

SUBRECIPIENT AGREEMENT
BY AND BETWEEN
THE DAUPHIN ISLAND SEA LAB/MOBILE BAY NATIONAL ESTUARY PROGRAM
AND
THE CITY OF FOLEY
FOR
Beulah Heights Community Resilience Project of Low Impact Development

This agreement is entered into to specify the terms and conditions under which the **Dauphin Island Sea Lab/Mobile Bay National Estuary Program (MBNEP)** and the **The City of Foley** (herein referred to as the “**Subrecipient**”) will cooperate in the performance of the subject project, **Beulah Heights Community Resilience Project of Low Impact Development** in furtherance of the implementation of the Comprehensive Conservation and Management Plan prepared by MBNEP for the U.S. Environmental Protection Agency.

Whereas, the MBNEP’s mission is to implement a community based Comprehensive Conservation and Management Plan (CCMP) that maintains and promotes the wise stewardship of the water quality and living resources in the Mobile Bay and Delta and;

Whereas, the Marine Environmental Sciences Consortium is the administrative host of MBNEP and received funding from the U.S. Environmental Protection Agency’s Bipartisan Infrastructure Law on behalf of MBNEP to implement the objectives set forth in its CCMP and;

Whereas, MBNEP desires to address the Ecosystem Restoration goal of its CCMP as follows: to advance the wise stewardship of water quality and living resources of Alabama’s estuaries and coast to withstand climate change related impacts; and

Whereas, **The City of Foley** is a duly organized public entity and agrees to undertake said project; Therefore, in consideration of the mutual promises set forth herein, the **The City of Foley** and MBNEP hereby agrees as follows:

1. Source of Funds.

The funds to be disbursed by MBNEP to the **Subrecipient** under this Agreement (the “Funds”) are awarded under the Bipartisan Infrastructure Law (P.L. 117-58 - Nov 15, 2021), also known as the "Infrastructure Investment and Jobs Act of 2021" (IIJA) or "BIL." All recipient's agreements awarded under U.S. EPA BIL are required to comply with EPA's National Estuary Program Bipartisan Infrastructure Law Funding Implementation Memo for Fiscal Years 2022-2026 signed by Radhika Fox, EPA Assistant Administrator, on July 26, 2022.

2. Purpose of Funds.

To support MBNEP's implementation of the Comprehensive Conservation and Management Plan and Strategic Plan to ensure that benefits reach disadvantaged communities (defined in Executive Order 14008); build the adaptive capacity of ecosystems and communities; elevate climate efforts and leverage additional resources to the extent possible; catalyze actions of estuary stakeholders, build community organizational capacity for sound resource management, and leverage commitment and investment to ensure the estuary's sustainability. The purpose of the five-year BIL Strategic Plan is to advance the wise stewardship of water quality and living resources of Alabama's estuaries and coast to withstand climate change related impacts.

3. Scope of Project.

Under this Agreement, MBNEP agrees to disburse Funds to **Subrecipient** in accordance with the terms hereof to pay the costs associated with the implementation of the project referenced as Beulah Heights Community Resilience Project of Low Impact Development (the “Project”). A detailed description of the Project, including but not limited to a Project summary, expected timeline and schedule, purpose, products, outcomes, and deliverables (collectively the “Project Description”), are included as *Attachment A* hereto. The **Subrecipient**

hereby agrees to use the Funds disbursed solely to provide all necessary services, time, materials, equipment, machinery, tools, and other items (collectively the "Work" detailed in *Attachment A*) comprising the Project, all in accordance with the Project Description.

4. Period of Performance.

This agreement shall begin on **05/01/2024** and remain in force to **09/30/2028**.

5. Key Personnel.

Leslie Gahagan is considered to be essential to the work performed hereunder. In the event that Leslie Gahagan becomes unable or unwilling to continue the project, the **Subrecipient** shall notify MBNEP in writing to propose an individual to replace such Key Personnel. In the event a mutually acceptable replacement is not available, MBNEP shall have the option to terminate the project.

