
AGENDA
CUMBERLAND COUNTY BOARD OF COMMISSIONERS
REGULAR AGENDA SESSION
JUDGE E. MAURICE BRASWELL
CUMBERLAND COUNTY COURTHOUSE - ROOM 564
DECEMBER 10, 2020
1:00 PM

1. APPROVAL OF AGENDA
2. APPROVAL OF MINUTES
 - A. November 12, 2020 Agenda Session Regular Meeting
3. PRESENTATIONS
 - A. Fiscal Year 2020 Audit Results by Elliott Davis, PLLC
 - B. Provision of Behavioral Health Services by Alliance Health
 - C. Workforce Development Update by Two Hawk Worforce Services
4. CONSIDERATION OF AGENDA ITEMS
 - A. Options for Renovating the Board of Commissioners' Meeting Room Due to COVID-19
 - B. Broadcasting All Board of County Commissioner Meetings
 - C. Supplemental Pay for Board of Election Members
 - D. Fiscal Year 2020-2021 CARES Act Funding Awarded to the Cumberland County Community Transportation Program and Associated Budget Ordinance Amendment # B211066
 - E. Community Development Funding Agreement with the Cumberland County Department of Public Health for Health Services in Response to the COVID-19 Pandemic
 - F. Community Development Funding Agreement with Fayetteville Urban Ministry, Inc. for Housing Stabilization Assistance Services
 - G. Community Development Funding Agreement With Family Endeavors, Inc. for Housing Stabilization Assistance Services
 - H. Community Development Funding Agreement with Hillside – FMHA, LLC for Installation of New HVAC Units
 - I. Emergency Watershed Protection (EWP) Program Application for Federal Assistance SF-424 Revision to Increase Grant Award and Associated Budget Ordinance Amendment #B210057
 - J. Statement of Work and Communications Equipment and Services Agreement for Eleven Motorola MCC7500 Dispatch Consoles for 500 Executive Place

- K. Additional Qualification-Based Selection Lists for Professional Engineering and Design Services
- L. Consideration of Discontinuing the Bragg Estates Sewer Project
- 5. OTHER ITEMS
- 6. MONTHLY REPORTS
 - A. Southern Health Partners, Inc. Quarterly Statistics Report on Inmate Health Care
 - B. Community Development Block Grant - Disaster Recovery (CDBG-DR) Update
 - C. Financial Report
 - D. Project Updates
 - E. Health Insurance Update
- 7. CLOSED SESSION: If Needed

ADJOURN

AGENDA SESSION MEETINGS:

January 12, 2021 (Tuesday) 1:00 P.M.
February 11, 2021 (Thursday) 1:00 P.M.



FINANCE OFFICE

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 **AGENDA SESSION**

TO: BOARD OF COUNTY COMMISSIONERS

FROM: VICKI EVANS, FINANCE DIRECTOR

DATE: 12/2/2020

SUBJECT: FISCAL YEAR 2020 AUDIT RESULTS BY ELLIOTT DAVIS, PLLC

Requested by: AMY CANNON, COUNTY MANAGER

Presenter(s): TOM MCNEISH, CPA, SHAREHOLDER, AND JAMI CRAMPTON, CPA, MANAGER, ELLIOTT DAVIS PLLC

BACKGROUND

The fiscal year 2020 financial audit has been different from prior years' audits in multiple ways. This is the first year of the three-year audit contract between the County and Elliott Davis PLLC, after many years of contracting with another audit firm. It is customary within other local governments for the audit firm to make the audit presentation to their boards. To coincide with the change in audit firms, the Elliott Davis audit team will be making the presentation of the County's fiscal year 2020 audit results.

In addition, COVID19 has presented some unforeseen challenges and delays. The audit will be presented in "DRAFT" form as it has not yet been approved by the Local Government Commission (LGC). The presentation in draft form is a result of the Office of Management and Budget (OMB) holding the release of an addendum to the compliance supplement on funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The compliance supplement addendum is needed to ensure CARES funds received by Cumberland County were audited under the updated standards required by OMB. We do not expect issues or out of compliance items.

Over the past six years there have been no comments from the LGC that resulted in changes needed in audit reports. We feel confident that the draft report will become the final report, once all approvals are received. If any of that changes, we will inform the Board of County Commissioners.

In prior years, the audit has typically been presented and accepted during the month of December and since the audit is substantially complete we preferred to keep that same timeline. This was especially important this fiscal

year because of the planned debt issuance scheduled to occur in February. It is an LGC requirement for audit reports of the most recent fiscal year to be approved prior to debt issuance.

In addition to the audit presentation during the Agenda Session meeting, Elliott Davis will also be presenting during the December 21, 2020 Board of Commissioners meeting.

RECOMMENDATION / PROPOSED ACTION

No action needed - for discussion and information purposes only. Any updates or changes in information provided in this memorandum will be shared with the commissioners.



FINANCE OFFICE

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 **AGENDA SESSION**

TO: BOARD OF COUNTY COMMISSIONERS

FROM: VICKI EVANS, FINANCE DIRECTOR

DATE: 12/4/2020

SUBJECT: PROVISION OF BEHAVIORAL HEALTH SERVICES BY ALLIANCE HEALTH

Requested by: AMY CANNON, COUNTY MANAGER

Presenter(s): ROB ROBINSON, ALLIANCE HEALTH CEO; KELLY GOODFELLOW, ALLIANCE HEALTH EVP, CFO

BACKGROUND

Each year Cumberland County provides \$4,800,000 to Alliance Health for the provision of behavioral health services delivered to residents of this County. During fiscal year 2020, \$2,966,038 of that allocation was unspent at the end of the fiscal year and remains in a "restricted for Cumberland" account on the books of Alliance Health. During the meeting, staff of Alliance Health will explain what led to that under-spending last fiscal year and will provide an update on overall service delivery in Cumberland County.

RECOMMENDATION / PROPOSED ACTION

Receive the update.

ATTACHMENTS:

Description

Alliance Health Presentation

Type

Backup Material



Cumberland County Board of Commissioners

November 12, 2020

About Alliance

- Behavioral health MCO for Durham, Wake, Cumberland and Johnston counties
- 470,000+ Medicaid-eligible and uninsured individuals among a population of over 1.8M
- Professional staff of over 500
- Network of 2,200+ contracted providers
- Preparing to operate a “Tailored Plan” beginning in 2022

FY20 Final Budget

Category	Amount	% of Total
Medicaid	\$ 412,643,519	68.58%
Federal/State	79,538,810	13.22%
Local	38,784,914	6.45%
Grants/Miscellaneous	982,500	0.16%
Fund Balance Appropriation	8,705,695	1.45%
Administrative	61,016,540	10.14%
Total	\$ 601,671,978	

FY20 Year End

- Cumberland remaining funds - \$2,966,038 of the \$4.8M

Budget/Cash Received	\$4,836,067
Spent	(\$1,870,029)
Remaining Funds	\$2,966,038

FY20 Year End

- Impact to services:
 - COVID
 - Disruption in crisis services at Roxie
- Additional State dollars to offset local service spend
 - \$30M COVID allocation – Alliance share \$7,500,760

FY20 Year End

- Investments and support for the community
 - Financial Stabilization payments
 - Cell phone and technology equipment
 - Additional service codes to allow for telehealth billing
 - Rate increases for residential and community services

FY21 Budget

Category	Amount	% of Total
Medicaid	\$ 399,202,069	72.34%
Federal/State	54,548,221	9.88%
Local	38,239,101	6.93%
Grants/Miscellaneous	675,000	0.12%
Administrative	59,178,135	10.72%
Total	\$ 551,842,526	

FY21 COVID relief

- Session Law 2020-88 - \$50M
 - Alliance portion - \$6,820,904
- Session Law 2020-97 - \$38M
 - Alliance portion - \$5,899,330
- Increase in Medicaid funds
- To be spent by December 31, 2020

