



Wednesday, March 4, 2020

Nash County
c/o Patsy McGhee
120 West Washington Street
Nashville, NC 27856

**RE: Proposal for Civil Engineering Design Services for the
Elm Street Drainage Project**

Dear Patsy:

We appreciate the opportunity to submit a proposal for Civil Design services required for the proposed **Elm Street Drainage Project** to be located in Nashville, North Carolina.

Stocks Engineering, P.A.

Stocks Engineering, PA, has been in business since 1999 with corporate offices located in Nashville, North Carolina. Stocks specializes in site development and offers services in civil engineering, land planning and development, hydrology/hydraulics and program/project management.

Stocks has a history of successful projects ranging from residential developments across central and eastern North Carolina and has performed preliminary and detailed design for over 50 subdivisions, ranging from 3-lot minor subdivisions to 1500-lot major subdivisions, and over 80 commercial development projects ranging from small one acre fast food sites (Taco Bell, Waffle House, Hardee's) to larger sites such as, Hampton Inn (3-acre), Country Inn Suites (2-acre), Candlewood Inn Suites (2-acre) Churches (66-acre), High School (50-acre), Lowe's Home Improvement (22-acre) and Wal-Marts (16-acre).

Designs have involved feasibility studies, preliminary planning of streets, water, sewer and traffic, final design, water distribution analysis (KyPipe), HEC 1 and HEC 2 studies, wetland delineation and permitting, curb and gutter and strip paved streets, energy dissipaters, erosion control measures, budget and time projections, specifications preparation, contract administration, bidding (private, public, CDBG projects), and pre-construction conferences and construction management, including inspections. Stocks Engineering has also performed detailed design for shopping center projects, private site developments and hospital expansions.

Existing Site

The existing site is located along Elm Street in Nashville, NC.

Based on our conversations, the Preliminary Engineering Report prepared by Stocks Engineering and our understanding of the project needs, the services we propose to offer are as follows:

J. Michael Stocks, PE
Stocks Engineering, PA (C-1874)
1100 Eastern Avenue
PO Box 1108
Nashville, NC 27856

252.459.8196 (voice)
252.459.8197 (fax)
252.903.6891 (mobile)
mstocks@stocksengineering.com
www.stocksengineering.com

Basic Scope of Services

- Stocks Engineering will sub-contract with Strickland Surveying to provide a detailed topographic survey of the project area.
- Stocks Engineering will prepare the Existing Condition Plans for the proposed project. Plans will show the existing Right of Way, Utilities located by 811, curb and gutter, drainage, sewer, etc.
- Stocks Engineering will prepare Demolition Plans showing all the items needed to be demolished for the proposed project.
- Stocks Engineering will prepare Drainage Plans showing new storm drain line, catch basins, drop inlets, etc needed for the proposed project.
- Stocks Engineering will prepare Erosion and Sedimentation Control Plans with applicable details, narrative and construction schedule. Stocks will submit plans and calculations in order to obtain an erosion control permit if required.
- Stocks Engineering will prepare necessary and pertinent site construction details and Specifications.
- Stocks Engineering will prepare all sitework computations to justify design of drainage structures and erosion control devices.
- All drawings will be performed on computer using AutoCAD.
- We will submit plans to the agencies having jurisdiction and represent the Owner at necessary meetings. Our fee reflects an allowance for these meetings and normal revisions.
- Stocks Engineering will provide permit assistance and procurement of permits from applicable state and local government agencies. Stocks Engineering, P.A. does not guarantee approval of permits, but will make every reasonable effort to obtain them.
- Stocks Engineering will prepare Formal Bid Documents to obtain responsive bids from contractors. Stocks will evaluate the bids and provide a recommendation to the County Commissioners.
- Stocks Engineering will participate in development meetings with the Owner and Contractor as needed to coordinate site design and construction.
- Stocks Engineering will perform all site inspections as required by the local municipality and State.

Services Not Part of This Contract

- Architectural, Retaining Wall, and/or structural design.
- Construction staking for sitework, as this is to be covered by the Contractor during construction.
- Geotechnical Engineering needed to evaluate unsuitable or yielding soils during construction.
- As-built Survey to meet the requirements for the City and State, as this is to be covered by the contractor. Data/Documentation will be processed by Stocks.
- Easement Acquisition or maps and exhibits needed for construction.
- Flood studies and/or FEMA map amendments.
- Wetlands and/or Stream Determinations, Permitting, Etc.
- Environmental Assessments (EA) and Environmental Impact Statements (EIS).
- Permit fees.
- Any items not specifically mentioned above.

Fees

For the aforementioned services we propose the following not to exceed lump sum fees, subject to the conditions of this proposal and agreement.

Civil Design (and Sub-Consultants)

A. Topographical Survey	\$ 21,500
B. Civil Site, Grading, Erosion Control, Complete in Every Detail	\$ 36,000
C. Bid Specifications and Bidding	\$ 3,000
D. Permitting	\$ 1,000
E. Camera Storm Drain	\$ 6,387
F. Construction Administration and Inspections	\$ 20,000
G. Reimbursable Expenses (Will be billed at cost)	\$ 1,000

Mileage	\$ 0.58/mile
Blueprints/Large Format Plots	\$ 3.00/sheet
Copies	\$ 0.15/sheet
Site Plan submission fees, permits, etc.	at cost

Elm Street Drainage

March 4, 2019

4

All *revisions* and *extraordinary work* will be billed by the hour at the following rates:

Professional Engineer/Manager	\$ 120/hour
Engineer Technician	\$ 85/hour
CADD Technician	\$ 65/hour

Payment

All services will be billed by the month. Final payment for design services will be due upon completion of plans.

Timing and Acceptance

If you concur with this proposal, please sign in the space provided below and forward one copy to us, which will serve as our Notice To Proceed or forward us your preferred form of agreement.

Thank you for the opportunity to submit the above quote. This quote is good for a period 30 days from the date of this letter, at the end of such, Stocks Engineering, P.A. reserves the right to withdraw or modify, if the Owner has not accepted.

Sincerely,
Stocks Engineering, P.A.

J. Kevin Varnell

Chief Operations Officer

Elm Street Drainage

March 4, 2019

5

THE OWNER AND THE CONSULTANT hereby agree to the full performance of the covenants contained herein. IN WITNESS WHEREOF they have executed this Agreement – the date and year first above written.

ATTEST:

By Carolyn Mingia

Typed Name Carolyn Mingia

Title Finance Technician
(SEAL)

Nash County
OWNER

By Robbie Davis

Typed Name Robbie Davis

Title Chairman

ATTEST:

By J. Michael Stocks

Typed Name J. Michael Stocks

Title President
(SEAL)

Stocks Engineering, P.A.
CONSULTANT

By J. Kevin Varnell

Typed Name J. Kevin Varnell

Title Chief operations Officer

“This instrument has been preaudited in the manner requested by the Local Government Budget and Fiscal Control Act”

Donna Wood
Finance Director

CONTRACTOR'S CERTIFICATION OF ELIGIBILITY

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act.

No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act.

The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001 and 18 U.S.C. 1010

[Signature]
(Signature)

Stocks Engineering, P.A.
(Name of Firm)

PO Box 1108
(Street Address or P.O. Box)

Nashville, NC 27856
(City, State, Zip)

56-2130186
(Identification or Social Security No.)

The SAM.gov and NC DOA websites have been checked and the above contractor has been determined to be eligible to participate in a CDBG assisted project.

Patricia McGhee
(Signature of Verifying Officer)

Nash County
(Grantee Name)

B-16-DL-37-0001
(Grant Number)