6. Project Budget.

MBNEP agrees to pay **Subrecipient** an amount not to exceed **\$ 247,514.00 (TWO HUNDRED FORTY-SEVEN THOUSAND FIVE HUNDRED FORTY DOLLARS AND NO CENTS)** for the services performed under this Agreement as per the Project Description included as *Attachment A*.

6.1. Invoice Submission:

Subrecipient will submit all invoices directly to MBNEP outlining in sufficient detail a description of activities that have taken place. Only actual costs incurred will be paid. All requests for payment shall include the following information:

- A. The total dollar amount of Funds being requested;
- B. An itemization of the Work costs for which the Funds are being requested;
- C. A narrative description of the Work for which the Funds are being requested; and
- D. A certification that:
 - a. The Work for which the Funds are being requested constitutes part of the Project as set forth in the Project Description;
 - b. as of the date of the applicable Reimbursement Request, each Task has been proceeding on or under its corresponding Task Budget, and, to the **Subrecipient's** best knowledge, the **Subrecipient** expects each Task to be fully completed on or under its corresponding Task Budget, and;
 - c. as of the date of the applicable Reimbursement Request, the Project has been proceeding on or under the Total Budget, and, to the **Subrecipient's** best knowledge, the **Subrecipient** expects the Project to be fully completed on or under the Total Budget.

In the event the **Subrecipient** is unable to make a certification as specified above at the time it desires to submit a Reimbursement Request, the **Subrecipient** shall, at such time, submit to MBNEP a written explanation of the basis for the **Subrecipient's** belief that a Task has not been, or will not be, completed within its corresponding Task Budget or that the Project has not been, or will not be, fully completed within the Total Budget. Under such conditions the **Subrecipient** will be asked to submit to MBNEP a request for variance from the Budget.

6.2 Invoice Processing.

MBNEP will pay to the **Subrecipient** the amount of Funds properly requested and substantiated in a Reimbursement Request within thirty (30) days of receipt of such Reimbursement Request and all necessary supporting documentation.

6.3 Ongoing Compliance.

MBNEP reserves the right to refuse to pay all or any part of the Funds requested in a Reimbursement Request if at the time the request is submitted, the **Subrecipient** has failed to comply with any term or condition of this Agreement or has otherwise failed to perform the Work to date in accordance with the Project Description, and Task Budget.

6.4 Final Disbursement after Completion of all Work.

Notwithstanding any other provision of this Agreement, and notwithstanding the submission of any

Reimbursement Request, MBNEP shall withhold an amount equal to ten percent (10%) of the total contract amount until such time as **Subrecipient** has completed the Work, submitted all Final Reports required pursuant to Section 8 below, and received MBNEP's written approval of such Final Reports based on U.S. EPA BIL's written approval of such Final Reports. MBNEP shall disburse to the **Subrecipient** all or such portion of the ten percent (10%) holdback as is properly payable to the **Subrecipient** for Work performed under this Agreement.

6.5 Procurement.

The **Subrecipient** shall abide by procurement terms in this section. **Subrecipient** shall document efforts to ensure open competition for services required to undertake the activities outlined in this agreement.

6.5.1 Methods of Procurement to be followed.

The procurement of all labor, services, or work and the purchase or lease of goods (materials, equipment, supplies, or other personal property) must conform to one of the following methods:

- a) **Procurement by micro-purchases:** Procurement where the aggregate dollar amount for a *single* transaction for services and supplies does not exceed the following amount:
A total of \$10,000 (or the amount set in *48 CFR Subpart 2.1*), which may be awarded without soliciting competitive quotes if the price is deemed reasonable. Such awards must be distributed equitably among qualified suppliers to the extent practicable.
- b) **Procurement by small purchase procedures:** Where the procurement aggregate cost is between \$5,000 but less than \$25,000, price or rate quotations will be obtained, whenever possible from three (3) vendors (and never fewer than two vendors). Quotations may be secured via fax, email, telephone, or otherwise. All solicitation efforts and quotations must be documented in writing for the file so that information regarding the vendor, date, and amount of quote can be readily determined. The procurement by small purchase procedures is in accordance with *48 CFR part 2, subpart 2.1, Ala. Code § 41-4-134, and Ala. Adm. Code. R.355-4-3-.05*.
- c) **Procurement by sealed bids (formal advertising):** Procurement where the aggregate cost is \$30,000 or more will follow *Ala. Code §41-16-50*. Bids are publicly solicited. A firm fixed price contract (lump sum or unit price) is awarded to the *responsible* and *responsive* bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price (including unit price contracts which are based on estimated quantities).