FY21 COVID relief

- Continue rate increases and implement additional increases
 - Direct Service Provider support
- Invest in Child Crisis Facility renovation
- Cumberland OneCare Network implementation
- Residential development for our TBI members

Tailored Plan Update

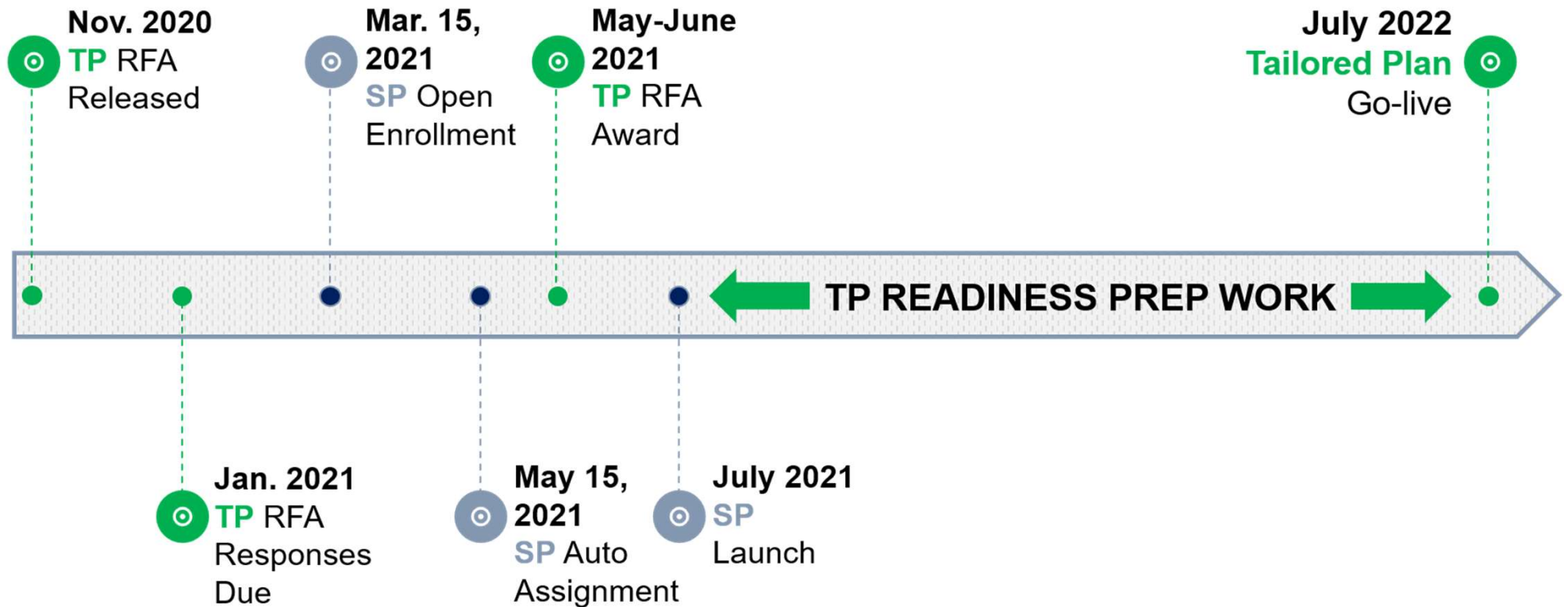
Types of NC Managed Care Plans

- Standard Plans
 - Serve most Medicaid enrollees, including adults and children
 - Provide integrated physical health, behavioral health, and pharmacy services at launch of Medicaid managed care program
- Tailored Plans
 - Specifically designed to serve special populations with unique health care needs
 - Provide integrated physical health, behavioral health, and pharmacy services

Standard Plan Contracts

- Statewide PHP contracts were awarded to:
 - AmeriHealth Caritas North Carolina, Inc.
 - Blue Cross and Blue Shield of North Carolina
 - UnitedHealthcare of North Carolina, Inc.
 - WellCare of North Carolina, Inc.
- PHP contract awarded to Carolina Complete Health, a provider-led entity (PLE), to operate in Regions 3 and 5
 - DHHS extended CCH contract to also cover Region 4 (Oct. '19)

Medicaid Transformation Timeline



Addressing the needs of youth with complex needs

Support for Children in DSS Custody

- Developed comprehensive plan to address children with more complex needs
 - Funding development and operations of 24/7 crisis group home
 - Implementing a intensive case management service
 - Expanding access to specialized trauma assessments
 - Continuing work and strengthening contractual requirements with Alliance treatment foster care providers
 - Building predictive models and early identification support plan

Crisis Update

Facility Based Crisis Services Update

- April 2020: Phase II Construction began
- May 2020: 23 hour Behavioral Health Urgent Care (BHUC) opens
- September 2020: DHSR requested work completed
- October 2020: Awaiting DHSR site inspection
- Total Admissions through September 23 BHUC

June	July	Aug	Sept	Total
86	115	115	120	436

Child Crisis Center

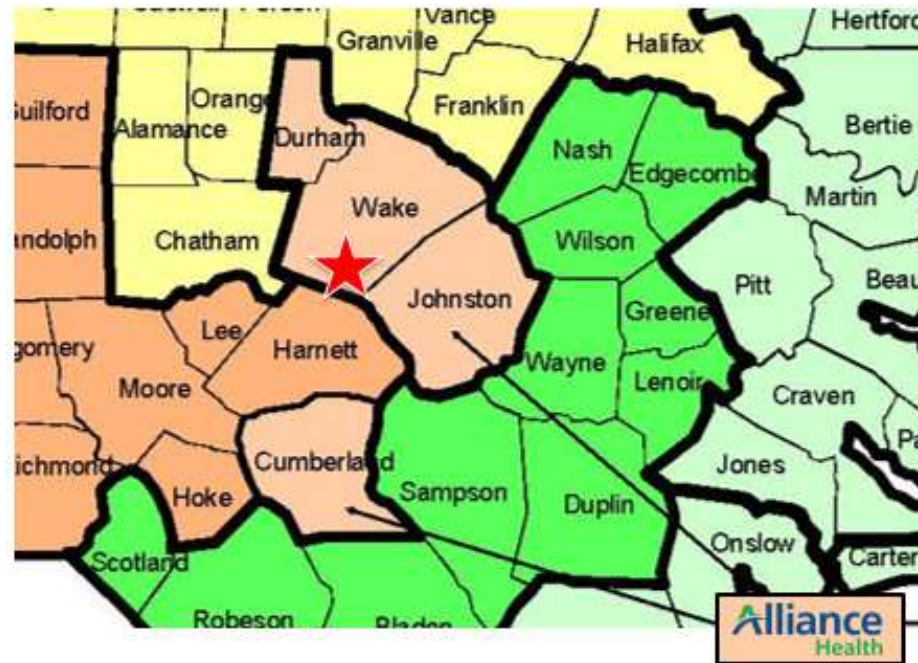


Child Crisis Center

- 16-bed crisis facility for children and teens ages 6-17
- Includes behavioral health urgent care services to address emergency department overcrowding
 - Walk-in access to same-day clinical assessments, psychiatric evaluations, necessary medications
- Designed to stabilize youth experiencing behavioral health crisis and engage them in appropriate treatment
 - 24/7 access to assessment, stabilization, treatment planning

Child Crisis Center

- Centrally located in Fuquay-Varina, accessible to the entire Alliance region





ASSISTANT COUNTY MANAGER - ENVIRONMENTAL/ COMMUNITY SAFETY

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL AND COMMUNITY SAFETY**

DATE: 12/1/2020

**SUBJECT: WORKFORCE DEVELOPMENT UPDATE BY TWO HAWK
WORKFORCE SERVICES**

Requested by: CUMBERLAND COUNTY BOARD OF COMMISSIONERS

**Presenter(s): SHERWOOD SOUTHERLAND, WORKFORCE DIRECTOR FOR TWO
HAWK WORKFORCE SERVICES**

BACKGROUND

At the September 21, 2020 Board of Commissioners' Meeting, the contracts for Workforce Provider Services and Career Center Operator/Manager were considered and approved by the Board. At that time, it was requested that Two Hawk Workforce Services appear before the Board at a future date to present an update on provider services and the operation/management of the Cumberland County NCWORKS Career Center. Mr. Sherwood Southerland, Director of Workforce Services for Two Hawk Workforce Services will provide an update to the Board of Commissioners as requested.

