 24 CFR 570.208 and CDBG Eligible Activities per 24 CFR 570.201 through 570.207. The following activities under the Housing and Community Development Act of 1974 (HCDA) are eligible for the Multifamily New Construction Program:

- Land Acquisition
- New Construction - Rental housing units
- New Construction - Multifamily
- Relocation - Section 105(a)(11)

## CONTRACTOR ASSIGNMENT

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Construction of the rental units will be implemented by St. Johns County, through a Request for Proposal (RFP) for a developer to complete all design plans and specifications, and perform construction activities upon approval of final design by the County. The developer will be selected in accordance with current County procurement policies and procedures, through a solicitation performed in compliance with 2 C.F.R 200.

## **ENVIRONMENTAL REVIEW PROCEDURE**

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The developer, as an independent, for-profit developer, must complete all required environmental assessments in compliance with all requirements of 24 CFR Parts 50 and 58. The County will retain status as the Responsible Entity (RE). The RE Certifying Official will work with the developer to determine what planned activities will be considered Exempt (24 CFR 58.34 (a)), and will be submit a completed Environmental Review for Activity/Project that is Exempt of Categorically Excluded Not Subject to 58.5 form to DEO for review and approval (24 CFR 58.35(b)). The RE Certifying Official will conduct all required consultations in compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA). The completed EA will be forwarded to the County's Responsible Entity Certifying Officer to evaluate and make an environmental finding. Upon certification of the Finding of No Significant Impact (FONSI), the County will notify the public of the finding and intent to seek release of grant funds. This Concurrent Notice will be published in the St. Augustine Record. After the required public comment period, the RE will submit the finalized Environmental Assessment and Request for Release of Funds to DEO for approval. No choice limiting activities will be allowed to occur until DEO has provided the RE with the Authorization to Use Grant Funds, and the County has issued a Notice to Proceed. Note that any change of the scope of the project must be reviewed against the approved EA and may require an updated Environmental Assessment from the Developer.

## **ELIGIBILITY**

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The development of multifamily affordable rental housing is an eligible activity for the CDBG-DR funding and is included DEO's approved Action Plan to HUD. Due to the loss of housing and displacement of persons during the storm event, St. Johns County will implement the construction of new affordable rental housing to increase the rental housing stock and meet the needs of low- and moderate-income renter households.

Per DEO's instruction, accomplishment data will be recorded as LMI housing with the development of the service center being incorporated as part of the multifamily housing development.

## **LOCATION**

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The location of each project will be within the geographical boundaries of St. Johns County. Location will be determined from property records.

## **FEDERAL, STATE AND LOCAL REQUIREMENTS- CONSTRUCTION**

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Construction will be completed to conform with State and Local Building Codes and meet all requirements for the federal funding source, including:

- Florida Accessibility Code for Building Construction as adopted pursuant to Section 553.503 Florida Statutes;
- The Architectural Barriers Act of 1968;
- The Fair Housing Act (24 CFR Part 100)
- Section 504 of the Rehabilitation Act of 1973; and
- Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR 35.
- Green Building Requirements;
- Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 135)
- Minority- and women-owned businesses (MBE/WBE)
- Debarment and Suspension
- Labor – subject to Davis-Bacon wage determinations

### **Civil Rights Requirements**

Recipients of CDBG-DR funds must comply with federal and state civil rights, fair housing, equal opportunity and equal employment opportunity regulations and requirements. These laws are designed to ensure that members of protected groups are treated fairly by avoiding discrimination, providing equal opportunity and taking affirmative action to correct past discrimination based on race, color, religion, gender, national origin, age, sex/gender, disability and/or family status

**Title VI of the Civil Rights Act of 1964:** This act states that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of race, color, or national origin.

**Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act):** This act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin. It also requires HUD to administer its programs in a manner that affirmatively promotes fair housing.

**Section 504 of the Rehabilitation Act of 1973, as amended:** This act states that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, subjected to discrimination.

**Section 109 of the Housing and Urban Development Act of 1974, as amended:** This act states that, under any program or activity funded in whole or in part under Title I or Title II of the act (regardless of a contract's dollar value), no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin, or sex.

**The Age Discrimination Act of 1975, as amended:** This act states that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age.

**Executive Order 11063:** This act states that no person shall, on the basis of race, color, religion, sex or national origin, be discriminated against in housing (and related facilities) provided with federal assistance, or lending practices with respect to residential practices

when such practices are connected with loans insured or guaranteed by the federal government.

**Executive Order 11246, as amended:** This act states that no person shall be discriminated against, on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in the excess of \$10,000.

**Equal Access to HUD-assisted or Insured Housing—24 CFR 5.105 (a)(2)(i) and (ii):** This regulation requires equal access to housing in HUD programs, regardless of sexual orientation, gender identity, or marital status.

**Chapter 760, Florida Statutes:** Which includes the Florida Civil Rights Act and Fair Housing Act.

**Fair Housing:** Compliance with the Fair Housing Act of 1968 is a requirement of the developer receiving CDBG-DR funds. The state of Florida has an obligation to ensure compliance. The first step in developing a fair housing program that is compliant with HUD requirements is to determine the needs of the community. This can be done by preparing the HUD-required Analysis of Impediments to Fair Housing Choice

## Other Federal Requirements

### Fair Labor Standards and Other Related Acts;

- Davis-Bacon and Related Acts – Pursuant to 29 CFR Parts 1,3, and 5
- Violence Against Women Reauthorization Act of 2019
- HUD Environmental Requirements- pursuant to 24 CFR Part 58
- Recordkeeping Requirements pursuant to 24 CFR Part 570.490
- Relocation Assistance for Displaced Persons under 24 CFR Part 570.606(b)
- Affirmatively Furthering Fair Housing pursuant to Executive Order 12892

The project will also incorporate any environmental additions, changes or considerations resulting from consultations occurring during the Environmental Review process.