The sealed bid method is subject to the following:

Procurement by competitive proposals (Request for Proposals - RFP): The technique of competitive proposals is normally used when conditions are not appropriate for the use of sealed bids, with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for using sealed bids. The following requirements apply:

- a. An invitation to bid shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.
- b. Adequate public notice of the invitation to bid shall be given a reasonable time prior to the date set forth in the invitation for the opening of bids, in accordance with rules adopted under this article.
- c. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation to bid. The amount of each bid, the name of each bidder, and any other information required by rule shall be recorded. The record and each bid shall be open to public inspection to the extent required by *Section 41-4-115*.
- d. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation to bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Any criteria that will affect the bid price and will be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation to bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation to bid.

The procurement by competitive proposals above is in accordance with *Ala. Code 41-4-132* and *Rule 355-4-3-.02* (Competitive Sealed Bidding).

7. Reporting Requirements.

The **Subrecipient** shall render to MBNEP progress reports on work performed under this Agreement.

7.1 Quarterly Reports.

A progress report is required by the fifteenth (15) day of April, July, October, and January throughout the term of this agreement for the preceding three months and will contain, at a minimum:

- a) An update on the status of the Project's implementation and Work performed during the applicable reporting period, including a general description of implementation progress to date and a statement as to whether the Project is proceeding in accordance with the Project Description (including whether the Project is on-Budget and on-schedule);
- b) An update on the individual Tasks comprising the Project, including for each Task a summary of (A) the Work performed on such Task during the reporting period; (B) progress made toward Task milestone(s) and/or deliverable(s) as measured against the Task schedule; (C) performance of the Task as against the applicable Task Budget; (D) any existing or anticipated problems with implementation of the Task; any defects, deficiencies, or delays in the Task Work (including but not limited to the disclosure of any factors that are likely to impact the Project schedule or any Task schedule); and any remedial action(s) planned or already taken with respect to any defects, deficiencies, or delays affecting the Task;
- c) Copies of all Project products and deliverables produced during the applicable reporting period, including but not limited to any reports, publications, maps, brochures, photos, videos, outreach tools, or press releases; and
- d) Any other information useful for MBNEP's evaluation of the Project's progress as measured against the Project Description, Budget, and Project schedule.

In addition, for projects that entail a habitat conservation, restoration, or protection component, the **Subrecipient** will enter this project in the Mississippi Alabama Habitat Database. This database is located at <http://restoration.disl.org/>

7.2 Final Report.

When the **Subrecipient** has fully and completely performed all the Work, the **Subrecipient** shall prepare a comprehensive report on the Work and the corresponding results (the "Final Programmatic Report") and a full accounting of the funds disbursed to it hereunder as compared against the Total Budget (the "Final Financial Report") (The Final Programmatic Report and Final Financial Report are hereinafter referred to collectively as the "Final Reports."). As appropriate, the Final Programmatic Report should include copies of any publications, press releases, and other documents, materials, and products developed as part of the Project, including without limitation photographs, video footage, and other electronic representations of the Project and Work. The Final Reports shall be provided by the **Subrecipient** to MBNEP as soon as practicable after the **Subrecipient** reaches a determination that it has fully and completely performed all the Work, and in any event no later than thirty (30) days prior to the end of the Term of this Agreement as set forth in Section 4.

8. Independent Contractor; Sub award of Funds.

The **Subrecipient** shall be an independent contractor with respect to the Project, each part thereof, and the Work. No contractor, subcontractor, or other subrecipient of Funds from the **Subrecipient** nor any employee of the **Subrecipient**, shall be deemed to be an agent, representative, employee, or servant of MBNEP or U.S. EPA BIL in connection with this Agreement. MBNEP shall not have the right to control, nor any actual, potential or other control over, the methods and means by which the **Subrecipient** or any of its agents, representatives, employees, or contractors conducts its business operations. The **Subrecipient** shall not, in the performance of the Work, perform any act or make any representation to any person to the effect that the **Subrecipient** or any of its agents, representatives, or employees, is the agent, representative, employee, or servant of MBNEP or U.S. EPA BIL.