RECOMMENDATION / PROPOSED ACTION

No action is being requested. This is for information only.



ASSISTANT COUNTY MANAGER - ENVIRONMENTAL/ COMMUNITY SAFETY

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL AND COMMUNITY SAFETY**

DATE: 12/1/2020

**SUBJECT: OPTIONS FOR RENOVATING THE BOARD OF COMMISSIONERS'
MEETING ROOM DUE TO COVID-19**

Requested by: AMY H. CANNON, COUNTY MANAGER

**Presenter(s): TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL AND COMMUNITY SAFETY**

BACKGROUND

Staff and representatives from McGill and Associates will discuss potential options for renovating the Board of Commissioners' Meeting Room. Examples from other local governments will be provided.

RECOMMENDATION / PROPOSED ACTION

Staff is seeking input and direction regarding the potential renovation of the Board of Commissioners' Meeting Room.



BOARD OF COMMISSIONERS' OFFICE

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: COMMISSIONER CHARLES EVANS

DATE: 12/10/2020

**SUBJECT: BROADCASTING ALL BOARD OF COUNTY COMMISSIONER
MEETINGS**

Requested by: COMMISSIONER CHARLES EVANS

Presenter(s): COMMISSIONER CHARLES EVANS

BACKGROUND

As the Board of County Commissioners, one of the ways we have made a commitment to being open and transparent is by streaming our regular meetings live through the county's website and broadcasting them live on Fayetteville/Cumberland Educational TV (FCETV) Spectrum Channel 5. We also approved converting Spectrum Channel 5 from an Educational Channel to a County Government Channel.

Transparency in county government not only means that we act openly with citizens' knowledge of the decisions we make, it also means that those affected by our decisions have knowledge of the process that resulted in those decisions. I believe our citizens want more information. One way we can provide more information and promote improved transparency of the process leading to our decisions is to broadcast all of our Board of County Commissioner meetings.

RECOMMENDATION / PROPOSED ACTION

Discuss broadcasting all Board of County Commissioner meetings and if approved, forward to the December 21, 2020 regular meeting.



BOARD OF COMMISSIONERS' OFFICE

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: CANDICE H. WHITE, CLERK TO THE BOARD

DATE: 12/10/2020

SUBJECT: SUPPLEMENTAL PAY FOR BOARD OF ELECTION MEMBERS

Requested by: COMMISSIONER GLENN ADAMS

Presenter(s): COMMISSIONER GLENN ADAMS

BACKGROUND

Commissioner Glenn Adams asked that the Board of Commissioners consider supplemental pay for the Board of Election members.

RECOMMENDATION / PROPOSED ACTION

Discuss supplemental pay for Board of Election members and if approved, forward to the December 21, 2020 regular meeting.



PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 **AGENDA SESSION**

TO: BOARD OF COUNTY COMMISSIONERS

FROM: RAWLS HOWARD, DIRECTOR OF PLANNING & INSPECTIONS

DATE: 12/1/2020

SUBJECT: FISCAL YEAR 2020-2021 CARES ACT FUNDING AWARDED TO THE CUMBERLAND COUNTY COMMUNITY TRANSPORTATION PROGRAM AND ASSOCIATED BUDGET ORDINANCE AMENDMENT # B211066

Requested by: AMY H. CANNON, COUNTY MANAGER

Presenter(s): RAWLS HOWARD, DIRECTOR OF PLANNING & INSPECTIONS

BACKGROUND

The Community Transportation Program (CTP) has been notified by the North Carolina Department of Transportation (NCDOT) that payment of Rural Operating Assistance Program (ROAP) funds have been placed on hold for FY21. Due to funding uncertainties and the current situation with COVID-19 throughout the State, NCDOT is instead encouraging all transit systems to secure funds through the FY20 Coronavirus Aid, Relief, and Economic Security (CARES) Act to supplant or “fill in” these monies to cover ROAP program expenses for the remainder of this fiscal year.

Cumberland County CTP has been informed that the CARES Act funding will be allocated in two disbursements from NCDOT. The Round 1 disbursement for the CARES Act funding will be \$183,803, Round 2 disbursement is anticipated to be \$314,228, for a total award of \$498,031 in CARES Act funding. Unfortunately, a large portion of the CARES Act funding will have to be used to fill the previously mentioned gap from withdrawn ROAP funds. CTP will need \$358,313 to cover the ROAP expenses for this fiscal year. CTP will directly apply the CARES Act funds to fully cover the ROAP expenditures under the EDTAP (Elderly and Disabled Transportation Assistance Program), Employment (EMPL) and Rural General Public (RGP) Programs for the FY21 fiscal year. Staff proposes to cover administrative and operating expenses with the remaining funds.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the Round 1 Grant Agreement for FY21 Coronavirus Aid, Relief and Economic Security (CARES Act) Program between Cumberland County Community Transportation Program and the NCDOT – Integrated Mobility Division and the associated Budget Ordinance Amendment # B211066 in the amount of \$498,031. Staff requests this item be moved forward for consideration as a Consent Agenda item for the December 21, 2020 Board of Commissioners' Regular Meeting.

ATTACHMENTS:

Description	Type
DOT Memo	Backup Material
FY21 CARES Act Grant Agreement	Backup Material



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

October 1, 2020

Ifetayo Farrakhan
Cumberland County Transportation
130 Gillespie Street
Fayetteville, NC 28301

Dear Ifetayo Farrakhan,

In March 2020, Congress passed the CARES Act providing nearly \$95 Million in funding to North Carolina rural transit systems. These funds are intended to offset local revenue losses and aid in COVID-19 response and recovery efforts. The North Carolina Department of Transportation (NCDOT) is the recipient of CARES Act 5311 program funding and has established disbursement strategies for approximately \$70 Million so far. Over \$47 Million has been set aside for Community Transportation (CT) systems, including over \$20 Million announced in May 2020 and an additional \$27 Million announced in August 2020. Although it is evident that NC transit systems need financial support – particularly with the loss of FY 21 state transit funding resulting from NC House Bill 77 passed in July 2020 – thus far less than \$8 Million in CARES Act reimbursement claims have been submitted (less than 20% of the amount available).

A total of \$498,031.22 in CARES Act funding is available for your transit system, including \$183,803.05 in funding from NCDOT's first funding disbursement announced in May 2020 and \$314,228.17 in funding from NCDOT's second funding disbursement announced in August 2020 (including Appalachian funding for eligible systems). As of September 28, 2020, your agency has submitted reimbursement claims totaling \$ 0.00, leaving \$498,031.22 (or 100%) unclaimed and available for reimbursement of eligible expenses. To access these funds, each agency must have a funding agreement in place with NCDOT before beginning to request reimbursement for eligible expenses. As of September 28, 2020, a funding agreement is not yet in place with NCDOT for your agency.

As a reminder, all operating expenses – including staff salary and benefits, fuel, utilities, equipment, and supplies – are eligible for CARES Act funding. Once an agreement is in place, claims must be submitted through the Enterprise Business Services (EBS) system with supporting documentation. For more information about the claims process, go to the Public Transportation Connect NCDOT webpage or talk with the Planner/Mobility Development Specialist (MDS) from the Integrated Mobility Division (IMD) assigned to your transit system.