## DUPLICATION OF BENEFITS

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Under the requirements of "The Robert T. Stafford Disaster Assistance and Emergency Relief Act" (42 U.S.C. 5121, et seq.), as interpreted and applied by HUD, the Program must consider certain aid received by applicants in determining the amount of assistance which can be awarded. St. Johns County will conduct DOB analysis to ensure that a using State administrative records and databases accessible through its disaster recovery programs.

The following are sources of funding assistance provided for structural damage and loss that may be considered a DOB and under Federal law must be deducted from the assistance provided:

- FEMA Individual Assistance for Structure (IA)
- FEMA NFIP and/or Increased Cost of Compliance (ICC)
- State or Local Funds

- Private Insurance
- Small Business Administration (SBA)
- Charity
- Any other funding source that may duplicate assistance

Federal regulations require the Program to conduct a DOB analysis to ensure that (1) applicants do not receive more Federal funds than needed, and (2) Program funds are used to meet a need that still exists after considering other funds received.

A DOB occurs when:

- A beneficiary receives assistance, and
- It comes from multiple sources (examples: private insurance, FEMA, NFIP, non-profits, etc.), and
- The total assistance amount exceeds the need for a particular recovery purpose.

## **SUBROGATION**

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All duplicative funding received must be remitted to the Program, regardless of when it is received. St. Johns County has entered into an agreement with DEO to implement the approved activities. The Multifamily New Construction Program will be self-implemented by the County with all expenditures being utilized for the design, construction, and activity delivery costs. No funds will be provided to the Partner Agency, and St. Johns County will be retaining ownership throughout the required period of affordability.

For that reason, a subrogation agreement is not warranted for this program. If there are any material changes to the implementation plan for this program which requires execution of a subrogation agreement, St. Johns County will take any necessary action to remain in compliance.

The Program will develop procedures for recovering funds subject to recapture, if it is determined necessary due to the existence of a Duplication of Benefits.

## **RECAPTURE OF FUNDS**

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A Developer may be required to repay all, or a portion of the funds received. The reasons for recapture include, but are not limited to the following:

- Developer withdraws from the Program prior to completion of the Project and fails to meet a national objective;
- Developer does not meet the affordability and loan requirements for the period specified in the Affordability Requirements Section and CDBG Loan Section below:
- Developer is found to have used program funds for an ineligible activity or cost;
- Developer does not report the receipt of additional insurance, SBA, FEMA, non-profit

assistance and/or any other Duplication of Benefits received after award and/or,

- Funds are remaining after the Project is completed, the expenditure deadline has passed, or the Master Standard Agreement has expired.

The method of recapturing funds and the timeframe for doing so are determined on an individual Project basis. However, the recapture method and timeframe will be consistent with 2 CFR part 200 or other applicable cost principles.

## **CONSTRUCTION STANDARDS**

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Housing that is constructed with CDBG-DR funds must meet all applicable local and State codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. The Florida State Building Code must be used as required and where appropriate. All construction with applicable State and local housing construction standards and code requirements and if there are no such standards or code requirements, the housing must meet the minimum construction standards. All deficiencies identified in the final inspection must be corrected before final payment is released. Construction standards are defined in the County's Construction Standards Policies and Procedures document. International Residential Code (IRC) (with windstorm provisions) and International Building Code (IBC) which will be used as required and as appropriate.

## **MINIMIZING DISPLACEMENT**

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CFR 570.606 requires that efforts are taken to minimize displacement of persons (families, individuals, businesses, nonprofit organizations and farms) as a result of activities undertaken with CDBG-DR funds. It also provides that relocation assistance will be provided to a displaced person based on requirements in 49 CFR 24.

A displaced person is defined in 24 CFR 570.606(2) as "any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, acquisition for any activity assisted under this part." The criteria for determining if a move is permanent and involuntary, or permanent and voluntary, or temporary, is found in Handbook 1378.

### **CFR 24 Requirements—URA Regulation**

Uniform relocation assistance and real property acquisition for federal and federally assisted programs are established in Title 49 CFR Part 24. It consists of Subparts A through G and applies across the government, including HUD-funded programs such as CDBG, CDBG-DR, and HOME. Interpretation of 49 CFR 24 varies slightly among federal agencies, so it is advisable to view the regulation through the HUD lens. Handbook 1378 provides an excellent overview of 49 CFR 24 as it applies to HUD programs.

## **COUNTY'S GENERAL REQUIREMENTS**

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### **Cross-Cutting Federal Requirements**

Use of CDBG-DR funds is subject to cross-cutting Federal requirements concerning financial management, environmental review, labor standards, acquisition, relocation and fair housing. These requirements are described in the Administrative Policy and Cross-Cutting Federal Requirements Manual.