If the **Subrecipient** makes or issues any contracts or sub-contracts for the purposes of performing the Work, then the **Subrecipient** will be deemed to have represented and warranted to MBNEP at each such time, in connection with each such award or sub-award, as follows:

- a) in making such award or sub-award of Funds, the **Subrecipient** has complied with all applicable laws, regulations, rules, orders, and other governmental mandates, including, without limitation, those pertaining to procurement, acquisition, and other contracting actions by the **Subrecipient**;
- b) in making such award or sub-award of Funds, the **Subrecipient** has complied with its internal policies and procedures applicable to procurement, acquisition, or contracting actions;
- c) each contractor is qualified to perform the applicable Work and is authorized to do business in the State of Alabama;
- d) each contractor is required under its agreement with the **Subrecipient** to perform the applicable Work within budgeted costs identified for such Work as provided in the Project Budget;
- e) each contractor has agreed to conduct its activities related to the Work in compliance with all applicable laws, regulations, rules, orders, and other governmental mandates;
- f) each contractor has agreed to obtain and maintain all appropriate insurance against liability for injury to persons or property from any and all activities undertaken by such the **Subrecipient** related to the Work; and
- g) no contractor has any conflict of interest with respect to MBNEP, U.S. EPA BIL, the **Subrecipient**, or the Project.

The **Subrecipient** shall be responsible for supervising and directing the Work performed by all contractors and shall be responsible for all contractor engineering, procurement, construction means, methods, techniques, sequences and procedures, as well as for coordinating all contractor Work. As between the **Subrecipient** and MBNEP, the **Subrecipient** shall bear sole responsibility for any and all liability caused or incurred by any contractor in performing Work. MBNEP shall not be deemed by virtue of this Agreement to have any contractual obligation to, or relationship with, any contractor, and the Parties agree and acknowledge that as between MBNEP and the **Subrecipient** all Work shall be deemed to be the responsibility of, and performed by, the **Subrecipient**.

9. MBNEP Right to Inspect Work; Access.

Representatives of MBNEP (including consultants associated therewith) shall, upon reasonable prior notice to the **Subrecipient**, have access to inspect all Work hereunder; provided, however, that any inspection of the Work shall be conducted at a reasonable time and in a manner that does not delay or disrupt the Work. Notwithstanding any review or inspection by MBNEP, the **Subrecipient** shall not be relieved of its responsibility for performance of the Work or the submission of reports as expressly set forth in this Agreement solely by virtue of either entity's inspection or review of the Work. The **Subrecipient** shall provide MBNEP and its representatives and consultants with the opportunity to participate in site inspections, meetings, and/or teleconferences, as appropriate, related to the **Subrecipient's** performance of the Work and completion of the Project.

10. Conflict of Interest.

During the term of this Agreement, the **Subrecipient** will maintain policies governing conflicts of interest and, with respect to its performance of the Work and Project, will adhere to such policies. In addition, the **Subrecipient** will ensure compliance with the EPA's Conflict of Interest provision the General Terms Agreement to uphold Sections 5.0(d) and 7.0(c) of EPA's COI Policy.

11. Amendments.

Any amendment to this Agreement must be in writing and must be agreed to in writing by both parties. Notwithstanding any provision of this Agreement to the contrary, any duly executed amendment of this Agreement to extend its term shall be deemed to automatically add or modify, as appropriate, reporting due dates pursuant to Section 8 hereof such that the dates are commensurate with the extended term of this Agreement. Neither the Project Description, nor the Task Budget may be amended without the prior written consent of MBNEP.