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
INTEGRATED MOBILITY DIVISION
1501 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-1550

Telephone: 919-707-4670
Fax: 919-733-1391
Customer Service: 1-877-368-4968

Website: ncdot.gov

Location:
1 SOUTH WILMINGTON STREET
RALEIGH, NC 27601

Understandably, systems have taken a cautious budgeting approach and are preserving as much leverage as possible due to extreme local and state funding uncertainty. However, in order to justify the need for additional funding, transit systems and NCDOT must be able to show that all existing funding sources – particularly CARES Act funding – are needed and being utilized. Please consider these factors when developing budgeting strategies and determining how to pay for services.

If your agency has any questions or concerns regarding the CARES Act agreement or reimbursement processes, we are happy to provide additional guidance and assistance. Please contact me at 919-707-2601 or by email at hjhildebrandt@ncdot.gov with any questions or concerns.

Sincerely,

Heather Hildebrandt
Interim Director
Integrated Mobility Division, NCDOT

cc:

Vicki Evans, Cumberland County Finance Manager
Amy Cannon, Cumberland County Manager

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

and

CUMBERLAND COUNTY

**PUBLIC TRANSPORTATION GRANT AGREEMENT FOR
CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY
(CARES ACT) PROGRAM**

Federal Award Identification

Agreement Number:

NCDOT Project Number: **20-CA-044**

Approved Indirect Cost Rate: **N/A**

FAIN Number(s): **NC-2020-011-00**

CFDA Number: **20.509**

DUNS Number: **088571690**

Total Amount of Award
(Federal): **\$183,803**

.....
Federal Funded Programs:

- ☐ **5303 Metropolitan Planning Grant**
- ☐ **5307 Urbanized Area Formula Grant**
- ☐ **5310 Enhanced Mobility of Seniors & Individuals with Disabilities Grant**
- ☐ **5311 Community Transportation Rural Formula Grant**
- ☒ **5311 Coronavirus Aid, Relief and Economic Security (CARES ACT)**
- ☐ **5311 Appalachian Development Transit Assistance Grant**
- ☐ **5311f Intercity Bus Grant**
- ☐ **5316 Job Access Reverse Commute Grant**
- ☐ **5317 New Freedom Grant**
- ☐ **5339 Bus and Bus Facility Grant**

THIS AGREEMENT made this the _____ day of _____, 20____, (hereinafter referred to as AGREEMENT) by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as "Department", an agency of the State of North Carolina) and **CUMBERLAND COUNTY**, (acting in its capacity as the grant recipient hereinafter referred to as the "Subrecipient" and together with Department as "Parties").

1. Purpose of Agreement

The purpose of this Agreement is to provide for the undertaking of nonurbanized and small urban public transportation services as described in the project application (hereinafter referred to as "Project") and to state the terms and conditions as to the manner in which the Project will be undertaken and completed. This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

2. Availability of Funds

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

3. Period of Performance

This Agreement shall commence upon the date of execution with a period of performance for all expenditures that extends from **January 20, 2020 to June 30, 2021**. Any requests to change the Period of Performance must be made in accordance with the policies and procedures established by the Department or FTA. The Subrecipient shall commence, carry on, and complete the approved Project in a sound, economical, and efficient manner.

4. Project Implementation

- a. **Scope of Project.** Cumberland County will use 5311 CARES Act funds to continue operating services in rural communities and prevent, prepare, and respond due to the COVID-19 public health emergency.
- b. The Subrecipient shall undertake and complete the project in accordance with the procedures, terms, and conditions herein and as included in the related grant application for financial assistance, the terms of which are incorporated by reference.

- c. **Amendment.** Any amendment to this Agreement shall be done in writing and in accordance with established policies and procedures and only by mutual consent of the Parties.

5. Cost of Project/Project Budget

The total cost of the Project approved by the Department is **ONE HUNDRED EIGHTY-THREE THOUSAND EIGHT HUNDRED THREE DOLLARS (\$180,803)** as set forth in the Project Description and Budget, incorporated into this Agreement as **Attachment A**. The Department shall provide, from Federal and State funds, the percentages of the actual net cost of the Project as indicated below, not in excess of the identified amounts for eligible Administrative, Operating, and Capital expenses. The Subrecipient hereby agrees that it will provide the percentages of the actual net cost of the Project, as indicated below, and any amounts in excess of the Department's maximum (Federal plus State shares) contribution. The net cost is the price paid minus any refunds, rebates, or other items of value received by the Subrecipient which have the effect of reducing the actual cost.

Operating WBS	Operating Total	Operating Federal (100%)	Operating State (0%)	Operating Local (0%)
49233.20.1.2	\$183,803	\$183,803	\$0	\$0
Agreement #				
Project Total	Project Total	Project Total Federal	Project Total State	Project Total Local
	\$183,803	\$183,803	\$0	\$0

6. Project Expenditures, Payments, and Reimbursement

- a. **General.** The Department, utilizing available state and federal funds, shall reimburse the Subrecipient for allowable costs for work performed under the terms of this Agreement.
- b. **Reimbursement Procedures.** The Subrecipient shall submit for reimbursement all eligible costs incurred within the agreement Period of Performance.
- Claims for reimbursement shall be made no more than monthly or less than quarterly, using the State's grant system, Enterprise Business Services (EBS) Partner Application.
 - All requests for reimbursement must be submitted within (30) days following the end of the project's reporting period. Any Subrecipient that fails to submit a request for reimbursement for the first two quarters of

agreement fiscal year by January 31 or the last two quarters by July 31 will forfeit its ability to receive reimbursement for those periods.

- iii. All payments issued by the Department will be on a reimbursable basis unless the Subrecipient requests and the Department approves an advance payment.
- iv. Supporting documentation for proof of payment may be requested.
- c. Subrecipient Funds. Prior to reimbursement, the Subrecipient shall provide the Department with proof that the Subrecipient has met its proportionate share of project costs from sources other than FTA or the Department. Any costs for work not eligible for Federal and State participation shall be financed one hundred percent (100%) by the Subrecipient.
- d. Operating Expenditures. In order to assist in financing the operating costs of the project, the Department shall reimburse the Subrecipient for the lesser of the following when providing operating assistance:
 - i. The balance of unrecovered operating expenditures after deducting all farebox revenue, or
 - ii. The percentage specified in the Approved Project Budget of the allowable total operating expenditures which shall be determined by available funding.
- e. Travel Expenditures. The Subrecipient shall limit reimbursement for meals, lodging and travel to rates established by the State of North Carolina Travel Policy. Costs incurred by the Subrecipient in excess of these rates shall be borne by the Subrecipient.
- f. Allowable Costs. Expenditures made by the Subrecipient shall be reimbursed as allowable costs to the extent they meet all of the requirements set forth below. They must be:
 - i. Consistent with the Project Description, plans, specifications, and Project Budget and all other provisions of this Agreement
 - ii. Necessary in order to accomplish the Project
 - iii. Reasonable in amount for the goods or services purchased
 - iv. Actual net costs to the Subrecipient, i.e., the price paid minus any refunds (eg, refundable sales and use taxes pursuant to NCGS 105-164.14), rebates, or other items of value received by the Subrecipient that have the effect of reducing the cost actually incurred