Stocks Engineering, P.A. - Standard Provisions

- 1) **Consultant's Scope of Services** Stocks Engineering's (Engineer) undertaking to perform professional services extends only to the Services specifically described in this Agreement. However, if requested by the Client and agreed to by Stocks Engineering, Stocks Engineering will perform additional services ("Additional Services") hereunder. Stocks Engineering is also authorized, but not required, to perform Additional Services for services deemed appropriate by Stocks Engineering in response to emergencies, unanticipated actions by the Client's contractors, revised regulations, or requirements of authorities, if advance authorization cannot be obtained. Stocks Engineering will notify the Client as soon as practical of the inception of such Additional Services.
- 2) **Client's Responsibilities** In addition to other responsibilities described herein or imposed by law, the Client shall:
 - a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.
 - c) Provide to Stocks Engineering all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in Stocks Engineering's opinion, such as site survey and engineering data, environmental impact assessments or statements, zoning or other land use regulations, etc., upon all of which Stocks Engineering may rely.
 - d) Arrange for access to the site and other private or public property as required for Stocks Engineering to provide its services.
 - e) Review all documents or oral reports presented by Stocks Engineering and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of Stocks Engineering.
 - f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of Stocks Engineering's services.
 - g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require or Stocks Engineering may reasonably request.
 - h) Give prompt written notice to Stocks Engineering whenever the Client becomes aware of any development that affects the scope and timing of Stocks Engineering's services or any defect or noncompliance in any aspect of the project.
 - i) Bear all costs incident to the responsibilities of the Client.
- 3) **Period of Services** Unless otherwise stated herein, Stocks Engineering will begin work in a timely manner after receipt of an executed copy of this Agreement and will complete the services in a reasonable time. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to any circumstances that Stocks Engineering does not control. Such a delay or suspension shall not terminate this Agreement unless Stocks Engineering elects to terminate pursuant to other provisions of this Agreement. If such delay or suspension extends for more than six months (cumulatively), the rates of compensation provided for in this Agreement shall be renegotiated.
- 4) **Compensation for Additional Services** Unless otherwise agreed to in writing, the Client shall pay Stocks Engineering for the performance of any Additional Services an amount based upon Stocks Engineering's current hourly rates plus an amount to cover certain direct expenses including in-house duplicating, local mileage, telephone calls, postage, and word processing.
- 5) **Method of Payment** Compensation shall be paid to Stocks Engineering in accordance with the following provisions:
 - a) Invoices will be submitted by Stocks Engineering to the Client periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay to Stocks Engineering all taxes, if any, whether state, local, or federal, levied with respect to amounts paid hereunder. Stocks Engineering shall be compensated in U.S. dollars. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due Stocks Engineering for services and expenses within 30 days after Stocks Engineering's transmittal of its invoice, Stocks Engineering may, after giving 7 days' written notice to the Client, suspend services under this Agreement until all amounts due are paid in full.
 - b) If the Client objects to an invoice, it must advise Stocks Engineering in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing.
 - c) If Stocks Engineering initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at Stocks Engineering's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - d) The Client agrees that the payment for services and expenses incurred by Stocks Engineering pursuant to this Agreement is not subject to any contingency of condition.
- 6) **Use/Reuse of Documents** All documents, including but not limited to drawings, specifications and data or programs stored electronically, prepared by Stocks Engineering are related exclusively to the services described in this Agreement. They are not intended or represented to be suitable for partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of Stocks Engineering's documents, or any partial use or reuse of the documents without written authorization or adaptation by Stocks Engineering will be at the Client's sole risk and without liability or legal exposure to Stocks Engineering, and the Client shall indemnify, defend and hold Stocks Engineering harmless from all claims, damages, losses and expenses, including but not limited to attorney's fees, resulting therefrom. Any authorization or adaptation will entitle Stocks Engineering to further compensation at rates to be agreed upon by the Client and Stocks Engineering.
- 7) **Opinions of Probable Cost** Because Stocks Engineering does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgement as an experienced and qualified professional, familiar with the industry. Stocks Engineering cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Stocks Engineering's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination** The obligation to provide further services under this Agreement may be terminated by either party upon ten days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, Stocks Engineering shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Stocks Engineering as a result of such termination.
- 9) **Insurance** Stocks Engineering is protected by Worker's Compensation, professional liability insurance, and general liability insurance for bodily injury and property damage and will exchange certificates of insurance upon request. If the Client directs Stocks Engineering to obtain increased insurance coverage, or if the nature of Stocks Engineering's activities requires additional insurance coverage, Stocks Engineering will take out such additional insurance, if obtainable, at the Client's expense. Engineer and Client waive all rights against each other and their directors, officers, partners, commissioners, officials, agents, and employees for damages covered by property insurance during and after the completion of the Services. If the Services result in any construction related to the Project, a similar provision shall be incorporated into all construction contracts entered into by Client and shall protect Client and Engineer to the same extent.

- 10) **Liability** In performing its professional services, Stocks Engineering will use the degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by Stocks Engineering's undertaking herein or its performance of services, and it is agreed that Stocks Engineering is not a fiduciary with respect to the Client. To the fullest extent of the law, and notwithstanding any other provisions of this Agreement, the total liability, in the aggregate of Stocks Engineering and Stocks Engineering's officers, directors, employees, agents, and subconsultants to the Client or to any one claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of Stocks Engineering or Stocks Engineering's officers, directors, employees, agents, and subconsultants, shall not exceed the total compensation actually received by Stocks Engineering under this Agreement. Under no circumstances shall Stocks Engineering be liable for lost profits or consequential damages, for extra costs or other consequences due to changed conditions or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. In the event judgments, losses, or expenses are caused by the joint or concurrent negligence of the Engineer and Client, they shall be borne by each party in proportion to its own negligence.
- 11) **Certifications** Stocks Engineering shall not be required to execute any certifications or other documents that in any way might, in the judgement of Stocks Engineering, increase Stocks Engineering's risk or affect the availability, applicability, or cost of its insurance.
- 12) **Dispute Resolution** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.
- 13) **Hazardous Substances and Conditions**
 - a) Unless stated in the scope of services, it is agreed that the Client does not request Stocks Engineering to perform any services or to make any determinations involving hazardous substances or conditions, as defined by federal or state law. If such services are agreed to, Stocks Engineering shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Stocks Engineering's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation.
 - b) Stocks Engineering shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which Stocks Engineering actually becomes aware. Upon such notice by Stocks Engineering, Stocks Engineering may stop affected portions of its services until the hazardous substance or condition is eliminated. The parties shall decide if Stocks Engineering is to proceed with its services and if Stocks Engineering is to conduct testing and evaluations, and the parties may enter into further agreements as to the additional scope, fee, and terms for such services.
 - c) Except to the extent of negligence, if any, on the part of Stocks Engineering in performing services expressly undertaken in connection with hazardous substances and conditions, the Client agrees to hold harmless, indemnify, and defend Stocks Engineering from and against any and all claims, losses, damages, liability, and costs in any way arising out of connected with the presence, discharge, release, or escape of hazardous substances or conditions of any kind, or environmental liability of any nature, in any manner related to services of Stocks Engineering.
- 14) **Construction Phase Services**
 - a) If Stocks Engineering's services include the preparation of documents to be used for construction and Stocks Engineering is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against Stocks Engineering in any way connected thereto.
 - b) If Stocks Engineering provides construction phase services, Stocks Engineering shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Stocks Engineering have any authority or responsibility to stop or direct the work of any contractor. Stocks Engineering's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Stocks Engineering. Stocks Engineering neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
 - c) The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and Stocks Engineering for all claims and liability arising out of job site accidents; and that the Client and Stocks Engineering shall be made additional insured under the contractor's general liability insurance policy.
 - d) Stocks Engineering is not responsible for procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to the Engineer in the Scope of Services.
- 15) **Assignment and Subcontracting** This agreement gives no rights or benefits to anyone other than the Client and Stocks Engineering, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Stocks Engineering. Neither the Client nor Stocks Engineering shall assign or transfer any rights under or interest in this Agreement without the written consent of the other. However, nothing herein shall prevent or restrict Stocks Engineering from retaining independent professional associates, subconsultants, and suppliers, as Stocks Engineering may deem appropriate.
- 16) **Confidentiality** The Client consents to the use and dissemination by Stocks Engineering of photographs of the project and to the use by Stocks Engineering of facts, data and information obtained by Stocks Engineering in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Stocks Engineering shall use reasonable care to maintain the confidentiality of that material.
- 17) **Ownership of Documents and Intellectual Property** Except as otherwise provided herein, engineering documents, drawings, and specifications prepared by Stocks Engineering and furnished to the Client as part of the Services shall become the property of the Client; provided, however, that Stocks Engineering shall have the unrestricted right to their use. Stocks Engineering shall retain its copyright and ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of Stocks Engineering.
- 18) **Miscellaneous Provisions** This Agreement is to be governed by the law of the State of North Carolina. This Agreement shall bind, and the benefits thereof shall inure to, the parties hereto, their legal representatives, executors, administrators, successors and assigns. This Agreement contains the entire and fully integrated agreement between the parties, and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. This Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Stocks Engineering. Any provision in this Agreement that is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions or affecting the validity or enforceability of such provision in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

CDBG General Conditions

1. Executive Order 11246 – Equal Employment Opportunity. The CONSULTANT shall comply with all applicable provisions of Executive Order 11246, entitled “Equal Employment Opportunity” as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60). During the performance of this Agreement, the CONSULTANT agrees as follows:
 - a. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - b. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - c. The CONSULTANT will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the CONSULTANT commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The CONSULTANT will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - e. The CONSULTANT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - f. In the event of CONSULTANT noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The CONSULTANT will include the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
2. Nondiscrimination on the Basis of Handicap – Section 504 of the Rehabilitation Act of 1973 as Amended.

No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
3. Access to Records & Record Retainage.

The North Carolina Department of Commerce, the North Carolina Department of the Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement for the purpose of making audits, examinations, excerpts and transcriptions for a period of three years following project closeout in compliance with 15 NCAC 13L Rule .0911, Recordkeeping.
4. “Section 3” Compliance in the Provision of Training, Employment, and Business Opportunities.

CONSULTANT agrees as follows:

 - a. The work to be performed under the contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
 - b. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
 - c. The CONSULTANT will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers’ representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
 - d. The CONSULTANT will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the

subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135 and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its Engineers and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to sanctions as are specified by CFR Part 135.

5. Termination Provision – Legal Remedies Provision.

The CONSULTANT and OWNER mutually agree as follows:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party: Provided no such termination may be effected unless the other party is given not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate.
- b. This Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that such termination is for good cause (such as for legal or financial reasons, major changes in the work of program requirements, change of program manager) and that the CONSULTANT is given not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate.
- c. If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment to the CONSULTANT at the time of termination may be adjusted to the extent of any additional costs occasioned to the OWNER by reason of the CONSULTANT default. If termination for default is effected by the CONSULTANT or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the CONSULTANT for services rendered and expense incurred, prior to the termination, in addition to termination settlement cost reasonably incurred by the CONSULTANT, relating to commitments which had become firm prior to the termination.
- d. Upon receipt of a termination action pursuant to Paragraphs (a) or (b) above, the CONSULTANT shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONSULTANT in performing this Agreement, whether completed or in process.