### **CDBG Loan**

St Johns County will make funds available by way of a CDBG Loan from the County to a Non-Profit Developer, which will in turn make a loan to the Owner. The CDBG Loan will be more fully detailed by a separate loan agreement executed in conjunction the Developer Contract. The Loan will be secured by a mortgage on the Property in favor of Nonprofit and evidenced by a single promissory note (the "Note") and secured by a collateral assignment to the County of the Note and Mortgage.

The Loan shall be interest-free, absent default. The CDBG Loan shall be repaid at the end of the Affordability Period, provided, however, that if, at the end of the Affordability Period, Owner has complied with all of the terms and provisions hereof, the CDBG Loan shall be forgiven and Nonprofit shall not be obligated to repay the principal thereof. The CDBG Loan is subject to recapture and repayment for non-compliance with the terms and provisions hereof or with the CDBG Loan Documents

### **Draw Payments**

Payment to Owner shall be made based on actual budgeted expenses detailed in Owner's draw request. Owner shall be reimbursed in 10% increments based upon the level of the Project's completion. As evidence of percent completed, Owner shall provide AIA forms G701/G703 or similar DEO-approved industry-standard forms, signed by the contractor and certified by the engineer performing inspection services for the project, documenting the costs for which reimbursement is being requested, and noting overall percent completion of the project. To be eligible for reimbursement, expenses must be necessary and reasonable for the effective and efficient completion of the Project.

Draw requests will be balanced against all other funding sources by requesting Other Sources from the Developer to ensure there is no duplication of payments from other sources. Of particular interest will be funds drawn from the Housing Finance Authority.

The County may return a draw request and request additional information regarding the contents of the draw request. Under such circumstances, the timeframe for payment shall be extended by the time necessary to receive the requested information. Upon receipt and verification of the draw request, the County shall process the request and forward payment to the Owner within 30 days of verification.

Denied requests shall be returned to Owner in writing with the specific reason for denial clearly stated (the "Denial Notice"), including any specific line item or section of such draw request.

County will be obligated to fund such portion of the draw request that is not included and detailed with a specific reason for denial in such Denial Notice. For the purposes of this section, electronic communication shall be deemed to satisfy “in writing.”

### **Construction Project Close-Out**

Once the construction work is completed on each individual project, the County will do a final inspection of all work to ensure that construction is complete and meets local code requirements. The Program Manager will be required to ensure that documents are complete, signed, and maintained in each project file.

The Administrative Close-out Report, Form SC-62, must be submitted to DEO within 45 calendar days of the Agreement termination date, in compliance with Rule 73C-23.0051 (5), F.A.C and the terms of this Agreement.

The County shall close-out its use of the CDBG-DR funds and its obligations by complying with the close-out procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the grantee), resolution of outstanding audits, and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, the County shall transfer to the DEO any CDBG-DR funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-DR funds, further, any real property under the County’s control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the County in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

## **Monitoring and Compliance**

### **Overview**

HUD describes monitoring as an integral management control standard and requires any entity receiving HUD funding to monitor and evaluate program performance and compliance, see CDBG Regulation 24 CFR 570.501(b) and Office of Management and Budget (OMB) Uniform guidance at 2 CFR 200. Therefore, the CDBG-DR Grant Manager monitors all DR activities. In addition, the Multifamily Housing Project Manager is required to ensure that its Developers comply with all regulations governing administrative, financial and programmatic operations, and that they achieve performance objectives on time and within budget. Monitoring enables CDBG-DR Grant Manager to verify compliance with both regulatory and performance requirements.

In the event a Developer disagrees with a finding and/or any accompanying corrective actions or sanction(s) that are associated with such finding, the Developer may appeal to the Policy Review Committee.

**Developers.** All completed Projects require annual compliance monitoring during the period of affordability. The St Johns County CDBG-DR shall establish a Project monitoring schedule to ensure that physical property, program, and financial compliance happens as outlined in the monitoring plan. •

- Physical Monitoring - Physical inspections should include the inspection of the exteriors of all buildings and common areas, and the inspection of the interiors of income restricted units to ensure compliance with HUD Housing Quality Standards (HQS).
- Program Monitoring – The Multifamily Housing Project Manager will meet with the development’s management staff and review performance under the contract for the following topics:
  - Initial Affordable Rents and subsequent rents during the period of affordability
  - Initial and annual certification of tenant income
  - LMI benefit (minimum 4 or 30% Affordable Units)
  - Affirmative Marketing requirements
  - Fair Housing requirements
- Financial Monitoring - The Multifamily Housing Project Manager will annually review the development’s financial statements to ensure the development continues to be operated in a fiscally responsible manner, addressing all debt service obligations and adequately funding Project reserve accounts.

**Technical Assistance** - When deficiencies are identified as a result of the monitoring, technical assistance may be required to assist in the resolution of the deficiency. The objective of technical assistance is to aid the developer in day-to-day compliance with HUD and State and County regulations and program requirements as the developers undertake the approved project. The nature and extent of technical assistance should be determined at the discretion of the monitor. Some examples of technical assistance may include verbal or written advice, formal training and/or documentation and guidance.

**Follow Up** - In the event that deficiencies are identified during the monitoring review, follow-up actions should be scheduled to address the progress of the proposed resolution. Timing and frequency of follow-up communication and activities should be determined at the discretion of the monitor and should be based on the severity of the deficiency. If previous deficiencies remain unresolved or uncorrected, these issues will also require follow-up activity. All follow-up actions should be documented and communicated. Target dates should be assigned for resolution of deficiencies.