- v. Incurred (and be for work performed) within the period of performance and period covered of this Agreement unless specific authorization from the Department to the contrary is received
 - vi. Satisfactorily documented
 - vii. Treated uniformly and consistently under accounting principles and procedures approved or prescribed by the Department
- g. Excluded Costs. The Subrecipient understands and agrees that, except to the extent the Department determines otherwise in writing, the Department will exclude:
- i. Any Project cost incurred by the Subrecipient before the period of performance of the agreement,
 - ii. Any cost that is not included in the latest Approved Project Budget,
 - iii. Any cost for Project property or services received in connection with a third-party contract, sub-agreement, lease, or other arrangement that is required to be, but has not been, concurred in or approved in writing by the Department, and
 - iv. Any cost ineligible for FTA participation as provided by applicable Federal or State laws, regulations, or directives.
- h. Final Allowability Determination. The subrecipient understands and agrees that payment to the subrecipient on any Project cost does not constitute the Federal or State Government's final decision about whether that cost is allowable and eligible for payment and does not constitute a waiver of any violation by the subrecipient of the terms of this Agreement. The subrecipient acknowledges that the Federal or State Government will not make a final determination about the allowability and eligibility of any cost until an audit of the Project has been completed. If the Federal or State Government determines that the subrecipient is not entitled to receive any portion of the Federal or State assistance the subrecipient has requested or provided, the Department will notify the Subrecipient in writing, stating its reasons. The Subrecipient agrees that Project closeout will not alter the Subrecipient's responsibility to return any funds due the Federal or State Government as a result of later refunds, corrections, or other transactions; nor will Project closeout alter the Federal or State Government's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by Federal or State law or regulation, the Federal or State Government may recover any Federal or State assistance funds made available for the Project as necessary to satisfy any outstanding

monetary claims that the Federal or State Government may have against the Subrecipient.

i. Federal or State Claims, Excess Payments, Disallowed Costs, Including Interest.

i. Subrecipient's Responsibility to Pay. Upon notification to the Subrecipient that specific amounts are owed to the Federal or State Government, whether for excess payments of Federal or State assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Subrecipient agrees to remit to the Department promptly the amounts owed, including applicable interest and any penalties and administrative charges within 60 days of notification.

ii. Interest Paid to the Department. The Subrecipient agrees to remit to the Department interest owed as determined in accordance with NCGS § 147-86.23.

iii. Interest and Fees Paid on Federal Funds. For amounts owed by the Subrecipient to the Federal Government, whether for excess payments of Federal assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Subrecipient agrees to remit to the Federal Government promptly the amounts owed, including applicable interest, penalties and administrative charges as established by the Federal Transit Authority Master Agreement with NCDOT.

j. De-obligation of Funds. The Subrecipient agrees that the Department may de-obligate unexpended Federal and State funds for grants that are inactive for six months or more.

k. Project Closeout. Project closeout occurs when the Department issues the final project payment or acknowledges that the Subrecipient has remitted the proper refund. The Subrecipient agrees that Project closeout by the Department does not invalidate any continuing requirements imposed by this Agreement.

7. Accounting Records

a. Establishment and Maintenance of Accounting Records. The Subrecipient shall establish and maintain separate accounts for the public transportation program, either independently or within the existing accounting system. All costs charged to the program shall be in accordance with most current approved Project Budget and shall be reported to the Department in accordance with NCDOT Uniform Public Transportation Accounting System (UPTAS) guide.

b. Documentation of Project Costs. All costs charged to the Project, including any approved services performed by the Subrecipient or others, shall be supported

by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges.

8. Reporting, Record Retention, and Access

- a. Progress Reports. The Subrecipient shall advise the Department, through EBS, regarding the progress of the Project at a minimum quarterly, and at such time and in such a manner as the Department may require. Such reporting and documentation may include, but not be limited to: operating statistics, equipment usage, meetings, progress reports, and monthly performance reports. The Subrecipient shall collect and submit to the Department such financial statements, data, records, contracts, and other documents related to the Project as may be deemed necessary by the Department. Reports shall include narrative and financial statements of sufficient substance to be in conformance with the reporting requirements of the Department. Progress reports throughout the useful life of the project equipment shall be used, in part, to document utilization of the project equipment. Failure to fully utilize the project equipment in the manner directed by the Department shall constitute a breach of contract, and after written notification by the Department, may result in termination of the Agreement or any such remedy as the Department deems appropriate.
- b. Failure to comply with grant reporting and compliance guidelines set forth in the NCDOT PTD State Management Plan could result in financial penalties up to and including loss of current and future grant funding.
- c. Record Retention. The Subrecipient and its third party subrecipients shall retain all records pertaining to this Project for a period of five (5) years from the date of final payment to the Subrecipient, or until all audit exceptions have been resolved, whichever is longer.
- d. Project Closeout. The Subrecipient agrees that Project closeout does not alter the reporting and record retention requirements of this Agreement.
- e. State Auditor Oversight. The Subrecipient agrees to audit oversight by the Office of the State Auditor, to provide the Office of the State Auditor with access to accounting records, and to make available any audit work papers in the possession of any auditor of the Subrecipient.
- f. Financial Reporting and Audit Requirements. In accordance with 09 NCAC 03M.0205, all reports shall be filed with the Department in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audit Reports must be provided to the funding agency no later than nine (9) months after the end of the recipient's fiscal year.
- g. Parts Inventory. Financial audits must address parts inventory management.

- h. Third Party Loans. Within 30 days of receipt, the Subrecipient shall disclose to the Department any loans received from a local government entity or other entity not party to this agreement.
- i. Audit Costs. Unless prohibited by law, the costs of audits made in accordance with Title 2 CFR 200, Subpart F "Audit Requirements" are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in Title 2 CFR 200, Subpart E "Cost Principles." The cost of any audit not conducted in accordance with Title 2 CFR 200 and NCGS§ 159-34 is unallowable and shall not be charged to State or Federal grants.

9. Compliance with Laws and Regulations

- a. No terms herein shall be construed in a manner that conflicts with the rules and regulations of the Department or with state or federal law.
- b. The Subrecipient agrees to comply with all applicable state and federal laws and regulations, including titles 09 NCAC 3M and 19A NCAC 5B, as amended.

10. Conflicts of Interest Policy

The subrecipient agrees to file with the Department a copy of the subrecipient's policy addressing conflicts of interest that may arise involving the subrecipient's management employees and the members of its board of directors or other governing body. The subrecipient's policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the subrecipient's employees or members of its board or other governing body, from the subrecipient's disbursing of State funds, and shall include actions to be taken by the subrecipient or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The conflicts of interest policy shall be filed with the Department prior to the Department disbursing funds to the subrecipient.

Prohibition on Bonus or Commission Payments

The Subrecipient affirms that it has not paid and will not pay any bonus or commission to any party to obtain approval of its Federal or State assistance application for the Project.

11. Tax Compliance Certification

The Subrecipient shall complete and submit to the Department a sworn written statement pursuant to NCGS 143C-6-23(c), stating that the Subrecipient does not have any overdue tax debts, as defined by GS 105-243.1, at the Federal, State, or local level. The Subrecipient acknowledges that the written statement must be submitted to the

Department prior to execution of this Agreement and disbursement of funds. The certification will be incorporated into this Agreement as Attachment B.

12. Assignment

- a. Unless otherwise authorized in writing by the Department, the Subrecipient shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of the Department.
- b. The Subrecipient agrees to incorporate the terms of this agreement and any applicable State or Federal requirements into written third-party contracts, sub-agreements, and leases, and to take the appropriate measures necessary to ensure that all Project participants comply with applicable Federal and State laws, regulations, and directives affecting their performance, except to the extent the Department determines otherwise in writing.

13. Hold Harmless.

Except as prohibited or otherwise limited by law, the Subrecipient agrees to indemnify, save, and hold harmless the Department, the State of North Carolina and the United States of America and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Subrecipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project.