6. Nondiscrimination Clause – Section 109, Housing & Community Development Act of 1974.

No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.

2. Nondiscrimination Clause – Civil Rights Act of 1964, Title VI.

No person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity which receives federal funds.

3. Age Discrimination Act of 1975, As Amended Nondiscrimination on the Basis of Age.

No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

4. Conflict of Interest – Interest of Members, Officers, or Employees of the Recipient, Members of Local Governing Body, or Other Public Officials.

No member, officer, or employee of the recipient, or its agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. Immediate family members, officers, employees, and officials are similarly barred from having any financial interest in the program. The recipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

CONSULTANT agrees to as follows:

5. Lobbying As Required by Section 1352, U.S. Code.

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative, agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of any agency a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
6. The OWNER and the CONSULTANT each binds themselves, their successors, legal representatives and assigns to the other party to the Agreement and to the successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Except as above, neither the OWNER or the CONSULTANT shall assign or transfer his interest in this Agreement without written consent of the other.

**ADDENDUM
ATTACHED TO AND MADE A PART OF**

Contract between Nash County and Stocks Engineering, P.A., dated 3/23, 2020, (the "Agreement")

1. One Instrument; Conflict. This Addendum and the Agreement to which this Addendum is attached shall be deemed one instrument. All capitalized terms used but not defined herein shall have the same meanings as are ascribed to such terms in the Agreement. If the terms of this Addendum conflict with the terms of the Agreement, the terms of this Addendum shall control.
2. Insurance. The Undersigned shall, at all times during the term of the Agreement, provide and maintain in force commercial general liability insurance covering bodily injury (including death) and property damage (including contractual liability covering the Undersigned's indemnity obligations) under a policy or policies providing combined single limit coverage of not less than One Million Dollars (\$1,000,000.00) for each occurrence with Two Million Dollars (\$2,000,000.00) coverage on an annual aggregate basis, together with worker's compensation and employer's liability insurance in such amounts as shall be required by law from time to time. All such insurance shall contain an endorsement naming Nash County as additional insured. The Undersigned agrees that its insurance shall be primary with respect to any claim arising from or related to the performance or non-performance by the Undersigned of its obligations under the terms of the Agreement. The Undersigned shall deliver to Nash County a Certificate from an insurance company licensed to do business in the State of North Carolina evidencing the required insurance coverage, which Certificate shall state that such insurance coverage may not be materially changed or cancelled without at least thirty (30) days prior written notice by certified mail to Nash County.
3. Indemnity. The Undersigned shall defend and indemnify Nash County against and hold Nash County harmless from all claims, losses, liabilities, damages and expenses (including attorneys' fees) asserted against or incurred by Nash County (a) arising from or related to any breach of the Agreement by the Undersigned, (b) any injury to or death of any person arising from or related to negligent acts or omissions or wrongful misconduct of the Undersigned or the Undersigned's agents, employees and contractors, and (c) loss of or damage to any property arising from or related to negligent acts or omissions or wrongful misconduct of the Undersigned or the Undersigned's agents, employees and contractors.
4. Governing Law and Consent to Jurisdiction. The Agreement shall be construed and enforced with the laws of the State of North Carolina notwithstanding its conflict of law principles. The Undersigned agrees that any legal action or proceeding arising out of or relating to the Agreement shall be instituted in the Superior Court of Nash County, North Carolina. The Undersigned consents to the jurisdiction of such court and waives any objection relating to the basis for personal or in rem jurisdiction or to venue.
5. E-Verify Certification. Employers and their subcontractors with twenty-five (25) or more employees in the State of North Carolina as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with E-Verify requirements in order to contract with governmental units. E-Verify is a program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees. The Undersigned certifies that it is aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. In addition, the Undersigned certifies that to the best of its knowledge, any subcontractors employed by it as a part of this Agreement are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. The Undersigned acknowledges and agrees that local governments are prohibited from contracting with persons or entities that do not comply with E-Verify requirements and that Nash County is relying on the certifications set forth herein in order to contract with the Undersigned.

6. Deletion and Unenforceability of Limitation of Liability Provisions. The Undersigned agrees that all provisions in the Agreement purporting to limit the liability of the Undersigned in any way are hereby deemed deleted and of no force and effect.

7. Default Interest Rate. The default interest rate applicable to any amounts owed by Nash County under the Agreement shall not exceed eight percent (8%) per annum.

8. Subrecipient Agreement. The Undersigned agrees to comply with all applicable provisions of the Community Development Block Grant - Disaster Recovery Grant Subrecipient Agreement ("Agreement") Between the NC Department of Public Safety, Office of Recovery and Resiliency, and Nash County, specifically including Section 4.9 thereof, the Agreement being attached hereto and incorporated herein by reference.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Undersigned and Nash County have caused this Addendum to be executed by their duly authorized representatives.

UNDERSIGNED:

STOCKS ENGINEERING, P.A.

By:

Name:

Title:

Date:

NASH COUNTY:

By:

Name:

Title:

Date:

**COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY GRANT
SUBRECIPIENT AGREEMENT BETWEEN THE NC DEPARTMENT OF PUBLIC
SAFETY, OFFICE OF RECOVERY AND RESILIENCY; AND NASH COUNTY**

This Subrecipient Agreement (“Agreement”) between the NC Department of Public Safety, Office of Recovery and Resiliency (“NCORR” or “Grantee”); and Nash County (“Subrecipient”), is intended to support the Subrecipient’s efforts to promote the recovery of the county and its residents in the aftermath of Hurricane Matthew. The Agreement is made effective July 1, 2019.

RECITALS

WHEREAS, on October 8-9, 2016, Hurricane Matthew hit central and eastern North Carolina, including Nash County, with record-breaking rainfall that created 1,000-year flood events that devastated the people, infrastructure, businesses, and schools of entire communities; and

WHEREAS, certain buildings, facilities, personal items, and equipment owned or rented by residents in the county and city were damaged by floodwaters associated with Hurricane Matthew; and

WHEREAS, on October 9, 2016, an expedited major disaster declaration from the President of the United States was requested and was granted on October 10, 2016 as FEMA-4285-DR-NC, allowing North Carolina to receive federal aid in the form of individual and public assistance for citizens and local governments; and

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) has allocated Community Development Block Grant -- Disaster Recovery funds (“CDBG-DR”) to NCORR under the Further Continuing and Security Assistance Appropriations Act of 2017 (Public Law 114-254) and the Consolidated Appropriations Act of 2017 (Public Law 115-31) for the purpose of assisting recovery in the most impacted and distressed areas declared a major disaster due to Hurricane Matthew; and

WHEREAS, pursuant to 82 Fed. Reg. 5591 (Jan. 18, 2017) and 82 Fed. Reg. 36812 (Aug. 7, 2017), the State has received an allocation of CDBG-DR funds from HUD in the amount of \$236,529,000; and

WHEREAS, on November 20, 2017, the North Carolina Department of Public Safety, Division of Emergency Management (“NCEM”), and North Carolina Department of Commerce (“DOC”) finalized an award and grant agreement with the Subrecipient to implement the State’s Community Development Block Grant for Disaster Recovery (“CDBG-DR”) Action Plan that was approved by HUD on August 7, 2017; and

WHEREAS, that agreement included an allocation for a CDBG-DR–funded housing program and infrastructure program that would be administered by the Subrecipient; and

WHEREAS, the Subrecipient now has agreed to allow the State to administer that housing program allocation; and

WHEREAS, on January 2, 2019, NCORR assumed from NCEM the duty of managing the State's CDBG-DR program; and

WHEREAS, on July 1, 2019 NCORR was officially named grantee for the State's CDBG-DR program; and

WHEREAS, NCORR is executing this Agreement with the Subrecipient to implement the infrastructure program within Subrecipient's county according to the State's CDBG-DR Action Plan that was approved by HUD; and

WHEREAS, the Parties desire to enter into this Agreement and intend to be bound by its terms; and

WHEREAS, this Agreement constitutes the entire agreement between the Parties, superseding all prior oral and written statements or agreements for the provision of CDBG-DR funds between the State and the Subrecipient.

NOW, THEREFORE, and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

Article I. GENERAL TERMS AND CONDITIONS OF AGREEMENT

1.1 Grant Documents. The documents described below are hereinafter collectively referred to as the "Grant Documents." In the case of conflict between any of these documents, the terms of this Agreement will control. Upon execution and delivery of this Agreement, it and the other Grant Documents and items required hereunder will constitute a valid and binding agreement between the Parties, enforceable in accordance with the terms thereof. The Agreement constitutes the entire agreement between the Parties, superseding all prior oral and written statements or agreements.

The Grant Documents consist of:

- (1) This Agreement
- (2) Exhibit A – Project Specific Award Letter(s)
- (3) Exhibit B – Project Budget & Budgetary Provisions

Upon execution and delivery of this Agreement, and the Subrecipient has received its counterpart original of this Agreement, fully executed and with all dates inserted where indicated, then the Agreement will constitute a valid and binding agreement between the Parties, enforceable with the terms thereof.