## **PROJECT GENERAL REQUIREMENTS**

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**Each Project shall, at a minimum, meet the following criteria:**

1. Contain a minimum of 80 residential units with associated common areas, including but not limited to, parking, sidewalks, park and open space areas and storm water ponds.
2. Include flexible community space of no less than 5,000 square feet, in the aggregate (the "Community Space") for use in serving residents and other community members. The Community Space may include a clubhouse, leasing office, laundry facilities, "well-care" center, business center, etc. The Community Space shall be built to American Red Cross 4496 Standards and the Hurricane Evacuation Shelter Selection Standard.
3. Be for residential use only. Mixed-use projects (that is, projects that include uses other

- than residential rental and 2 support buildings) are prohibited.
4. Units may be available for resident occupancy in a phased manner as buildings are completed and receive certificates of occupancy.
  5. Comply with the Green Building Standard for all construction of residential buildings under at least one of the following programs:
    - 5.1. ENERGY STAR;
    - 5.2. Enterprise Green Communities;
    - 5.3. LEED, (iv) ICC-700 National Green Building Standard;
    - 5.4. EPA Indoor AirPlus (ENERGY STAR a prerequisite); or
    - 5.5. Any other equivalent comprehensive green building program acceptable to HUD. Construction must follow the Green Building Retrofit Checklist to the extent applicable, including the use of mold resistant products, ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)- designated products and appliances, or other equivalent.
    - 5.6. All construction shall follow the Resilient Home Construction Standards as applicable to multifamily development.
  6. Meet the following accessibility requirements:
    - 6.1. All common facilities and areas must be accessible (Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 394 (Sept. 26, 1973), codified at 29 US. C. § 701 et seq).
    - 6.2. The development must incorporate universal design features (Section 504).
    - 6.3. Five Percent (5%) of all units must be mobility accessible (The Americans with Disabilities Act of 1990 (42 USC§ 12101)).
    - 6.4. Two percent (2%) of all units must be sensory accessible. Units that are sensory accessible may not be the same units as those mobility accessible (ADA).
    - 6.5. Accessible units must be spread throughout the Project and may not be concentrated on one floor or in one building (Section 504).
  7. Install broadband infrastructure in common areas and units to meet the requirements of Federal Register Notice FR 5890-F-02.

## **DEVELOPER'S GENERAL REQUIREMENTS**

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In general, the Developer shall perform, and/or cause to Owner to perform, multi-family residential construction services for disaster recovery to assist County in fulfilling State and Federal responsibilities related to recovery from Hurricane Matthew. Developer and Owner shall perform services in compliance with (i) applicable HUD requirements, (ii) their executed Developer Agreement with the County and all contract exhibits, addenda or attachments; (iii) any amendments to the Developer's contract; and (iv) and any Technical Guidance Letters or Revisions that may be issued by County and/or the State of Florida, Department of Economic Opportunity.

Each developer, as an independent, for-profit developer, must:

### **1. Plan:**

- 1.1. Timely develop and cause Owner to operate the Project, as contemplated and

provided for in this Agreement, which will be completed and operated in conformance with all applicable local, state, and federal code requirements, and County specifications and requirements, including but not limited to duly adopted Property Standards, with the intent to increase supply of quality, affordable housing in St. Johns County, Florida.

1.2. Complete all required environmental assessments in compliance with the requirements of 24 CFR Parts 50 and 58.

1.3. Develop and implement an acceptable schedule to accomplish the required development for the Project

1.4. Identify and quantify any and all costs associated with developing the proposed facility(ies), based on relevant data.

1.5. Implement a process to execute the development of the Project. Provide a development plan and a development implementation schedule. Oversee the design, construction, and quality control for the development of the Project.

1.6. Develop a financing plan including any and all funding sources, development site plan and construction schedule and identify and justify the amount of County resources that may be needed for the Project.

1.7. Provide documentation/reports that include the basis, source and methodology for arriving at estimates, projections and assumptions.

1.8. Expand and update budgets throughout the development process and respond in detail to County inquiries.

1.9. Coordinate all development activities, including reporting and budgeting requirements, with County and assist County as necessary with all aspects of the Project.

1.10 Provide regular reports to County on the progress of the development efforts, including work already completed, the associated costs, schedule and budgetary requirements.

## **2. Design:**

2.1 Develop a site plan for the Project to include a conceptual drawing/design of each property along with a facility layout.

2.2 Refine and develop site plans; prepare a final site plan supported by a market study analysis; and obtain required zoning and development approvals from County and other required jurisdictional entities.

2.3 Prepare and implement a schedule for all design activities including County reviews/approvals as necessary to get to final design for purposes of construction.

2.4 Identify any and all costs associated with design activities for budgeting and reporting throughout the duration of the initial development and construction of the Project.

2.5 Cause final construction plans to be prepared including architectural, engineering, civil, geotechnical, landscaping and all other components of design necessary for construction.

2.6 Based upon the approved development site plan, prepare schematic designs and drawings, preliminary designs and drawings, and construction drawings and specifications.

2.7 Submit schematic drawings, preliminary drawings and construction documents for the entire project or the phase, including public improvements, to County for review and approval; obtain and hold any and all necessary licenses, permits, certifications required to perform the work described herein throughout the duration of Agreement. Payment of any fees or fines resulting in the lack of permits, licenses or certifications shall be the sole responsibility of Owner.