12. Default and Termination.

Failure by the **Subrecipient** to comply (as determined by MBNEP in its reasonable discretion) with any material term of this Agreement, including but not limited to any failure by the **Subrecipient** to perform the Work in accordance with the Task Budget, and schedule set forth in the Project Description, shall be deemed to be a default of this Agreement and shall constitute cause for MBNEP to issue a written "Notice of Default" to the **Subrecipient**. Any such Notice of Default shall describe in reasonable detail the basis for MBNEP's determination of default and shall provide the **Subrecipient** with a period of no less than ninety (90) days in which to cure such default (or, if such default is incapable of being cured within ninety (90) days, to commence a cure of such default). If the **Subrecipient** has not cured or commenced a cure of, any default within ninety (90) days of its receipt of a Notice of Default, MBNEP may thereafter terminate this Agreement by a further written notice delivered to the **Subrecipient**.

In the event of termination of this Agreement prior to the **Subrecipient's** expenditure or obligation of the maximum amount of Funds available hereunder, the **Subrecipient** shall immediately (unless otherwise directed by MBNEP in its notice if MBNEP initiated the termination) undertake all reasonable steps to terminate any further expenditure or obligation of Funds, including but not limited to the following:

- a) Stop work on any portion of the Work that is incomplete, and refrain from undertaking any further Work on the Project.
- b) Place no further Work orders or enter into any further contracts or subcontracts for materials, work, facilities, or other aspects of the Work.
- c) Terminate all pending Work orders, contracts, and subcontracts for Work that have not yet commenced.
- d) Promptly take all other reasonable and feasible steps to minimize and/or mitigate any damages that may be caused by the failure to complete the Work, including but not limited to reasonable settlements of any outstanding claims arising out of termination of Work orders, contracts, and subcontracts related to the Work.
- e) Deliver or make available to MBNEP all data, drawings, specifications, reports, estimates, summaries, deliverables, and such other information and material as may have been accumulated by the **Subrecipient** with respect to the Work, whether completed or in progress.

The **Subrecipient** may terminate this Agreement by providing no less than thirty (30) days prior written notice to MBNEP.

13. Additional Support.

By entering into this Agreement, MBNEP assumes no obligation to provide further funding or financial support to the **Subrecipient** beyond the terms stated in this Agreement.

14. Arbitration and Choice of Law.

- A. All claims, disputes, and other matters in question arising out of, or relating to this Agreement, its interpretation or breach shall be decided through arbitration by a person or persons mutually acceptable to both MBNEP and the **Subrecipient**. Notice of the demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen. The award rendered by the arbitrator or arbitrators shall be final.
- B. This Agreement shall be subject to and interpreted by the laws of the State of Alabama, without regard to the Choice of Law principles. By entering into this Agreement, the **Subrecipient** agrees to submit to the jurisdiction of the courts of the State of Alabama.
- C. The terms of this Section will survive termination of this Agreement.

15. Compliance with Laws, Insurance, Indemnification.

- A. In conducting its activities relating to the Work and performing its obligations under this Agreement, the **Subrecipient** agrees to conduct all such activities in compliance with all applicable Federal, State, and local laws, regulations, and ordinances; and to secure all appropriate and necessary public or private permits and consents.
- B. The **Subrecipient** agrees to have its subcontractors obtain and maintain all appropriate insurance against liability for injury to person or property from any and all activities undertaken by the subcontractor and

associated with this agreement in any way; will have the Subrecipient and MBNEP named as additional insured on such policies and will provide MBNEP with appropriate Certificate of Insurance reflecting such additions after the subcontractor's executed contract.

C. The terms of this Section will survive termination of this Agreement.

16. Publicity.

The **Subrecipient** agrees to give appropriate credit to the U.S. Environmental Protection Agency's Bipartisan Infrastructure Law and the Mobile Bay National Estuary Program for its financial support in any and all press releases, publications, annual reports, video credits, dedications, and other public communications regarding this Agreement or any of the deliverables associated with the Project, the Work, and/or this Agreement that includes the following text: *"This project has been funded, in whole or in part, by the U.S. Environmental Protection Agency's National Estuary Program."* The **Subrecipient** hereby grants MBNEP and the U.S. Environmental Protection Agency the right and authority to publicize their financial support for the Project and the Work in press releases, publications, and other public communications.