Exhibit A and Exhibit B of this document are incorporated by reference and identify project description(s) and project budget(s). Project budgets are based on estimated project costs. Project scope and budget may be revised depending on final project approval and contract award prices. Changes to project scope and budget occurring after contract award shall be memorialized in updated versions of Exhibit A and Exhibit B. Revisions to those documents, should they become necessary, are incorporated herein by reference. Updated versions of Exhibit A and Exhibit B shall become binding on this Agreement when they are signed by NCORR and the Subrecipient.

1.2 Award Identification Information. The following information applies to this Agreement.

Federal Award Identification Number: B-16-DL-37-0001

CFDA Number and Name: 14.228

Federal Award Date: 8/14/2017

Federal award project description: To provide disaster recovery to communities served by the Subrecipient, consistent with the State's HUD-approved CDBG-DR Action Plan.

Is this award for research and development? No

Subrecipient's unique entity identifier: DUNS: 050425677; Federal ID No.: 56-6000323

Subrecipient's Award Period of Performance: July 1, 2019 – August 15, 2023

Amount of Federal funds obligated by this Agreement: \$ 455,114

1.3 Purpose. Consistent with 2 C.F.R. § 200, Subpart D § 331, this grant to the Subrecipient will carry out projects as shown in the HUD-approved State CDBG-DR Action Plan, as permitted by this Agreement. To that end, subject to the appropriation, allocation, and availability of funds for the activities described in the State Action Plan, NCORR hereby agrees to reimburse Grant funds to the Subrecipient in accordance with the payment procedures set forth herein. The obligation of NCORR to pay any amounts under this Agreement are contingent upon the availability and continuation of funds for such purpose. NCORR's obligation to pay Grant funds shall not exceed the total amount budgeted for Subrecipient, as shown in Exhibit B.

1.4 Scope of Work. Funds provided by this Agreement will support infrastructure projects identified in Exhibit A consistent with project budget amounts identified in Exhibit B.

1.5 CDBG National Objectives. Activities funded by this Agreement must benefit low-and-moderate-income persons; aid in the prevention or elimination of slum or blight; or meet community development needs having a particular urgency. The criteria for meeting these national objectives are found in 24 C.F.R. § 570.208, as amended by 81 Fed. Reg. 83254 (Nov. 21, 2016) (made applicable to the funds provided by this Agreement through 82 Fed. Reg. 5591 (Jan. 18,

2017)). The State's CDBG-DR Action Plan outlines the ways that the program activities funded by this grant will accomplish the national objectives.

Pursuant to 24 C.F.R. § 570.506, both NCORR and the Subrecipient are required to maintain records sufficient to demonstrate compliance with the criteria for accomplishing the national objectives of CDBG-DR.

1.6 Prohibited Activities. The Subrecipient may be reimbursed with CDBG-DR funds for carrying out the activities described in this Agreement and for no other activities. The Subrecipient is prohibited from charging to this award the costs of ineligible activities under CDBG-DR, including those described at 24 C.F.R. § 570.207, and from using funds provided herein or personnel employed in the administration of activities under this Agreement for political activities, inherently religious activities, or lobbying.

1.7 Contract and Reimbursement Period. The term for this Agreement commences on the effective date of this Agreement and expires on the earlier of: (i) August 15, 2023, or (ii) the date as of which the parties agree in writing that all grant closeout requirements have been satisfied.

1.8 CCR Registration. The Subrecipient shall provide NCORR with documentation of any contractor or subcontractor's registration in the Central Contractor Registration (CCR) system. The CCR system may be accessed online at www.sam.gov.

1.9 Notice; Contract Administrator. All notices, requests or other communications permitted or required to be made by the Subrecipient under this Agreement or other documentation relating to this Agreement shall be given to NCORR's Contract Administrator or his/her designee.

The Contract Administrator is:

Laura Hogshead, Chief Operating Officer
North Carolina Office of Recovery and Resiliency
PO Box 110465
Durham, NC 27709
Phone: (984) 833-5350
Fax: (919) 405-7392

Notice shall be in writing, signed by the Subrecipient. Notice shall be effective upon acknowledged receipt by NCORR.

Article II. PERFORMANCE MONITORING, REPORTING, AND BUDGET

2.1 Monitoring. NCORR shall monitor the performance of the Subrecipient as necessary and in accordance with regulations on Subrecipient Monitoring and Management, 2 C.F.R. §§ 200.330–200.332, to ensure Subrecipient compliance with all of the requirements of this Agreement, including the timeframes and performance goals associated with the activities. NCORR's protocol for monitoring Subrecipient compliance is derived from Chapter 6 of HUD's *Community Planning*

and *Development Monitoring Guidebook*, which may be accessed at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2.

Substandard performance, as determined solely by NCORR, will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a time period specified by in writing by NCORR, NCORR may impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 C.F.R. § 200.207, suspend or terminate this Agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 C.F.R. § 200.338.

2.2 Reporting. The Subrecipient shall report regular performance metrics to NCORR that are necessary to comply with NCORR's or HUD's CBDG-DR reporting requirements. NCORR will provide reporting templates and schedules to the Subrecipient. NCORR at its discretion, will conduct technical assistance and monitoring of the Subrecipient on topics relating to the CDBG-DR program.

2.3 Project Approval and Implementation Schedule. Within 60 days of execution of this Agreement, the Subrecipient must provide NCORR with a completed Project Scoping Form ("PSF") (Formerly known as an Abbreviated Project Information Form "APIF") for each infrastructure project the Subrecipient proposed to deliver pursuant to this Agreement. Within 90 days of approval of the PSF(s), the Subrecipient must provide NCORR with a completed project information form ("PIF") for each infrastructure project for which a PSF is approved, including a preliminary cost estimate for the project and a preliminary timeline for completion of the project. For cases in which a Subrecipient has previously submitted an Abbreviated Project Information Form (APIF), and NCORR has accepted the form, the Subrecipient must provide NCORR with a completed project information form ("PIF") within 90 days of execution of this Agreement. On a quarterly basis, Subrecipient shall work with NCORR on updated estimates and projections as activities progress.

The Subrecipient shall obligate 100% of non-administrative grant funds and provide all documentation to NCORR no later than August 15, 2020, and all funds must be expended by the Subrecipient by August 15, 2022.

The Subrecipient may request extensions of the deadlines in Section 2.3. Any requests for extensions must be made in writing, must be addressed to NCORR, must explain why an extension is needed and must propose a requested new deadline. NCORR must receive this request at least 60 days before the relevant deadline. NCORR, within its sole discretion, may or may not approve the extension, based on project performance and other contributing factors.

2.4 Budget, Disbursement, and Repayment. The Subrecipient's approved budget under this Agreement is attached as Exhibit B. Exhibit B also governs disbursement procedures, allowed administrative costs, program income, refunds, reversion of unexpended funds, and reduction of grant funds based on lesser actual expenses.

2.5 Termination of Previous Agreements and Reimbursement of Incurred Costs. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral and

written statements or agreements for the provision of CDBG-DR funds between the State and the Subrecipient. NCORR may, at its sole discretion, allow Subrecipient to be reimbursed for costs reasonably incurred prior to July 1, 2019, provided that said costs meet provisions of this Agreement, 2 C.F.R. Part 200, Subpart E, Cost Principles, and any other applicable State or Federal statutes, regulations, or requirements.

NCORR will provide Subrecipient with a guide for reimbursement of costs, the “NCORR Subrecipient Billing Guide.” Subrecipient must provide NCORR with documentation of costs previously incurred for which they now seek reimbursement within 90 days of receipt of the NCORR Subrecipient Billing Guide. For guidance on the documentation that Subrecipient must provide for reimbursement of costs incurred prior to this agreement see the NCORR Subrecipient Billing Guide.

Article III. AMENDMENT AND TERMINATION

3.1 Amendment. NCORR, and the Subrecipient may amend this Agreement at any time provided that such amendments are in writing, make specific reference to this Agreement, are approved by all Parties, and are signed by a duly authorized representative of each Party. Such amendments shall not invalidate this Agreement, nor relieve or release NCORR or Subrecipient from their obligations under this Agreement. Amendments will generally be required when any of the following are anticipated: i) revision to the scope or objectives of the Program, including purpose or beneficiaries; ii) need to extend the availability of Grant Funds; iii) revision that would result in the need for additional funding; and iv) expenditures on items for which applicable cost principles require prior approval (see 24 C.F.R. § 570.200(h) for pre-award/pre-agreement costs). Revisions to scope and budget documents as discussed in section 1.1 will be valid upon the signature of both parties and are incorporated herein by reference.

NCORR may, in its sole discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by NCORR and the Subrecipient.

3.2 Termination by Mutual Consent or Convenience. The Parties may terminate this Contract by mutual written consent. NCORR may terminate this Agreement, in whole or in part, for convenience, with 30 days written notice to Subrecipient.

3.3 Termination in the Event of Default. NCORR may suspend, reduce, or terminate their obligations under this Agreement, in whole or in part, upon 30 days’ notice, whenever NCORR determines that the Subrecipient has failed to comply with any term, condition, requirement, or provision of this Agreement. Subrecipient shall be afforded a reasonable period of time to cure any noncompliance. Failure to comply with any terms of this Agreement, include (but are not limited to) the following:

- (a) **Default in Performance.** The default by the Subrecipient or a subsequent Recipient in the observance or performance of any of the terms, conditions or covenants of this Agreement, as determined by NCORR.
- (b) **Misrepresentation.** If any representation or warranty made by the Subrecipient in connection with the Grant or any information, certificate, statement or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made, as determined by NCORR.
- (c) **Abandonment of the Project.** If Subrecipient abandons or otherwise ceases to continue to make reasonable progress towards completion of the Project, as determined by NCORR.
- (d) If Subrecipient fails to complete the required Project Scoping Form, Project Information Form and other required project documentation.