2.8 Obtain approvals of all required design elements from County and all other applicable agencies.

### **3. Construction:**

3.1 Be adequately insured and require the general contractor to be bonded for activities necessary to complete the Project

3.2 Assist Owner with bidding and awarding construction contracts; manage development construction in accordance with all applicable Governing Authority; supervise construction work to ensure quality of workmanship, timely completion of work, and consistency with budget; and ensure that all required occupancy permits and any other approvals are obtained after construction completion to permit lease-up, safe and habitable occupancy.

3.3 Identify and quantify all development costs based on information provided by County and other relevant data. All cost estimates will be the sole and exclusive responsibility of the selected Developer. County will hire an independent third party cost reasonableness expert to review the construction budget, plans and specifications and perform periodic inspections of construction progress to ensure Owner and its contractors meet accepted cost reasonableness standards for the area and adhere to applicable HUD statutes, regulations, and requirements, Florida Statutes as well as all other applicable local, state, or Federal Governing Authority

3.4 Provide adequate and competent supervision at all times during the performance of the general construction contract. A qualified Project Manager shall be designated in writing to County prior to executing the contract. The Project Manager or his/her designee must be available to meet with County personnel upon prior reasonable written notice. County shall be provided with the telephone number(s) where the Project Manager can be reached.

3.5 Complete written documentation and materials in a manner suitable for use by County, the St. Johns County Board of Commissioners, HUD and other agencies.

3.6 Obtain all required building permits and zoning approvals.

3.7 Submit an affirmative marketing plan at least 30 days prior to pre-lease or marketing of units, whichever occurs first. The Affirmative Marketing Plan must reflect the requirements established by County's Affirmative Fair Housing ordinance and/or policy subsequently adopted by County.

### **4. Project Oversight**

4.1 Remain in conformance with applicable provisions of the Housing and

Community Development Act of 1974 as amended (42 U.S.C. §§ 5301, et seq.); CDBG-DR regulations pertaining thereto as set forth under 24 CFR Part 570, including any amendments to said rules, cross-cutting regulations, or any subsequent amendments, notices or guidance to CDBG requirements as published by HUD and the Action Plan (herein defined) under which this award is made.

- 4.2 Undertake all marketing and lease up efforts.
- 4.3 Supervise all consultants and/or service providers in all tasks necessary to successfully implement the development plan, and construct the project.
- 4.4 Ensure compliance with all applicable Governing Authority.
- 4.5 Deliver units consistent with County and HUD guidelines.
- 4.6 Coordinate all work and documentation with the County Disaster Recovery Department.
- 4.7 Meet with County, DEO, HUD, the community and other state and local officials as may be necessary.

## 5. Other Requirements

- 5.1 Surety Bond. Owner shall cause the general contractor to obtain and submit a recorded contractor's payment bond and performance bond, each in an amount no less than 100% of the construction contract price (the "Bonds"), covering faithful performance of and the payment of all obligations arising thereunder, with such sureties reasonably acceptable to County ("Surety").
- 5.2 Insurance. Owner shall carry and maintain insurance as required by County commencing upon closing of the Loans (as evidenced by execution and delivery of the CDBG Note and the Re-Loan Note) and for the remainder of the term of their Developer Contract. In addition, Owner or the general contractor shall maintain Builders Risk policy insuring against all risks of physical loss of damage to the Property intended to comprise the Project and all personal property used to maintain or service the Project's construction, whether located at the Property or elsewhere. Owner shall maintain property insurance written on an "all risk" policy form including coverage for earthquake, flood, windstorm, debris removal, hot and cold testing in the amount no less than the CDBG Loan, plus the value of subsequent contract modification and cost of material supplied or installed by others, comprising total value for the entire Project at the site on replacement cost basis. The named insured should include Owner, its general contractor and subcontractors.
- 5.3 Progress Inspections. Owner shall provide County with an anticipated inspection schedule prior to the set up and approval of funds. Inspections shall conform to the inspection schedule, which should plan for progress inspections at completion of approximately 40% and 70% of the scheduled work exclusive of any change orders. A final inspection shall be made when nearing completion of 100% of the scheduled work. Owner shall contact County for a scheduled inspection at least seven (7) business days in advance of the inspection date. Owner shall permit representatives of County, DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability,

and representatives of the Federal government with reasonable access to the Property in order to inspect the Project.

5.4 Davis-Bacon Act. The Davis-Bacon and related acts ("DBRAs") generally apply to Owner and its contractors and subcontractors performing on federal and federally assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating). Laborers and mechanics performing on the Project are entitled to receive prevailing wage rates for such work. DRBAs require that Owner, its contractors and subcontractors performing on DRBA-covered contracts pay any and all laborers and mechanics no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, as provided by the U.S. Department of Labor, and as shown on Davis-Bacon Act.

(a) Each covered party shall, on a weekly basis, provide County (or such other party designated by County) a copy of all payrolls. Each payroll submitted must be accompanied by a "Statement of Compliance" using page 2 of Form WH-347 Payroll (For Contractors Optional Use), or any form with identical wording, certifying compliance with applicable requirements. The statement is to be signed by Owner, its contractor or a subcontractor, or by an authorized officer or employee of Owner, its contractor or a subcontractor who supervises the payment of wages, and delivered to a representative of the federal or state agency in charge. This must be submitted within seven days after the regular pay date for the pay period.