The **Subrecipient** agrees to display signage on Project locations with the following guidelines:

- a) The **Subrecipient** will ensure that a visible Project identification sign is erected as appropriate at each public event or training location. The sign should summarize the purpose of the event and credit EPA and the National Estuary Program for funding. The **Subrecipient** will determine the design, placement, and materials for each sign. The signage will contain logos of the EPA and the MBNEP.
- b) If the award includes an outreach component, the recipient will provide signage that informs the public that the Project is funded by EPA through its National Estuary Program and includes the following text: *"This Project has been funded, in whole or in part, by the U.S. Environmental Protection Agency's National Estuary Program."*
- c) If the EPA logo is displayed along with the logos of other participating entities, the EPA logo must not be displayed in a manner that implies that EPA itself is conducting the Project. Instead, the EPA logo must be accompanied with, and immediately next to, a statement indicating that the **Subrecipient** received financial assistance from EPA via the MBNEP for the Project. As provided in the sign specifications from OPA, the EPA logo is the preferred identifier for assistance agreement Projects.
- d) **Subrecipients** are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of Projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the EPA logo) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

17. Disclaimers.

Payments made to the **Subrecipient** under this Agreement do not by direct reference or implication convey MBNEP's endorsement of the Work or any deliverables provided pursuant to the Agreement. All information submitted for publication or other public releases of information regarding this Agreement, the Project, or the Work shall carry the following disclaimer: *"The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions, views, or policies of the U.S. Environmental Protection Agency or the Mobile Bay National Estuary Program. Nothing contained herein constitutes an endorsement in any respect by either entity."*

18. Website Links.

The **Subrecipient** agrees to permit MBNEP and U.S. EPA BIL to post a link on any or all of MBNEP's or U.S. EPA BIL's websites to descriptions of the Work, the Project, or this Agreement.

19. Access to Records.

MBNEP and any of its duly authorized representatives shall have access to any books, documents, papers, and records of the **Subrecipient** that are directly pertinent to this Agreement for purposes of making audits, examinations, excerpts, or transcription during the term of this Agreement and for a period of ten (10) years after the date of delivery of the Final Reports under this Agreement. By executing this Agreement and accepting disbursements of Funds hereunder, the **Subrecipient** agrees, without limiting any other obligation

under this Agreement, to produce, maintain, and retain such invoices, purchase orders, bills, time records, evidence of payment, and other documents as are necessary to permit MBNEP to verify the proper use and expenditure of the Funds disbursed to the **Subrecipient** hereunder.

20. Severability.

Each provision of this Agreement is distinct and severable from the others. If one or more provisions is or becomes invalid, unlawful, or unenforceable in whole or in part, the validity, lawfulness, and enforceability of the remaining provisions (and of the same provision to the extent enforceable) will not be impaired, and the parties agree to substitute a provision as similar to the offending provision as possible without its being invalid, unlawful or unenforceable.

21. Quality Assurance Project Plan.

Should the **Subrecipient** implement environmental projects that include 1) direct measurement, sampling, or observation activities, 2) environmental modeling, 3) use of existing data, 4) use of survey results, or 5) calculation of environmental outcomes, must prepare and implement a Quality Assurance Project Plan (QAPP). The **Subrecipient** shall submit to the EPA Project Officer (PO) via MBNEP, an approvable QAPP prior to any data collection. If no data is collected/used, activities may occur until the QAPP has been reviewed and approved by EPA R4.