14. Real Property, Equipment, and Supplies.

Federal or State Interest. The Subrecipient understands and agrees that the Federal or State Government retains an interest in any real property, equipment, and supplies financed with Federal or State assistance (Project property) until, and to the extent, that the Federal or State Government relinquishes its Federal or State interest in that Project property. NCDOT shall be informed and included in all ribbon cuttings / dedications / groundbreakings. With respect to any Project property financed with Federal or State assistance under this Agreement, the Subrecipient agrees to comply with the following provisions, except to the extent FTA or the Department determines otherwise in writing:

- a. Use of Project Property. The Subrecipient agrees to maintain continuing control of the use of Project property. The Subrecipient agrees to use Project property for appropriate Project purposes (which may include joint development purposes that generate program income, both during and after the award period and used to support public transportation activities) for the duration of the useful life of that property, as required by FTA or the Department. Should the Subrecipient unreasonably delay or fail to use Project property during the useful life of that

property, the Subrecipient agrees that it may be required to return the entire amount of the Federal and State assistance expended on that property. The Subrecipient further agrees to notify the Department immediately when any Project property is withdrawn from Project use or when any Project property is used in a manner substantially different from the representations the Subrecipient has made in its Application or in the Project Description for this Agreement for the Project. In turn, the Department shall be responsible for notifying FTA.

- b. Maintenance and Inspection of Vehicles. The Subrecipient shall maintain vehicles at a high level of cleanliness, safety, and mechanical soundness in accordance with the minimum maintenance requirements recommended by the manufacturer and comply with the Department's State Management Plan ("SMP"). The Subrecipient shall register all vehicle maintenance activities into the Department's Asset Management System (AssetWorks) or an electronic version of same. The Department shall conduct frequent inspections to confirm proper maintenance pursuant to this subsection and the SMP. The Subrecipient shall collect and submit to the Department at such time and in such manner as it may require information for the purpose of the Department's Asset Management System (AssetWorks) and the Transit Asset Maintenance ("TAM") Plan.
- c. Maintenance and Inspection of Facilities and Equipment. The Subrecipient shall maintain any Project facility, including any and all equipment installed into or added on to the facility as part of the Project, in good operating order and at a high level of cleanliness, safety and mechanical soundness in accordance with good facility maintenance and upkeep practices and in accordance with the minimum maintenance requirements recommended by the manufacturer for all equipment installed in or added to the facility as part of the Project. Such maintenance shall be in compliance with applicable Federal and state regulations or directives that may be issued, except to the extent that the Department determines otherwise in writing. The Subrecipient shall document its maintenance program in a written plan. The Department shall conduct inspections as it deems necessary to confirm proper maintenance on the part of the Subrecipient pursuant to this subsection and SMP. Such inspections may or may not be scheduled ahead of time but will be conducted such that they shall not significantly interfere with the ongoing and necessary functions for which the Project was designed. The Subrecipient shall make every effort to accommodate such inspections by the Department in accordance with the Department's desired schedule for such inspections.
- d. The Subrecipient shall collect and submit to the Department at such time and in such manner as the Department may require information for the purpose of updating the TAM Plan Inventory and any and all other reports the Department deems necessary. The Subrecipient shall also maintain and make available to the Department upon its demand all documents, policies, procedures, purchase orders, bills of sale, internal work orders and similar items that demonstrate the Subrecipient's maintenance of the facility in good operating order and at a high level of cleanliness, safety and mechanical soundness.

- e. Incidental Use. The Subrecipient agrees that any incidental use of Project property will not exceed that permitted under applicable laws, regulations, and directives.
- f. Title to Vehicles. The Certificate of Title to all vehicles purchased under the Approved Budget for this Project shall be in the name of the Subrecipient. The Department's Public Transportation Division shall be recorded on the Certificate of Title as first lien-holder. In the event of project termination or breach of contract provisions, the Subrecipient shall, upon written notification by the Department, surrender Project equipment and/or transfer the Certificate(s) of Title for Project equipment to the Department or the Department's designee within 30 days of request.
- g. Encumbrance of Project Property. The Subrecipient agrees to maintain satisfactory continuing control of Project property as follows:
 - (1) Written Transactions. The Subrecipient agrees that it will not execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, third party contract, subagreement, grant anticipation note, alienation, innovative finance arrangement (such as a cross border lease, leveraged lease, or otherwise), or any other obligation pertaining to Project property, that in any way would affect the continuing Federal and State interest in that Project property.
 - (2) Oral Transactions. The Subrecipient agrees that it will not obligate itself in any manner to any third party with respect to Project property.
 - (3) Other Actions. The Subrecipient agrees that it will not take any action adversely affecting the Federal and State interest in or impair the Subrecipient's continuing control of the use of Project property.
- h. Alternative Use, Transfer, and Disposition of Project Property. The Subrecipient understands and agrees any alternative uses, transfers, or disposition of project property must be approved by the Department and done in accordance with Departmental procedures.
- i. Insurance Proceeds. If the Subrecipient receives insurance proceeds as a result of damage or destruction to the Project property, the Subrecipient agrees to:
 - (1) Apply those insurance proceeds to the cost of replacing the damaged or destroyed Project property taken out of service, or
 - (2) Return to the Department an amount equal to the remaining Federal and State interest in the damaged or destroyed Project property.
- j. Misused or Damaged Project Property. If any damage to Project property results from abuse or misuse occurring with the Subrecipient's knowledge and consent, the Subrecipient agrees to restore the Project property to its original condition or

refund the value of the Federal and State interest in that property, as the Department may require.

- k. Responsibilities after Project Closeout. The Subrecipient agrees that Project closeout by the Department will not change the Subrecipient's Project property management responsibilities, and as may be set forth in subsequent Federal and State laws, regulations, and directives, except to the extent the Department determines otherwise in writing.

15. Insurance

The Subrecipient shall be responsible for protecting the state and/or federal financial interest in the facility construction/renovation and equipment purchased under this Agreement throughout the useful life. The Subrecipient shall provide, as frequently and in such manner as the Department may require, written documentation that the facility and equipment are insured against loss in an amount equal to or greater than the state and/or federal share of the real value of the facility or equipment. Failure of the Subrecipient to provide adequate insurance shall be considered a breach of contract and, after notification may result in termination of this Agreement. In addition, other insurance requirements may apply. The Subrecipient agrees to comply with the insurance requirements normally imposed by North Carolina State and local laws, regulations, and ordinances, except to the extent that the Department determines otherwise in writing.

16. Termination

- a. Either party may terminate the Agreement by providing 60 days written notice to the other party, or as otherwise permitted by law.
- b. Should the Subrecipient terminate the Agreement without the concurrence of the Department, the Subrecipient shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the work.

17. Additional Repayment Requirements and Remedies

- a. The repayment requirements and remedies addressed in this Paragraph are in addition to those repayment requirements and other remedies set forth elsewhere in this Agreement, including the requirements to repay unspent funds. No remedy conferred or reserved by or to the Department is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this Agreement, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.
- b. If there is a breach of any of the requirements, covenants or agreements in this Agreement (including, without limitation, any reporting requirements), or if there

are any representations or warranties which are untrue as to a material fact in this Agreement or in relation to the Project (including the performance thereof), the Subrecipient agrees that the Department may require repayment from the Subrecipient of an amount of funds to be determined in the Department's sole discretion but not to exceed the amount of funds the Subrecipient has already received under this Agreement.

18. Civil Rights and Equal Opportunity

Under this Agreement, the Subrecipient shall at all times comply with the requirements included as part of this agreement in the Federal Terms and Conditions.

19. Choice of Law and Venue

This agreement is to be interpreted according to the laws of the State of North Carolina. The Parties hereby agree that the proper venue for any claims filed as a result of this Agreement shall be the Superior Court of Wake County, North Carolina.

20. Severability

If any provision of the FTA Master Agreement or this Agreement for the Project is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable Federal or State laws or regulations.