(b) Owner shall ensure that all contractors and subcontractors pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics.

## **PROPERTY MANAGEMENT REQUIREMENTS**

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In general, the County has the right to review the qualifications and record of the Developer shall property management company and approve the property management company selected by Owner to manage the Project.

1. County retains the right, during the Affordability Period, to require the property management company be replaced by a new management company selected by Developer if a Default has occurred and is continuing that is attributable to the duties of the property management company, or if material good cause for removal of the property management company exists under the operating agreement of Owner.

2. Minimum Qualifications:

2.1. At least five (5) years' experience managing affordable housing developments financed in whole or in part through federal funding programs

2.2. A staffing plan for the Project

2.3. The property management firm is not currently debarred or suspended by the

federal government or any state government

2.4. The lead on-site staff or equivalent must have completed the following certifications and must maintain the certifications during their employment at the CDBG-DR funded site: (A) *Tax Credit Specialist* and (B) *Certified Manager of Housing*.

2.5. The on-site maintenance manager or equivalent must have completed the following certifications and must maintain the certifications during their employment at the CDBG-DR funded site: *Certified Manager of Maintenance*.

3. Owner shall ensure that the Project is maintained in compliance with HUD's Housing Quality Standards as set forth in 24 CFR Part 982m Subpart I. The County shall conduct annual inspections to at least 25% of the affordable housing units to confirm adherence to the Housing Quality Standards

## **AFFORDABILITY REQUIREMENTS**

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At least fifty-one percent (51%), rounded up to the nearest whole number, of the units in the Project will benefit Low- and Moderate-Income persons in order to satisfy the CDBG national objective. To the extent there is a conflict between the Affordability Requirements on the one hand and the applicable Low Income Housing Tax Credit (LIHTC) rules, regulations and/or restrictions on the other, the more restrictive of the Affordability Requirements versus the LIHTC rules, regulations and/or conditions shall control.

### **Tenant Selection**

The property manager is required to have fair, equitable and written tenant selection procedures that will be used for all tenant selection and be followed for each applicant in the same manner without exception. The property manager will use a standard application which meets the criteria of federal and state law and the subsidy financing, which properly reflects all local, state and federal requirements. Tenant selection procedures will include a grievance procedure. Applicants who are rejected must receive a written notification of rejection. The property manager shall maintain a waiting list in accordance with the requirements of 24 CFR 982.204 for applicants for whom an affordable unit is unavailable at the time of application

### **Lease**

The property manager will use a standard lease which meets the criteria of the subsidy financing and does not contain any "prohibited clauses," as defined by local, state, or federal laws and regulations. The minimum standard is the most restrictive law or regulation. County requires all leases have a minimum lease period will be one year and a clause prohibiting the tenant from sub-letting or renting the unit either short term or long term

### **Tenant Income Verification**

Since LIHTC are to be utilized on the Project, income testing of tenants will inure, defer to, or be subject to the LIHTC income testing and determination method for purposes of compliance with CDBG affordability requirements. County will conduct regular monitoring to

ensure ongoing compliance with the tenant income and unit occupancy requirements.

## REPORTS

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Owner and Developer must maintain and provide the following reports on forms and in a format reasonably acceptable to County:

1. All reports required by HUD and such other reports as necessary for both County and Nonprofit/Owner to comply with applicable Governing Authority or agreements regarding the CDBG-DR funding, including reporting required by County under the audit requirements of 2 CFR Part 200.
2. During construction, a monthly progress report on a form acceptable to the County.
3. During the lease up period, Owner shall submit a monthly report of occupancy to the County's Disaster Recovery Department within fifteen business days after the end of each month.
4. Once stabilized occupancy has been achieved, Owner shall submit a quarterly report of occupancy to County's within fifteen (15) business days after the end of the quarter.
5. Within fifteen (15) days after the close of each quarter (or such date and interval that aligns with similar reporting requirements for Florida Housing Finance Corporation and/or other financial providers), Owner shall provide to County an unaudited balance sheet of Owner and the related statements of income and investors' equity for such month, together with a certification by Owner's responsible financial officer that such financial statements are complete and correct, present the financial conditions at the end of such period and the results of its operation during such period in accordance with GAAP, consistently applied, and certifying, in a form reasonably satisfactory to County, that Owner has not been and is not then in default of any of the terms, provisions and/or covenants contained in this Agreement and/or any of the CDBG Loan Documents and there was no known Default (or specifying those Defaults of which he or she is aware).
6. Annual Compliance Reports: Within thirty (30) days after the close of each calendar year (or such date that aligns with similar reporting requirements for Florida Housing Finance Corporation and/or other financial providers) that include the Project name, activity, location, national objective, number of total housing units, number and designation of CDBG units (designation means unit number, size, type, and household income designation), rents charged on CDBG units, beginning and ending dates of leases on the CDBG units, and numbers of Low- and Moderate-income persons or households benefiting. Owner will provide to County all necessary and appropriate financial and compliance audits and ensure that all related party transactions are disclosed to the auditor.
7. Minority Business Enterprise and Women Business Enterprise reports shall be submitted at each draw of CDBG-DR funds.
8. Section 3 compliance reports will be submitted at each draw of CDBG-DR funds.
9. Such other reports and documentation as County may from time to time reasonably request.