22. Other Conditions.

- **Fully enforce civil rights.** EPA's nondiscrimination regulations prohibit recipients of EPA financial assistance from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, national origin (including limited English proficiency), age, disability, or sex. MBNEP funding under the BIL should ensure compliance with civil rights laws. EPA will provide interested parties with technical assistance and training to support their compliance with Title VI obligations.
- **Compliance with Build America Buy America Act Requirements.** Congress passed the Build America Buy America (BABA) Act in 2021 concurrently with the BIL. Congress established this domestic preference program to create long-term opportunities for domestic manufacturers and manufacturing jobs and to build resilient domestic supply chains for a wide range of products used in construction and infrastructure, including iron and steel products, manufactured products, and construction materials. Additional guidance and information regarding program-wide, project-specific, and product-specific waivers, and the process to apply for them, will be forthcoming. Compliance instructions will also be addressed in the terms and conditions of each award, and these requirements extend to sub-awardees.
- **Compliance with the Federal Flood Risk Management Standard for built infrastructure.** Where appropriate, projects should incorporate the Federal Flood Risk Management Standard (FFRMS) defined in Executive Order 13690 to improve the resilience of communities, ensuring that federal investments located in or near floodplains are designed to be resilient to the impacts of flooding. The FFRMS requires that new construction, or significant improvements, of structural infrastructure funded using federal financial assistance, be elevated to withstand local flood risk conditions. More information can be found at: <https://www.fema.gov/floodplain-management/intergovernmental/federal-flood-risk-management-standard>
- **Support the American Worker and Renew the Conservation and Water Workforce.** The BIL is not only an opportunity to reinvest in America's communities and ecosystems, but also an opportunity to invest in the American workers who support them. BIL investments through MBNEP should contribute to developing a strong restoration and conservation workforce, build capacity to maintain critical gray or green infrastructure and support efforts to open pathways to environmental employment, especially for youth and groups currently under-represented in fields such as construction and trades, environmental restoration, science, and conservation. Note: funds from MBNEP may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

23. Contact Information.

MBNEP Primary: Roberta Arena Swann, Director
Mobile Bay National Estuary Program
118 North Royal St., Suite 601
Mobile, AL 36602
Telephone: 251-431-6409
Fax: 251-431-6450
Email: rswann@mobilebaynep.com

MBNEP Alternate: Bethany Hudson, Business and Grants Manager
Mobile Bay National Estuary Program
118 North Royal St., Suite 601
Mobile, AL 36602
Telephone: 251-459-8870
Fax: 251-431-6450
Email: bhudson@mobilebaynep.com

Subrecipient: Leslie Gahagan, Sustainability & Natural Resources Director
The City of Foley
23030 Wolf Bay Drive
Foley, AL 36535
Telephone: 251-923-4267
Fax: 251-952-4014
Email: lgahagan@cityoffoley.org

Subrecipient Alternate:

24. Binding Obligation. This Agreement between The City of Foley and DISL/MBNEP, titled **Beulah Heights Community Resilience Project of Low Impact Development** consists of the Articles 1-24, *Attachment A: Project Description, and Attachment B: Progress Report* and constitutes the entire Amendment of the parties. Any other contract, written or oral, is hereby superseded.

MOBILE BAY NATIONAL ESTUARY PROGRAM

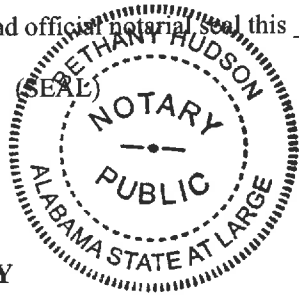
BY: *Roberta Swann*
Roberta Swann, Director

STATE OF ALABAMA

COUNTY: Mobile

I, the undersigned, a Notary Public in and for said State and County, hereby certify that Roberta Swann, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she executed the same voluntarily on the same date.

Given under my hand and official notarial seal this 8th day of July, 2024.



Bethany Hudson
Notary Signature
My Commission Expires: 3/10/25

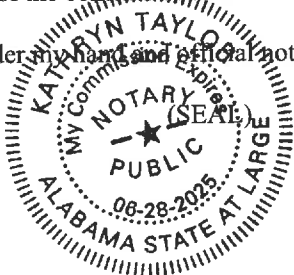
THE CITY OF FOLEY

BY: *[Signature]*
TITLE: Mayor

STATE OF Alabama
COUNTY: Baldwin

I, the undersigned, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she executed the same voluntarily on the same date.

Given under my hand and official notarial seal this 26th day of June, 2024.



Kathryn Taylor
Notary Signature
My Commission Expires: 06-28-25

DAUPHIN ISLAND SEA LAB

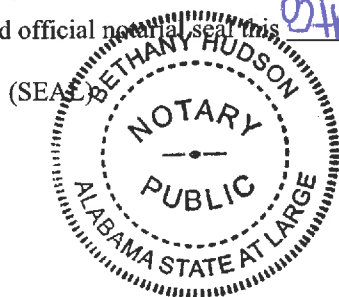
BY: *[Signature]*
David England, Deputy Director

STATE OF ALABAMA

COUNTY: Mobile

I, the undersigned, a Notary Public in and for said State and County, hereby certify that David England, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she executed the same voluntarily on the same date.