21. Incorporated Terms and Conditions

In addition to the Terms and Conditions contained in this agreement and the terms and conditions included in the grant application, which are hereby incorporated by reference, additional terms and conditions incorporated by reference into this agreement are checked below.



Federal Terms and Conditions, Attached

22. Federal Terms and Conditions

State Management Plan. The State Management Plan for Federal and State Transportation Programs and any subsequent amendments or revisions thereto, are herewith incorporated by reference, and are on file with and approved by the Department. Nothing shall be construed under the terms of this Agreement by the Department or the Subrecipient that shall cause any conflict with Department, State, or Federal statutes, rules, or regulations.

Allowable Costs. Eligible costs are those costs attributable to and allowed under the FTA program and the provisions of 2 CFR Parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

No Federal Government Obligations to Third Parties. The Subrecipient acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Subrecipient or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Agreement.

The Subrecipient agrees to include the above clause in each contract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts. The Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this project. Upon execution of the underlying Agreement, the Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Subrecipient further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Subrecipient to the extent the Federal Government deems appropriate.

The Subrecipient also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC chapter 53, the Government reserves the right to impose the penalties of 18 USC § 1001 and 49 USC § 5323(l) on the Subrecipient, to the extent the Federal Government deems appropriate.

The Subrecipient agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records and Reports.

a. Record Retention. The Subrecipient will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the Agreement, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

c. Access to Records. The Subrecipient agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this Agreement as reasonably may be required.

d. Access to the Sites of Performance. The Subrecipient agrees to permit FTA and its contractors access to the sites of performance under this Agreement as reasonably may be required.

Federal Changes. The Subrecipient agrees to comply with all applicable federal requirements and federal guidance. All the standards or limits included in this agreement are minimum requirements. The federal requirements and guidance that applied at the time of the award this Agreement may be modified from time to time, and the modifications will apply to the Subrecipient.

Civil Rights and Equal Opportunity. Under this Agreement, the Subrecipient shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 USC § 5332, the Subrecipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Subrecipient agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 USC § 2000e et seq., and Federal transit laws at 49 USC § 5332, the Subrecipient agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 USC § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 USC § 2000e note. The Subrecipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such

action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Subrecipient agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 USC §§ 621634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 CFR part 1625, the Age Discrimination Act of 1975, as amended, 42 USC § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR part 90, and Federal transit law at 49 USC § 5332, the Subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Subrecipient agrees to comply with any implementing requirements FTA may issue.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, the Americans with Disabilities Act of 1990, as amended, 42 USC § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 USC § 4151 et seq., and Federal transit law at 49 USC § 5332, the Subrecipient agrees that it will not discriminate against individuals on the basis of disability. In addition, the Subrecipient agrees to comply with any implementing requirements FTA may issue.

Disadvantaged Business Enterprises. It is the policy of the North Carolina Department of Transportation that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the equal opportunity to compete fairly for and to participate in the performance of contracts financed in whole or in part by Federal Funds. The Subrecipient is also encouraged to give every opportunity to allow DBE participation in Supplemental Agreements. The Subrecipient, subconsultant, and subcontractor shall not discriminate on the basis of race, religion, color, national origin, age, disability or sex in the performance of this contract. The Subrecipient shall comply with applicable requirements of 49 CFR Part 26 in the award and administration of federally assisted contracts. Failure by the Subrecipient to comply with these requirements is a material breach of this contract, which will result in the termination of this contract or such other remedy, as the Department deems necessary.

When payments are made to Disadvantaged Business Enterprise (DBE) Subrecipients, including material suppliers, Subrecipients at all levels (Subrecipient, Subconsultant or Subrecipient) shall provide the Contract Administrator with an accounting of said payments. The accounting shall be listed on the Department's Subrecipient Payment Information Form (Form DBE-IS). In the event the Subrecipient has no DBE participation, the Subrecipient shall indicate this on the Form DBE-IS by entering the word 'None' or the number 'zero' and the form shall be signed. Form DBE-IS may be accessed on the website at: <https://apps.dot.state.nc.us/quickfind/forms/Default.aspx>.

A responsible fiscal officer of the payee Subrecipient, subconsultant or Subrecipient who can attest to the date and amounts of the payments shall certify that the accounting is

correct. A copy of an acceptable report may be obtained from the Department of Transportation. This information shall be submitted as part of the requests for payments made to the Department.

Prompt payment provisions. When a subcontractor has performed in accordance with the provisions of his contract, the contractor shall pay to his subcontractor and each subcontractor shall pay to his subcontractor, within seven days of receipt by the contractor or subcontractor of each periodic or final payment, the full amount received for such subcontractor's work and materials based on work completed or service provided under the subcontract NCGS §22C-1.

Incorporation of FTA Terms. Provisions of this Agreement include, in part, certain standard terms and conditions required by the U.S. DOT. All contractual provisions required by the U.S. DOT, as set forth in FTA Circular 4220.1, as amended, are incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any Department request, which would cause the Department to be in violation of FTA terms and conditions, as referenced in the current FTA Master Agreement shall prevail and be the instrument governing the receipt of Federal assistance from the Federal Transit Administration.

Energy Conservation. The Subrecipient agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Debarment, Suspension, Ineligibility and Voluntary Exclusion. The Subrecipient shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. As such, the Subrecipient shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded Agreement and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting this Agreement, Subrecipient certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined by the Department that the Subrecipient knowingly rendered an erroneous certification, in addition to remedies available to the Department, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Subrecipient agrees to comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, throughout the period of this Agreement. The Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.

Lobbying Restrictions. The Subrecipient agrees that neither it nor any third-party participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve this agreement, including any extension or modification, according to the following:

(1) Laws, Regulations, Requirements, and Guidance. This includes:

(a) The Byrd Anti-Lobbying Amendment, 31 USC § 1352, as amended,

(b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 CFR part 20, to the extent consistent with 31 USC § 1352, as amended, and

(c) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and

(2) Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the subrecipient's proper official channels.

The Subrecipient agrees to submit a signed and dated Certification on Lobbying that appears in the attachment.

Clean Air Act and Federal Water Pollution Control Act. The Subrecipient agrees:

1) It will not use any violating facilities;

2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"

3) It will report violations of use of prohibited facilities to FTA; and

4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 USC §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 USC §§ 1251-1387).

Public Transportation Employee Protective Arrangements. The Subrecipient agrees to comply with the following employee protective arrangements of 49 USC § 5333(b):

1. Sections 5307 and 5339. Under this Agreement or any Amendments thereto that involve public transportation operations that are supported with 49 USC § 5307 or 49 USC § 5339 federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Section 5311. When the Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 USC § 5311, U.S. DOL will provide a Special Warranty for its Award. The U.S. DOL Special Warranty is a condition of the Agreement.

3. Section 5310. The conditions of 49 USC § 5333(b) do not apply to Subrecipients providing public transportation operations pursuant to 49 USC § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 USC § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

Charter Service. The Subrecipient agrees to comply with 49 USC 5323(d), 5323(r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 USC § 5323(d);
2. FTA regulations, "Charter Service," 49 CFR part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The Subrecipient agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply. The Subrecipient should also include the substance of this clause in each subcontract that may involve operating public transit services.

School Bus Operations. The Subrecipient agrees to comply with 49 USC 5323(f), and 49 CFR part 605, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 USC § 5323(f);
2. FTA regulations, "School Bus Operations," 49 CFR part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Subrecipient violates this School Bus Agreement, FTA may:

1. Bar the Subrecipient from receiving Federal assistance for public transportation; or
2. Require the Subrecipient to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Subrecipient shall include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

Substance Abuse Requirements (Recipients of Sections 5307, 5311, and 5339 funds only). The Subrecipient agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR parts 40 and 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations or the Department to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and review the testing process. The Subrecipient agrees further to submit the Drug and Alcohol Management Information System (DAMIS) reports before February 15 to NCDOT Public Transportation Compliance Office or its designee.