If, after notice of default or non-compliance, Subrecipient has not cured such default within a reasonable time or is not diligently pursuing a cure satisfactory to NCORR, then NCORR shall promptly notify the Subrecipient, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect, along with other notifications required under 2 C.F.R., Part 200, Subpart D. Upon termination, NCORR retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient shall return to NCORR any improper expenditures no later than 30 days after the date of termination. NCORR may, at its sole discretion, allow Subrecipient to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled, provided that said costs meet the provisions of this Agreement, 2 C.F.R., Part 200, Subpart E, Cost Principles, and any other applicable state or federal statutes, regulations or requirements.

3.4 Additional Remedies. If Subrecipient defaults, NCORR shall have the power and authority, consistent with their statutory authorities: (a) to prevent any impairment of the Grant activities by any acts which may be unlawful or in violation of this Agreement or any other item or document required hereunder; (b) to compel specific performance of any of Subrecipient's obligations under this Agreement; (c) to obtain return of all Grant Funds, including equipment if applicable; and (d) to seek damages from any appropriate person or entity. NCORR shall be under no obligation to complete the activities funded by this Agreement.

3.5 Unavailability of Funds. If funds for the Grant become unavailable, the Subrecipient agrees that NCORR has the right to terminate this Agreement by giving 60 days' written notice specifying the termination date of the Agreement, which NCORR shall determine in its sole discretion. Upon such termination, the State shall have no responsibility to make additional Grant payments. Further, upon such termination, the Subrecipient shall not expend any Grant funds without NCORR's express written authorization and shall return all unspent Grant funds to NCORR upon demand.

3.6 Nonwaiver. No delay, forbearance, waiver, or omission by NCORR to exercise any right, power or remedy upon any event of default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such event of default or to constitute acquiescence therein.

Article IV. FEDERAL AND STATE LAW COMPLIANCE.

The CDBG-DR funds available to the Subrecipient through this Agreement constitute a subaward of NCORR's federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R., Part 200. This Agreement includes terms and conditions of NCORR's Federal award that are imposed on NCORR and the Subrecipient, and the Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this Agreement.

4.1 General Compliance. The Subrecipient shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 C.F.R., Part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this Agreement. These Federal Register notices include, but are not limited to, 81 Fed. Reg. 83254 (Nov. 21, 2016), 82 Fed. Reg. 5591 (Jan. 18, 2017), 82 Fed. Reg. 36812 (Aug. 7, 2017). The Subrecipient shall also comply with all other applicable federal, state and local laws, regulations, and policies that govern the use of the CDBG-DR funds in complying with its obligations under this Agreement, regardless of whether CDBG-DR funds are made available to the Subrecipient on an advance or reimbursement basis.

Notwithstanding the foregoing, (1) the Subrecipient does not assume the designated responsibilities of Grantee's decision-making authority for environmental review described in 24 CFR part 58 and (2) the Subrecipient does not assume any of the Grantee's responsibilities for initiating the review process under the provisions of 24 CFR Part 52.

4.2 Duplication of Benefits. The Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5155). In particular, the Subrecipient may not use funds provided by this Agreement to carry out the same activities that were funded by another source, including other federal or state sources or private insurance. The Subrecipient must repay any assistance later received for the same purpose as those awarded or provided by this Agreement.

4.3 Drug-Free Workplace. The Subrecipient must comply with drug-free workplace requirements in Subpart B of 2 C.F.R., Part 2429, which adopts the government-wide implementation (2 C.F.R., Part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. §§ 701 – 707).

4.4 Insurance and Bonding. The Subrecipient shall comply with the bonding and insurance requirements of 2 C.F.R. §§ 200.310 and 200.325, as applicable, and must carry sufficient insurance coverage to protect assets acquired with the use of CDBG-DR funds to protect from loss due to theft, fraud, and/or undue physical damage.

4.5 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Subrecipient shall comply with the applicable provisions in 2 C.F.R., Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, except as modified by 81 Fed. Reg. 83254 (Nov. 21, 2016). These provisions include:

- (a) Financial & Program Management. Because Grantee is subject to 24 CFR 570.489(d), Grantee's own fiscal and administrative requirements are incorporated within this Agreement, and Subrecipient will account for all CDBG-DR funds under this Agreement in accordance therewith. Grantee will submit to Subrecipient the NCORR standards of procedure regarding the financial and program management of CDBG-DR funds ("Financial and Program Management Protocol"). Any amendment to the NCORR Financial and Program Management Protocol for fiscal and administrative procedures is automatically incorporated into this Agreement, and notice of the amendment or changes to that Protocol will be provided to Subrecipient.
- (b) Cost Principles. Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 C.F.R., Part 200, Subpart E. All items of cost listed in Subpart E that require prior federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Subpart E and are otherwise eligible under this Agreement, except for the following:
- (i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency;
 - (ii) Fines penalties, damages, and other settlements are unallowable costs to the CDBG program;
 - (iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 C.F.R. § 200.445);
 - (iv) Organization costs (2 C.F.R. § 200.455); and
 - (v) Pre-Award Costs, as limited by this Agreement.

4.6 Documentation and Record Keeping.

- (a) Records to be Maintained. The Subrecipient shall establish and maintain records sufficient to enable NCORR to (1) determine whether the Subrecipient has complied with this Agreement, applicable federal and state laws and regulations, and the terms and conditions of NCORR's Federal award and (2) satisfy recordkeeping requirements applicable to NCORR. These records include the records described in Section 1.5 of this Agreement.

Because Grantee is subject to 24 CFR 570.490, the Subrecipient must maintain records that would allow Grantee to satisfy the requirements of 24 CFR 570.490 and 81 Fed. Reg. 83254 (Nov. 21, 2016), which waives certain aspects of 24 CFR 570.490. Subrecipient shall maintain records that the Grantee is required to maintain as jointly agreed upon by HUD and the Grantee, maintains records sufficient to enable HUD to make the determinations described at 24 CFR 570.493, and maintain any records necessary for fair housing and equal opportunity purposes.

In order to meet the recordkeeping requirements listed above, the Subrecipient must maintain the following, at a minimum:

- (i) Records providing a full description of each activity undertaken;
 - (ii) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG–DR program;
 - (iii) Records required to determine the eligibility of activities;
 - (iv) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
 - (v) Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG program regulations;
 - (vi) Financial records as required by 24 C.F.R. § 570.502, and 2 C.F.R., Part 200, including records necessary to demonstrate compliance with all applicable procurement requirements; and
 - (vii) Other records necessary to document compliance with this Agreement, any other applicable federal and state laws and regulations, and the terms and conditions of this federal award.
- (b) Access to Records. The Subrecipient shall provide any duly authorized representative of NCORR, The North Carolina State Auditor, the North Carolina Office of State Budget and Management, HUD, and the Comptroller General, the Inspector General and other authorized parties at all reasonable times access to and the right to inspect, copy, monitor, and examine all of the books, papers, records, and other documents relating to the grant during the period of performance of this Agreement and for three years following the completion of all closeout procedures. All original files shall be maintained at the Subrecipient’s offices for access purposes. Because Grantee is subject to 24 CFR 570.489(m) and 24 CFR 570.490 (except for waivers as stated in 81 Fed. Reg. 83254 (Nov. 21, 2016)), Subrecipient must provide sufficient access to records in compliance with 2 CFR 200.331(a)(5) and 24 CFR 570.490(c). As required by 2 CFR 200.331(a)(5), the Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient’s records and financial statements as necessary for the Grantee to meet its audit requirements under the Federal award.
- (c) Record Retention and Transmission of Records to Subrecipient. Prior to closeout of this Agreement, the Subrecipient must transmit to NCORR records sufficient for NCORR to demonstrate that all costs under this Agreement met the requirements of the federal award. Subrecipient shall retain financial records, supporting documents, statistical records, and all other Subrecipient records pertinent to this Agreement and Subrecipient’s award for 5 years after the closeout of the grant to ensure that all applicable record retention requirements are met. The preceding requirement is however, subject to the following exceptions:
- (i) Records for activities subject to the reversion of assets provisions at 24 C.F.R. § 570.503(b)(7) or change of use provisions at 24 C.F.R. § 570.505 must be maintained for as long as those provisions continue to apply to the activity, otherwise, records for real property and equipment acquired under this Agreement must be retained for 5 years after final disposition;

- (ii) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied, or for 5 years after the closeout of the grant, whichever is longer;
 - (iii) If any litigation, claim, or audit is started before the expiration of the required retention period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken, or for 5 years after the closeout of the grant, whichever is longer;
 - (iv) When the Subrecipient is notified in writing by HUD, the cognizant agency for audit as defined in 2 C.F.R. § 200.18, the oversight agency for audit as defined in 2 C.F.R. § 200.73, the cognizant agency for indirect costs as defined in 2 C.F.R. § 200.19, or NCORR, the Subrecipient shall extend the retention period consistent with the notification;
 - (v) When records are transferred to or maintained by HUD or NCORR, the required retention requirement is not applicable to the Subrecipient;
 - (vi) If the Subrecipient is required to report on program income after the period of performance, the retention period for the records pertaining to the earning of the program income (as defined in this Agreement) starts from the end of the Subrecipient's fiscal year in which the program income is earned; and
 - (vii) For indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates), and their supporting records:
 - a. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to NCORR) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - b. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to NCORR) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
- (d) Client Data and Other Sensitive Information. If the Subrecipient is required to maintain data demonstrating client eligibility for activities provided under this Agreement, the Subrecipient must comply with 2 C.F.R. § 200.303(e) and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. § 200.82, and other information HUD or NCORR designates as sensitive or the Subrecipient considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

4.7 Closeout. The Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 C.F.R. § 200.343. Activities during this closeout 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 NCORR), and

determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income. The rules governing program income acquired after closeout are modified in the Federal Register notice that applies to this Agreement. *See* 81 Fed. Reg. 83254, sec. VI, no. 17 (Nov. 21, 2016).