Given under my hand and official notarial seal this 8th day of July, 2024.



Bethany Hudson
Notary Signature
My Commission Expires: 3/10/25

Attachment A
Project Description

Implementing Community Resilience Green Infrastructure in the Beulah Heights Neighborhood in Wolf Bay Watershed

Foley experienced a major compound flooding event in July 2021 following Hurricane Sally. This event was officially a ten-year storm event, but many underserved areas flooded due to clogged drainage ways and super saturated soil. The unexpected rain event led to homes and roads flooding as well as a coffin floating out of a flooded cemetery. Beulah Heights lacked adequate drainage to convey stormwater to Wolf Creek.

The City of Foley received funding to develop a stormwater plan for the community to identify areas for stormwater management to include areas for stormwater storage and conveyance to Wolf Creek. The project also included reducing contaminated stormwater through a septic system rehabilitation or sewer connection program for eligible residential property owners. The project was funded through the Alabama Department of Conservation and Natural Resources, State Lands Division, Coastal Section, in part, by a grant from the National Oceanic and Atmospheric Administration, Office for Coastal Management.

Thompson Engineering developed the stormwater plan with public input. After all the data was assessed, a draft was developed. Another public meeting was held to present the plan and gain comments from the community and city leaders. The Beulah Heights Stormwater Plan, completed in 2023, identified priority measures to address the flooding concerns and water quality and adapt the community to be more resilient to extreme weather events. The measures were prioritized in order to develop a functional drainage system for each micro-watershed with increased water quality treatment. The top priority that was identified was the maintenance and inclusion of low impact development techniques of the Michigan Avenue Regional Stormwater Facility. Many of the other projects included installing adequate drainage swales, cross drains, and drainage inlets.

This Agreement includes, but not limited to: Michigan Avenue Regional Stormwater LID

The Michigan Avenue Regional Stormwater Facility was initially designed to store a 50-yr storm and attenuate a 100-yr storm without overtopping. As the characteristics of the Beulah Heights area have changed with increased development and additional runoff volumes that are routed to the pond, the capacity of the existing pond will need to be modified to maintain the same design requirements. Modifications to the outfall through an automated outlet structure will maximize capacity as well as minimize downstream impacts. This low impact technique will provide the city the ability to monitor flow out of the pond; thereby reducing the velocity and volume discharging into Wolf Creek, where instream erosion has been documented. Another modification will be the addition of a sediment forebay. The forebay will be designed to minimize nonpoint source pollutants being introduced into the regional stormwater facility, which will, in turn, reduce pollutants in Wolf Creek. These low impact development practices will assist the community in being more resilient to stormwater effects as well as water quality pollution.

Attachment B

**PROGRESS REPORT
FOR
MOBILE BAY NATIONAL ESTUARY PROGRAM PROJECTS**

Project: Beulah Heights Community Resilience Project of Low Impact Development
Organization: City of Foley
Project Manager: Leslie Gahagan
Reporting Period: xx/xx/xxxx – xx/xx/xxxx

1. Briefly describe the work accomplished during this reporting period. Include details on the status of Scope of Work components, any progress photos, and a list of any partners engaged.
2. Have there been any changes to the Master Services Agreement, Scope/Task Order, Project Manager, or any other aspects of the project since the last report? If yes, please provide a detailed explanation of the changes (for both this quarter and the overall project timeline) and their implications for the project, as well as an updated project schedule (if applicable).
3. Identify any project challenges or barriers that have impacted achieving the project scope. Describe any actions taken to address these challenges.
4. What expenditures have been made to date? Attach supporting documentation, such as invoices, if available. Given the current financial status, what is the forecasted plan for utilizing the remaining funds? Confirm whether an invoice for reimbursement has been submitted along with this report.
5. Outline the projected work and strategic plans for the upcoming quarter. If the project is not on schedule, please explain why and detail your strategy for getting back on track.