## RECORD RETENTION

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Records are maintained to document compliance with Program requirements and federal, state, and local regulations and to facilitate an audit review by HUD. Records are maintained in accordance with 24 CFR 570.3, which states they must be maintained for a period of five years following the closeout of HUD's grant agreement with the State. Proper records management ensures that:

1. The County complies with all requirements concerning records and records management practices under Federal and state regulations;
2. The County has the records it needs to support and enhance ongoing business and citizen service, meet accountability requirements and community expectations;
3. These records are managed efficiently and can be easily accessed and used for as long as they are required; and
4. These records are stored as cost-effectively as possible and when no longer required they are disposed of in a timely and efficient manner based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2.

## COMPLAINT PROCESS

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### Complaint/Appeals Process

Citizen complaints will be handled as required under the following regulations:

- 24 CFR 91.11(h) Citizen Participation Plan which states, "The citizen participation plan shall describe the State's appropriate and practicable procedures to handle complaints from citizens related to the consolidated plan, amendments and performance report. At a minimum, the citizen participation plan shall require that the State must provide a timely, substantive written response to every written citizen complaint, within an established period of time (within 15 working days, where practicable, if the State is a CDBG recipient)."
- 24 CFR 570.486(a)(7) Local Government Requirements, which states, "Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days, where practicable."

### Resolution of complaints

The goal of St. Johns County is to resolve complaints in a manner that is sensitive to the applicant's concerns and achieves fair results. Regardless of the complaint, Program staff members will treat the issue with respect, respond to the applicant about the status of the complaint, and handle the issue quickly (within 15 working days, if feasible).

The applicant will have the opportunity to fill out a formal complaint form that is accessible on the disaster recovery website. The complaint form includes the applicant's name, contact

information and nature of the complaint being filed. Information on how to file a complaint will be available at the program offices and included on printed materials as well as be available on the disaster recovery website.

### **Informal Complaints**

Complaints that are brought forward in an informal manner—orally or revealed in the process of addressing another issue—will be addressed where possible regardless of the source of the complaint. Informal complaints or appeals can be made by applicants by phone at (904) 209.1280 or in person with a Case Manager at the Restore St. Johns office located at:

*Health and Human Services Building  
200 San Sabastian View  
Room 2206 (Egret Conference Room)  
St. Augustine, FL 32084*

1. When responding to an informal complaint, the county or Restore St. Johns staff will obtain all pertinent information from the individual, including:
  - a. The issue raised.
  - b. The name of the individual reporting the complaint (if possible) and associated contact information; if no name or contact number is provided, then that will be noted and placed in an informal complaint file—either electronic or hard copy.
  - c. Any other information regarding the complaint.
2. The Case Worker will determine whether the issue can be addressed through verbal discussion without necessitating a formal complaint process. The Case Worker will also inform the Applicant of formal complaint process and indicate in the file that the Applicant was informed of how to file a formal complaint.
3. If a resolution cannot be met through the informal process and an applicant believes that the Program's determination of their funding award calculation, eligibility status, or construction workmanship is incorrect/does not meet standards, they can request a Formal Appeal Form from their Case Worker.

### **Formal Complaints**

Formal complaints must be submitted utilizing the Formal Complaint Form (Exhibit One) available through the Restore St. Johns Office. The applicant will be informed of the complaint process and the availability of the Formal Complaint Form.

Formal Complaints require the name and contact information of the individual submitting the complaint. All complaints must originate from the individual seeking assistance from the program as a registrant, applicant, contractor, or other direct party. Any complaint forwarded to St. Johns County from the U.S. Department of Housing and Urban Development (HUD) and or Department of Economic Opportunity (DEO) will also be considered a formal complaint and processed in accordance with this policy.

Complaints may be submitted in the following ways:

**Mail:** St. Johns County  
Restore St. Johns, Room 2206  
200 San Sebastian View  
St. Augustine, FL 32084

**Email:** cdbgdr@sjcfl.us

**Hand Deliver:** St. Johns County  
Restore St. Johns, Room 2206  
200 San Sebastian View  
St. Augustine, FL 32084

1. Every formal complaint will be entered into the project tracking system and maintained as either an electronic or hard copy file. The project tracking system will note any complaints and their potential resolution.
2. Once the complaint is entered in the tracking system, the Program Manager or their designee will determine if the complaint has standing by determining the following:
  - a) The individual filing the complaint is a registrant or applicant, contractor, or direct party.
  - b) Associated contact information has been provided.
  - c) The complaint is relevant.
3. If the complaint is valid, the Program Manager or a designee will perform the following steps:
  - a) Review and/or investigate the complaint.
  - b) Once the complaint has been resolved, or if it needs more work than can be done at the local program level, refer the complaint to the Review Committee to seek resolution.
  - c) Provide documentation regarding the final result and resolution to St. Johns County if applicable.
  - d) Provide a copy of this Policy relating to investigation and resolution to the complainant and to each person who is subject of the complaint.
  - e) Notify the complainant of the results, or if longer than 15 working days, provide a status of the review process.
  - f) Close the complaint.

## **DEO State Complaint Process**

Citizen Complaints. The goal of the State DEO is to provide an opportunity to resolve complaints in a timely manner, usually within fifteen (15) business days as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All

applications, guidelines, and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

Citizens may file a written complaint or appeal through the Disaster Recovery email at [CDBGDR@deo.myflorida.com](mailto:CDBGDR@deo.myflorida.com) or submit by postal mail to the following address:

Attention: Chief, Community Disaster Recovery Florida Department of Economic Opportunity  
107 East Madison Street  
The Caldwell Building, MSC 160  
Tallahassee, Florida 32399

DEO will handle citizen complaints by conducting:

- Investigations as necessary;
- Resolution; or
- Follow-up actions.