4.8 Audits, Inspections, and Monitoring

- (a) Single Audit. The Subrecipient must be audited as required by 2 C.F.R., Part 200, Subpart F when it is expected that the Subrecipient's federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501.
- (b) Inspections and Monitoring. The Subrecipient shall permit NCORR and auditors to have access to the Subrecipient's records and financial statements as necessary for NCORR to meet the requirements of 2 C.F.R., Part 200. The Subrecipient must submit to monitoring of its activities by NCORR as necessary to ensure that the award is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of this Agreement. This review must include: (1) reviewing financial and performance reports required by NCORR; (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the Subrecipient from NCORR detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this federal award provided to the Subrecipient from NCORR as required by 2 C.F.R. § 200.521.
- (c) Corrective Actions. NCORR may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. NCORR may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the federal award provided to the Subrecipient detected through audits, on-site reviews, and other means. In response to audit deficiencies or other findings of noncompliance with this Agreement, NCORR may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance, or provide training and technical assistance as needed to correct noncompliance.

4.9 Procurement and Contractor Oversight.

Subrecipient shall comply with the procurement standards in 2 C.F.R. Part 200, Subpart D when procuring property and services under this Agreement. The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law.

The Subrecipient shall impose the Subrecipient's obligations under this Agreement on its contractors, where applicable, specifically or by reference, so that such obligations will be binding upon each of its contractors.

The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities, including 2 C.F.R. § 200, Subpart F. The Subrecipient is responsible to ensure that it has checked

the federal System for Awards Management (SAM) (<https://www.sam.gov/portal/SAM>) and the State Debarred Vendors Listing (<http://www.pandc.nc.gov/actions.asp>) to verify that contractors or subsequent recipients have not been suspended or debarred from doing business with the Federal or State government.

Subrecipient shall include in all contracts funded under this Agreement all applicable contract provisions required under state law and 2 C.F.R. Part 200, Appendix II.

The Subrecipient shall maintain oversight of all activities under this Agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Agreement.

4.10 Property Standards. Real property acquired by the Subrecipient under this Agreement shall be subject to 24 C.F.R. § 570.505, 24 C.F.R. § 570.489(j), and 24 C.F.R. § 570.200(j) (imposing 24 C.F.R. § 5.109 requirements regarding disposition and change in use of real property by a faith-based organization).

The Subrecipient shall also comply with the property standards at 2 C.F.R. §§ 200.310 – 200.316, except to the extent they are inconsistent with 24 C.F.R. §§ 570.200(j) and 570.489(j), in which case Subrecipient shall comply with 24 C.F.R. §§ 570.200(j) and 570.489(j), except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this Agreement, pursuant to 24 C.F.R. § 570.489(e)(1)(ii).

If applicable to the scope of work of this agreement the Subrecipient shall abide by the terms as set forth in notice 81 Fed. Reg. 83254 (Nov. 21, 2016) regarding property standards, which include the following:

1. Green Building. To the extent applicable to projects undertaken pursuant to this Agreement, pursuant to 81 Fed. Reg. 83254, sec. VI, no. 28(a) – (d) (Nov. 21, 2016), all new construction of residential buildings and all replacement of substantially damaged residential buildings funded under this Agreement must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (i) ENERGY STAR (Certified Homes or Multifamily High-Rise), (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), (iv) ICC–700 National Green Building Standard, (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite), or (vi) any other equivalent comprehensive green building program acceptable to HUD.

2. Rehabilitation. To the extent applicable to projects undertaken pursuant to this Agreement, for rehabilitation work funded by this Agreement, Subrecipients must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist, available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-buildingchecklist/>. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances.

4.11 Federal Funding Accountability and Transparency Act (FFATA). The Subrecipient shall comply with the requirements of 2 C.F.R., Part 25 Universal Identifier and System for Award Management (SAM). The Subrecipient must have an active registration in SAM in accordance with 2 C.F.R., Part 25, Appendix A, and must have a Data Universal Numbering System (DUNS) number. The Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 C.F.R., Part 170 Reporting Subaward and Executive Compensation Information.

4.12 Relocation and Real Property Acquisition. To the extent applicable to projects undertaken pursuant to this Agreement, the Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 U.S.C. §§ 4601 – 4655, 49 C.F.R., part 24, 24 C.F.R., part 42, and 24 C.F.R. § 570.606. In addition to other URA requirements, these regulations implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5181, which provides that “Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [URA] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.” Portions of these regulations have been waived for the funds provided under this Agreement, pursuant to 81 Fed. Reg. 83254, sec. VI, no. 19 (Nov. 21, 2016).

4.13 Nondiscrimination.

- (a) 24 C.F.R., Part 6. The Subrecipient will comply with 24 C.F.R., Part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. § 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. The Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 – 6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, the Subrecipient shall comply with regulations of 24 C.F.R., Part 8, which implement Section 504 for HUD programs, and the regulations of 24 C.F.R., Part 146, which implement the Age Discrimination Act for HUD programs.
- (b) Architectural Barriers Act and the Americans with Disabilities Act. The Subrecipient shall ensure that its activities funded under this Agreement are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151 – 4156) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of “residential structure” as defined in 24 C.F.R. § 40.2 or the definition of “building” as defined in 41

C.F.R. § 101-19.602(a) is subject to the requirements of the Architectural Barriers Act and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 C.F.R., Part 40 for residential structures, and appendix A to 41 C.F.R., Part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. § 12131; 47 U.S.C. §§ 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

Additionally, for projects funded under this Agreement, the Subrecipient must comply with the North Carolina Building Code's standards for constructing or altering building and facilities to make them accessible to and useable by the physically handicapped.

- (c) State and Local Nondiscrimination Provisions. Subrecipient agrees to comply with state nondiscrimination provisions found at N.C. Gen. Stat. §§ 143-422.1 – 422.3 (Equal Employment Practices); and § 41A-1-10 (NC Fair Housing Act).
- (d) Title VI of the Civil Rights Act of 1964 (24 CFR part 1).
 - (i) *General Compliance:* The Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended and 24 C.F.R. §§ 570.601 and 570.602. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Agreement. The specific nondiscrimination provisions at 24 C.F.R. § 1.4 apply to the use of these funds. The Subrecipient shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Title VI of the Civil Rights Act of 1964 or 24 C.F.R., Part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 C.F.R., Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 C.F.R., Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
 - (ii) *Assurances and Real Property Covenants:* As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this Part 1.

If the Federal financial assistance under this Agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient's assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives the State and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to the Subrecipient under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of Part 1 shall extend to any facility located wholly or in part in such space.

(e) Equal Opportunity and Nondiscrimination.

- (i) *Compliance.* The Subrecipient agrees that it shall comply with the provisions of this subsection and shall ensure that its contractors comply with all application provisions of this subsection, including Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 41 C.F.R., Part 60.
- (ii) *Women- and Minority-Owned Businesses (W/MBE).* Subrecipient shall comply with N.C. Gen. Stat. § 143-128.2 and 2 C.F.R. § 200.321(b)(1) – (6) to ensure minority businesses, women's business enterprises, and labor surplus area firms are afforded opportunities as required by law to compete for contracts funded pursuant to this Agreement.
- (iii) *Notifications.* The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments

hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (iv) *Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement.* The Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

4.14 Labor Standards. The Subrecipient shall comply with the labor standards in 04 N.C.A.C. 19L.1006, which incorporate the requirements of the Davis-Bacon Act (40 U.S.C. § 276a), the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327 through 333), the Fair Labor Standards Act (29 U.S.C. § 201 *et seq.*), and federal anti-kickback laws (18 U.S.C. § 874 and 40 U.S.C. § 276a). The Davis-Bacon Act requirements (prevailing wages) apply to residential construction where the property has eight or more units, or to nonresidential construction projects that exceed \$2,000. The Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to NCORR for review upon request.

4.15 Section 3 of the Housing and Urban Development Act Notice. The Subrecipient agrees to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located. The Subrecipient agrees to impose these requirements on all contractors and subcontractors funded by this Agreement.