If the complainant is not satisfied by the SJC CDBG-DR Program determination or DEO's response, then the complainant may file a written appeal by following the instructions issued in the letter of response. If at the conclusion of the appeals process the complainant has not been satisfied with the response, a formal complaint may then be addressed directly to the regional Department of Housing and Urban Development (HUD) at:

Department of Housing & Urban Development  
Charles E. Bennett Federal Building  
400 West Bay Street, Suite 1015  
Jacksonville, FL 32202

The Florida Disaster Recovery Program operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Toll Free), 1-800-927-9275 (ITY) or  
[www.hud.gov/fairhousing](http://www.hud.gov/fairhousing).

Corrective action will be implemented where warranted.

## **PII PROCESS**

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It is the policy of the CDBG-DR Program to protect personally identifiable information (PII) of employees, contractors, vendors and clients. The electronic restrictions and safeguards outlined in this policy provide guidance for employees, service members, contractors, vendors and clients that have access to PII retained by the CDBG-DR Program to ensure compliance with state and federal regulations.

## Definitions

1. Personally Identifiable Information (PII) is any information pertaining to an individual that can be used to distinguish or trace a person's identity. Some information that is considered PII is available in public sources such as telephone books, public websites, etc. This type of information is considered to be Public PII and includes:
2. First and Last name
3. Address
4. Work telephone number
5. Work e-mail address
6. Home telephone number
7. General educational credentials
8. Photos and video

In contrast, Protected PII is defined as any one or more of types of information including, but not limited to:

1. Social security number
2. Username and password
3. Passport number
4. Credit card number
5. Clearances
6. Banking information
7. Biometrics
8. Data and place of birth
9. Mother's maiden name
10. Criminal, medical and financial records
11. Educational transcripts
12. Photos and video including any of the above

## Procedures

This section provides guidelines on how to maintain and discard PII. All electronic files that contain Protected PII will reside within a protected information system location. All physical files that contain Protected PII will reside within a locked file cabinet or room when not being actively viewed or modified. Protected PII is not to be downloaded to personal or organization owned employee, service member, volunteer, or contractor workstations or mobile devices (such as laptops, personal digital assistants, mobile phones, tablets or removable media). PII will also not be sent through any form of insecure electronic communication (e.g. Online Form, E-mail or instant messaging systems). Significant security risks emerge when PII is transferred from a secure location to a less secure location or is disposed of improperly. When disposing of PII the physical or electronic file should be shredded or securely deleted.

## **Incident Reporting**

The Grant Administrator must be informed of a real or suspected disclosure of Protected PII data within 24 hours after discovery (e.g. Misplacing a paper report, loss of a laptop, mobile device, or removable media containing PII, accidental email of PII, possible virus, or malware infection or a computer containing PII).

## **Training**

The Grant Administrator will conduct PII Training for all Grant staff annually during April of each year. The Grant Administrator will maintain a signed PII Acknowledge Form from each of the Grant staff members.

## GLOSSARY

**Area Median Income (AMI)** – The median (middle point) household income for an area adjusted for household size as published and annually updated by the U.S. Department of Housing and Urban Development. Once household income is determined, it is compared to HUD's income limit for that household size.

**Community Development Block Grant- Disaster Recovery Program (CDBG-DR)** - The U.S. Department of Housing and Urban Development (HUD) provides flexible grants to help cities, counties, and States recover from Presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

**Davis-Bacon Related Acts (DBRA)** – The Davis-Bacon Act requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates.

In addition to the Davis-Bacon Act itself, Congress has added prevailing wage provisions to approximately 60 statutes which assist construction projects through grants, loans, loan guarantees, and insurance. These "related Acts" involve construction in such areas as transportation, housing, air and water pollution reduction, and health. If a construction project is funded or assisted under more than one Federal statute, the Davis-Bacon prevailing wage provisions may apply to the project if any of the applicable statutes requires payment of Davis-Bacon wage rates.

**Duplication of Benefits** – The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of a loss resulting from a major disaster as to which he has already received financial assistance under any other program or from insurance or any other source.

**Household** – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single- family, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the low to moderate income objective is based on the LMI of households.

**Household Income** – Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes. Hereby known as "adjusted income".

**Housing and Urban Development (HUD)** – United States Department of Housing and

Urban Development.

***Low Income Housing Tax Credit (LIHTC)*** – The Low-Income Housing Tax Credit (LIHTC) is the most important resource for creating affordable housing in the United States today. The LIHTC database, created by HUD and available to the public since 1997, contains information on 48,672 projects and 3.23 million housing units placed in service between 1987 and 2018

***Low and Moderate Income (LMI) National Objective*** – Activities which benefit households whose total annual gross income does not exceed 80% of AMI, adjusted for family size. Income eligibility will be determined and verified in accordance with adjusted gross income requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3rd Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used by the County to verify the income eligibility of each household applying for assistance at the time assistance is provided.

- Very low: Household's annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size.
- Low: Household's annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size.
- Moderate: Household's annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

***Most Impacted and Distressed (MID) Areas*** – Areas of most impact as determined by HUD or the State using the best available data sources to calculate the amount of disaster damage.