All covered contracts under this Agreement shall include the following clause (referred to as the "Section 3 Clause"):

- a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- c) The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous

places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

4.16 Conduct.

- (a) Hatch Act. The Subrecipient shall comply with the Hatch Act, 5 U.S.C. §§ 1501 – 1508, ensuring that no funds provided, nor personnel employed under this Agreement, shall be in any way engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code.
- (b) Conflict of Interest. In the procurement of supplies, equipment, construction, and services pursuant to this agreement, the Subrecipient shall comply with all applicable conflict of interest laws and regulations, including the provisions in 2 C.F.R. §§ 200.317 and 200.318, N.C. Gen. Stat. § 14-234, N.C. Gen. Stat. § 133-32, and 04 N.C.A.C. 19L.0914. In all cases not governed by 2 C.F.R. §§ 200.317 and 200.318, the Subrecipient shall comply with the conflict of interest provisions in 24 C.F.R. § 570.611. Certain limited exceptions to the conflict of interest rules listed in 24 C.F.R. § 570.489 may be granted in writing by Department of Housing and Urban Development ("HUD") and/or NCORR upon written request and the provision of information specified in 24 C.F.R. § 570.489(h)(4).
- (c) Lobbying Certification. The Subrecipient hereby certifies that:
 - (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of

any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (iii) It shall require that the language of paragraph (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- (iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

4.17 Religious Activities. The Subrecipient shall comply with all applicable regulations set forth under 24 C.F.R. § 5.109 concerning the participation of faith-based organizations in HUD programs, including subsection (j) regarding the acquisition, construction, and rehabilitation of structures that may involve religious purposes. Funds provided under this agreement shall not be utilized for inherently religious activities, such as worship, religious instruction, or proselytization.

4.18 Environmental Conditions. Recipients of CDBG-DR funds are required to comply with the requirements of the National Environmental Policy Act of 1969 (NEPA) found at 24 C.F.R., Part 58 and complete an Environmental Review Record (ERR). NCORR may also require additional environmental reviews for projects that receive these funds. Technical Assistance is available from NCORR to help with HUD Part 58 Environmental compliance coordination. No funds may be obligated or expended by Subrecipient until the environmental review procedures outlined in Part 58 have been complied with.

If the Subrecipient conducts environmental reviews, the Subrecipient must comply with the limitations in 24 C.F.R. § 58.22, which imposes limitations on activities pending environmental clearance, and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A Request for Release of Funds may be processed after all conditions and compliance requirements have been met. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. A Certifying Officer for the Responsible Entity will need to be designated for units of

general local government (e.g. County Judge or City Mayor/Manager), per §58.13. In the event that a unit of general local government is unable to serve as Responsible Entity, NCORR will function in that capacity and will identify the Certifying Officer.

The Subrecipient shall also comply with the following environmental compliance requirements, insofar as they apply to the performance of this Agreement: (1) The Clean Air Act (42 U.S.C. § 7401 et seq.) as amended, particularly sections 176(c) and (d) (42 U.S.C. §§ 7506(c) and (d)); (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 C.F.R., Parts 6, 51, and 93); and (3) the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., as amended, including the requirements specified in Sections 114 and 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

4.19 Lead-Based Paint. The Subrecipient agrees that any construction or rehabilitation of residential housing with assistance provided under this Agreement shall be subject to HUD's Lead-Based Paint Regulations at 24 C.F.R. § 570.608, 24 C.F.R. § 35, Subpart B, and Chapter 130A of the North Carolina General Statutes, Article 19A (Lead-Based Paint Hazard Management Program). Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

4.20 Flood Hazards and Flood Insurance. To the extent applicable to projects funded pursuant to this agreement, the Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 U.S.C. § 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. § 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award.

In addition, the following requirements apply to projects in floodplain zones:

- (a) If the project occurs in a Coastal High Hazard Area (V Zone) or a floodway, federal assistance may not be used at this location if the project is a critical action pursuant to 24

C.F.R. §§ 55.1(c) and 55 Subpart B, except as provided therein. For projects allowed under 24 C.F.R. §§ 55.1(c) and 55 Subpart B, the eight-step process shall be followed pursuant to 24 C.F.R. § 55.20.

- (b) If the project occurs in a 100-year floodplain (A Zone), the 8-Step Process is required as provided for in 24 C.F.R. § 55.20 or as reduced to the 5-Step Process pursuant to 24 C.F.R. § 55.12(a), unless an exception is applicable pursuant to 24 C.F.R. § 55.12(b).
- (c) If the project occurs in a 500-year floodplain (B Zone or shaded X Zone), the 8-Step Process is required for critical actions as provided for in 24 C.F.R. § 55.20 or as reduced to the 5-Step Process pursuant to 24 C.F.R. § 55.12(a), unless an exception is applicable pursuant to 24 C.F.R. § 55.12(b).

Additional elevation standards, as set forth in 81 Fed. Reg. 83254, sec. VI, no. 28(e) (Nov. 21, 2016), apply to projects funded by this Agreement. All structures, defined at 44 C.F.R. § 59.1, designed principally for residential use and located in the 1 percent annual (or 100-year) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined at 24 C.F.R. § 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least two feet above the 1 percent annual floodplain elevation. Residential structures with no dwelling units and no residents below two feet above the 1 percent annual floodplain, must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 C.F.R. § 60.3(c)(3) or successor standard, up to at least two feet above the 1 percent annual floodplain. All Critical Actions, as defined at 24 C.F.R. § 55.2(b)(3), within the 0.2 percent annual floodplain (or 500-year) floodplain must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 0.2 percent annual floodplain flood elevation or three feet above the 1 percent annual floodplain. If the 0.2 percent annual floodplain or elevation is unavailable for Critical Actions, and the structure is in the 1 percent annual floodplain, then the structure must be elevated or floodproofed at least three feet above the 1 percent annual floodplain level. Applicable State, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, must be followed.

4.21 Historic Preservation. To the extent that environmental review is carried out by the Subrecipient through funds provided under this Agreement, the Subrecipient shall follow the state historic preservation programmatic agreement, which can be found on the RebuildNC website at <https://www.rebuild.nc.gov/reporting-and-compliance/environmental-review>. The programmatic agreement implements the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 C.F.R., Part 800, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

4.22 Policies Concerning Nonviolent Demonstrations. Pursuant to 81 Fed. Reg. 83254, sec. VI, no. 47.k (Nov. 21, 2016), Subrecipient certifies that it has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and (2) a policy of enforcing

applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

4.23 Housing Counseling. To the extent that any housing counseling is carried out by the Subrecipient through funds provided under this Agreement, such activities must be carried out in accordance with 24 C.F.R. § 5.111.

4.24 No Funding to Private Utilities. Pursuant to 81 Fed. Reg. 83254, sec. VI, no. 46 (Nov. 21, 2016), no funds provided under this Agreement may be used to assist a privately owned utility for any purpose.

4.25 Broadband Infrastructure in Housing. Pursuant to 81 Fed. Reg. 83254, sec. VI, no. 28(f) (Nov. 21, 2016), if funds under Agreement are used for any new construction or substantial rehabilitation (as defined by 24 C.F.R. § 5.100) of a building with more than four rental units, those structures must include installation of broadband infrastructure, except where the Subrecipient documents that: (a) The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible; (b) the cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or (c) the structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

4.26 Iran Divestment Act. All parties executing this Agreement thereby affirm they shall not utilize any contractor or subcontractor in the performance of the Agreement that is identified upon the Final Divestment List created by the State Treasurer pursuant to NCGS 147-86.60.

4.27 Companies Boycotting the State of Israel. All parties executing this Agreement thereby affirm they shall not utilize any contractor or subcontractor in the performance of the Agreement that is identified upon the Final Divestment List created by the State Treasurer pursuant to NCGS 147-86.82.

Article V. OTHER MISCELLANEOUS PROVISIONS

5.1 Deobligation of Unused Funds. When project costs are less than the grant award amount, excess award funds shall be deobligated back to NCORR. Administration and project delivery funds shall be deobligated in proportion to the amount of program funds being deobligated to NCORR.

5.2 Complaints and Grievance procedures for Compliance Plans. Subrecipient must address complaints to NCORR and/or the Rebuild NC website (<https://www.rebuild.nc.gov/>). Citizen complaints can be filed to NCORR and/or the Rebuild NC website (<https://www.rebuild.nc.gov/>).

5.3 Benefit. This Agreement is made and entered into for the sole protection and benefit of NCORR, the State and the Subrecipient, and their respective successors and assigns, subject always to the provisions of the Agreement. Except as herein specifically provided otherwise, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective

successors and assigns. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to NCORR, the State and the Subrecipient and their respective successors and assigns. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person, other than as expressly provided in this Agreement. It is the express intention of the Parties and their respective successors and assigns that any such person or entity, other than the State, NCORR, and the Subrecipient, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

5.4 Further Assurance. In connection with and after the disbursement of Grant funds under this Agreement, upon the reasonable request of NCORR, the Subrecipient shall execute, acknowledge and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by NCORR or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Agreement. NCORR may require the delivery of documents in hard copy or electronic media.

5.5 Independent Status of the Parties. The Parties are independent entities and neither this Agreement nor any provision of it or any of the Grant Documents shall be deemed to create a partnership or joint venture between the Parties. Further, neither the Agreement nor any of the Grant Documents shall in any way be interpreted or construed as making the Subrecipient, its agents or employees, agents or representatives of NCORR. The Subrecipient is and shall be an independent contractor in the performance of this Agreement and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. In no event shall NCORR be liable for debts or claims accruing or arising against the Subrecipient. The Subrecipient represents that it has, or shall secure at its own expense, all personnel required in the performance of this Contract. Such employees shall not be employees of, nor have any individual contractual relationship with NCORR.

5.6 Indemnity. The Subrecipient agrees, to the fullest extent permitted by law, to release, defend, protect, indemnify and hold harmless the State and NCORR and its employees and agents against claims, losses, liabilities, damages, and costs, including reasonable attorney fees, which result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of Subrecipient, its employees, or agents in use or management of the Grant; and (b) for any claims, whether brought in contract, tort, or otherwise, arising out of this Agreement, if related to the Subrecipient's actions or omissions. The obligations under this paragraph are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Agreement.

5.7 Binding Effect, Contract Not Assignable by Subrecipient. The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the parties hereto; provided, however, that the Subrecipient may not assign this Agreement or any of its rights, interests, duties or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part unless expressly allowed under this Agreement, without the prior written consent of NCORR, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void.

5.8 Successor in Interest and Assignment by Grantee. This Agreement shall be transferred from NCORR to any successor in interest designated by the US Department of Housing and Urban Development as Grantee for the CDBG-DR program for the State of North Carolina immediately upon that designation.

5.9 Savings Clause. Invalidation of any one or more of the provisions of this Agreement, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.

5.10 Additional Remedies. Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Agreement.

5.11 Survival. Where any representations, warranties, covenants, indemnities or other provisions contained in this Agreement by its context or otherwise, evidences the intent of the parties that such provisions should survive the termination of this Agreement or any Closing, the provisions shall survive any termination or Closing.

5.12 Incorporation of Exhibits. All exhibits attached to this Agreement are fully incorporated as if set forth herein.

5.13 Entire Contract. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. All recitals, exhibits, schedules and other attachments hereto are incorporated herein by reference.

5.14 Headings. The headings of the various sections of this Agreement have been inserted for convenience only and shall not modify, define, limit or expand the express provisions of this Agreement.

IN WITNESS WHEREOF, the Subrecipient and NCORR have executed this Agreement on the dates written below.

[Signature page follows.]

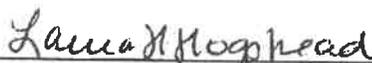
AGREED:



**Zee Lamb, County Manager
Nash County, NC**

9-25-19

Date



**Laura H. Hogshead, Chief Operating Officer
NC Office of Recovery and Resiliency**

9-25-19

Date

EXHIBIT A

CDBG-DR Project No. CRI-127-0001

This Exhibit contains the Project Specific Award Letter(s) issued by NCORR for each infrastructure project funded under this Agreement. Each Project Specific Award Letter(s) attached to this Exhibit A shall be incorporated into this Agreement.



North Carolina Department of Public Safety
Office of Recovery and Resiliency

Roy Cooper, Governor
Erik A. Hooks, Secretary

Michael A. Sprayberry, Director
Laura H. Hogshead, Chief Operating Officer

December 18, 2019

Zee B. Lamb, County Manager
120 West Washington Street, Suite 3072
Nashville, North Carolina 27856

Subject: Project-Specific Award and Approval
CDBG-DR Project No. CRI-127-0001
Town of Nashville Elm Street Drainage
FEMA Disaster No. DR-4285

Dear Mr. Lamb,

On behalf of the North Carolina Office of Recovery and Resiliency (NCORR), I am pleased to inform you that the subject project referenced above is approved to receive up to **\$455,114**, which includes up to \$21,672 of project delivery costs, as part of the Community Development Block Grant – Disaster Recovery (CDBG-DR) program. The scope of work for the approved project consists of:

Replacement of approximately 2,231 linear feet of 15-inch through 48-inch storm water drainage line and all appurtenances along Elm Street in the town of Nashville, NC.

Please read the rest of this letter carefully as it contains CDBG-DR related requirements that must be complied with to ensure ongoing eligibility for reimbursement.

A Subrecipient agreement (SRA) for the administration and use of the CDBG-DR funds was executed by the County and NCORR on September 25, 2019. That SRA in its entirety is incorporated herein by reference and the approved project must be accomplished in compliance with all requirements of the SRA. The County should pay particular attention to the procurement, monitoring, and recordkeeping requirements of the SRA and 2 CFR Part 200 to ensure the project remains eligible for CDBG-DR funding.

The requirements contained in the SRA also apply to contractors and subcontractors working on the approved project. This Project Specific Award and Approval is incorporated into the SRA and shall be available as Exhibit A.1 of the SRA. This Project Specific Award and Approval is a binding amendment on the SRA as outlined in Section "3.1 Amendment" of that agreement.

Prior to advertising the project for bids NCORR must receive one of the following: (1) A certification indicating all applicable permits to construct the project have been obtained, or (2) A schedule outlining when required permits to construct the approved project will be received. Please

Mailing Address:
Post Office Box 110465
Durham, NC 27709



Telephone: 984.833.5350
www.ncdps.gov
www.rebuildnc.gov



North Carolina Department of Public Safety

Office of Recovery and Resiliency

Roy Cooper, Governor
Erik A. Hooks, Secretary

Michael A. Sprayberry, Director
Laura H. Hogshead, Chief Operating Officer

also provide NCORR with your anticipated dates for advertisement of bids and the contract award. Once the contract has been awarded please provide NCORR with a conformed copy of the plans and specifications for our reference and files.

To receive reimbursement for eligible project costs incurred please refer to Section 2.5 of the SRA and the NCORR Subrecipient Billing Guide.

Please sign below to confirm your acceptance of this award, and return an executed copy to NCORR at your earliest convenience and before beginning work on this project. NCORR will retain a copy of this award letter in our project files.

NCORR remains your partner for this CDBG-DR funded project, and if you have any questions or need clarification please be in touch with Mary Glasscock, Infrastructure Manager, at 984-833-4350.

All of us with NCORR look forward to Nash County's success. Thank you for your partnership with NCORR throughout this process, and for your endeavors in revitalizing communities throughout North Carolina.

Sincerely,

Laura H. Hogshead, Chief Operating Officer
NC Office of Recovery and Resiliency

Agreed:

Authorized Representative, Nash County NC

12-20-19
Date

Cc: Jim Klinger
Moneka Jani
Golden Leaf Foundation

Mailing Address:
Post Office Box 110465
Durham, NC 27709



Telephone: 984.833.5350
www.ncdps.gov
www.rebuildnc.gov

EXHIBIT B

PROJECT BUDGET, DISTRIBUTION OF FUNDS, AND REFUNDS

NASH COUNTY

1. Subrecipient Budget

- a. To obtain payment, the Subrecipient must submit itemized documentation substantiating direct costs incurred in implementing the CDBG-DR program. The Subrecipient's budget for the CDBG-DR program is as follows:

2019 CRI SRA Budget

	2019 SRA Allocation
Infrastructure Program	\$ 433,442
Project Delivery	\$ 21,672
Total Hurricane Matthew CDBG-DR Funds	\$ 455,114

2. Disbursement of Grant Funds.

- a. No federal funds may be obligated until the Authority to Use Grant Funds (AUGF) has been issued for this undertaking (24 C.F.R., Part 58).
- b. No funds may be obligated or expended in any project activity except the administrative activity until the Subrecipient has submitted supporting documentation as specified in the NCORR Subrecipient Billing Guide to be provided to Subrecipient by NCORR.
- c. Requests for Reimbursement.
 - i. Other than administrative costs, any reimbursement request for reimbursement, must be accompanied by a request and any supporting materials as requested by NCORR. NCORR may, in its sole discretion, request additional documentation before approving any release of funds. NCORR will approve each request individually. The Subrecipient must receive the written approval of NCORR before entering into any contract for which they are seeking reimbursement through CDBG-DR.
 - ii. Upon satisfactory documentary support for a reimbursement request, as determined by NCORR, a schedule for disbursement of grant funds will be

Agreement, the Subrecipient may use such income only for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to NCORR at the completion of the Agreement. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee. All unexpended program income shall revert to the Grantee upon termination of this contract.

b. Refunds. The Subrecipient shall repay to NCORR or its designee any compensation it has received that exceeds the payment to which it is entitled herein, including any interest earned on funds reimbursed pursuant to the Agreement.

c. Unexpended Funds. Any unexpended Grant monies shall revert to NCORR or its designee upon termination of the Agreement. If the Subrecipient has any CDBG-DR funds on hand or accounts receivable attributable to the use of CDBG-DR funds at the time of termination, the Subrecipient shall transfer such funds and accounts receivable to NCORR or its designee.

d. Reduction of the Grant made less than projected budget amounts. NCORR may reduce the Grant amount if the Subrecipient expects that actual expenses will be less than budgeted. A copy of the budget amendment will be kept by NCORR.

e. Reimbursement for Improper Expenditures. In the sole discretion of NCORR, NCORR may recapture from the Subrecipient any amount of Grant assistance improperly expended, either deliberately or non-deliberately, by any person or entity. Additionally, a contract for administrative services should include a clause holding the administering organization responsible for reimbursement to the Subrecipient for any improperly expended grant funds, due to the actions or omissions of the administering organization, which had to be returned to NCORR.

f. Use of Real Property. Any real property under the Subrecipient's control that is acquired or improved in whole or in part with CDBG-DR funds in excess of \$25,000 must be used to meet one of the national objectives in 24 C.F.R. § 570.208 until five years after expiration of this Agreement. For any real property which is not used to meet one of the national objectives of CDBG-DR, the Subrecipient shall pay to NCORR or its designee an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. No payment is required if the property no longer meets one of the national objectives after five years following the expiration of this Agreement. The regulations concerning any change in the use or planned use of real property acquired with CDBG-DR funds, found in 24 C.F.R. § 570.505, apply to this Agreement.