23. Contract Administrators.

All notices permitted or required to be given by one Party to the other and all questions about this Agreement from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, postal address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, postal address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Department:

Name: Myra Freeman
Title: Financial Manager
Agency: NCDOT/PTD
Email: Msfreeman1@ncdot.gov
MSC: 1550 Mail Service Center – Raleigh, NC 27699-1550
Physical Address: 1 S. Wilmington St, Rm 542, Transportation Building, Raleigh, NC 27601
Phone: 919-707-4672 Fax: 919-733-2304

For the Subrecipient:

Name: Ifetayo Farrakhan
Title: Transportation Director
Agency: Cumberland County Community Transportation
Address: 130 Gillespie St., Fayetteville, NC 28301
Email: ifarrakhan@co.cumberland.nc.us
Phone: 910-678-7624

IN WITNESS WHEREOF, this Agreement has been executed by the Department, an agency of the State of North Carolina, and the Subrecipient by and through a duly authorized representative and is effective the date and year first above written.

	<u>CUMBERLAND COUNTY</u>
SUBRECIPIENT'S FEDERAL TAX ID NUMBER:	<u>566000291</u>

SUBRECIPIENT'S FISCAL YEAR END:	<u>JUNE 30, 2021</u>
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BY:	<u></u>
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TITLE:	<u>COUNTY MANAGER</u>
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ATTEST:	<u></u>
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TITLE:	<u></u>
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DEPARTMENT OF
TRANSPORTATION

BY:	<u></u>
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TITLE:	<u>DEPUTY SECRETARY FOR MULTI-MODAL TRANSPORTATION</u>
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ATTEST:	<u></u>
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TITLE:	<u></u>
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**Attachment
Certification Regarding Lobbying**

The Subrecipient certifies, to the best of his or her knowledge and belief, that:

- (1) 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Subrecipient's Authorized Representative: _____

Title: County Manager _____

Date: _____



COMMUNITY DEVELOPMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: 11/30/2020

**SUBJECT: COMMUNITY DEVELOPMENT FUNDING AGREEMENT WITH THE
CUMBERLAND COUNTY DEPARTMENT OF PUBLIC HEALTH FOR
HEALTH SERVICES IN RESPONSE TO THE COVID-19 PANDEMIC**

Requested by: AMY H. CANNON, COUNTY MANAGER

Presenter(s): DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

BACKGROUND

Through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Cumberland County was awarded additional Community Development Block Grant (CDBG) funding totaling an amount of \$944,404 from the U.S. Department of Housing and Urban Development (HUD). In response to addressing local community needs related to the COVID-19 pandemic, Cumberland County Community Development (CCCD) made available its additional CDBG funds to eligible agencies to provide public services (human services) activities.

Cumberland County Department of Public Health submitted an application for CDBG funding that will allow the agency to increase its capacity and availability of health services to address the COVID-19 pandemic. The selected program will meet the CDBG eligibility requirements by addressing an urgent need in the community affected by the pandemic. Community Development desires to enter into a contract with the agency for a funding amount not to exceed \$226,000. CDBG funds are currently available for this project.

RECOMMENDATION / PROPOSED ACTION

Staff recommends and requests that the following item be placed on the December 21, 2020 Board of Commissioners agenda as a consent item:

- Approve the Community Development contract with Cumberland County Department of Public Health in the amount not to exceed \$226,000 for the provision of health services in response to the COVID-19 pandemic.

ATTACHMENTS:

Description

Agreement with Department of Public Health

Type

Backup Material

**AGREEMENT BETWEEN
COUNTY OF CUMBERLAND
COMMUNITY DEVELOPMENT DEPARTMENT
AND
DEPARTMENT OF PUBLIC HEALTH
FOR
CDBG PUBLIC SERVICES PROGRAM**

THIS AGREEMENT, entered into this 1st day of July 1, 2020 by and between the County of Cumberland (hereinafter called the Grantee), a body politic and corporate of the State of North Carolina and Department of Public Health (hereinafter called the Subrecipient), a body politic and corporate of the State of North Carolina located at 1235 Ramsey Street, Fayetteville, North Carolina.

WHEREAS, the Grantee has applied for and received Community Development Block Grant (CDBG) funds from the United States Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended, Public Law 93-383;

WHEREAS, On March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, which included supplemental appropriation to the CDBG program to address the economic impacts of the COVID-19 pandemic; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in using such funds;

NOW, THEREFORE, the parties agree that;

I. SCOPE OF SERVICES

A. Activities/Principal Tasks

The Subrecipient will provide services under the 2020 CDBG Program Year in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such programs will include the following Public Service activities eligible under 24 CFR 570.201(e) of the Community Development Block Grant Program:

1. Program Delivery. The Subrecipient will increase the capacity and availability of health services for infectious disease response by providing the following public service activities:

Activity #1 The Subrecipient will test for COVID-19/SARS-COV-2 among all symptomatic and asymptomatic individuals. The Subrecipient will conduct case investigation and contract tracing for positive COVID-19 cases assigned to Cumberland County.

2. General Administration. The following general administration activities are necessary to provide the activities described in Activities/Principal Tasks

Activity #1 Payment of Expenses: The Subrecipient will be responsible for fiscal administration of the CDBG Public Service funds. As such, the Subrecipient will be responsible for the collection of all necessary source documentation to substantiate all expenditures prior to submission to the Grantee for payment. The Subrecipient will submit all requests for payment with a cover memorandum and the following source documentation:

Payroll Expenses: All requests for payment of eligible payroll expenses will include a copy of a timesheet (in the format specified by the Grantee) signed and dated by both the employee and the employee's supervisor. To accompany the timesheet, the Subrecipient will submit a work progress report to correspond to the hours submitted for payment. The work progress report will include, at a minimum, a synopsis of the dates and times worked; the number of clients assisted, the specific services that were provided to the clients, and/or the services that were performed for the program.

Other Expenses: All requests for payment of eligible expenses will include a copy of the invoice or receipt for the expenditure as well as a copy of the check documenting payment of the expense by the Subrecipient. The invoice / receipt will indicate the date the expense was incurred, the name of the Subrecipient (if applicable), and the amount of the expense.

The Subrecipient will submit requests for payment of expenditures incurred on behalf of the program to the Grantee at least on a monthly basis. If such requests are not received regularly, the Grantee reserves the right to reprogram any unused funds to assist other eligible agencies. The Grantee will give the Subrecipient 15 days' notice prior to such reprogramming of funds taking place.

Activity #2 Grant Close-out: The Subrecipient will be responsible for the preparation and submission of all documents and reports relative to final close-out of the grant.

Activity #3 Financial Accountability: The Subrecipient will conduct accepted accounting procedures (in accordance with 2 CFR part 200 to ensure compliance and tracking of all funds received and disbursed by the Subrecipient. An annual audit will be conducted by a qualified independent firm contracted, using required procurement procedures.

B. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the CDBG Program's National Objective of addressing an urgent need, as defined in 24 CFR 570.208.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the levels of program services as listed on Exhibit I, which is incorporated by reference. Unless amended by mutual written agreement by the Subrecipient and the Grantee, the Subrecipient will perform the described tasks and complete the tasks of eligible activities in conformance with the Project Objectives attached as Exhibit I.

D. Staffing

The Subrecipient will assign Key Personnel to the CDBG PY2020 contract for the Public Service Program in order to carry out the scope of services of this agreement.

E. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within thirty (30) days after being notified by the Grantee, contract suspension procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Subrecipient will begin on the 1st day of July, 2020, and end on the 30th day of June, 2021.

III. FUNDING SOURCE - PY 2020 CDBG

The Grantee will allocate \$226,000 in CDBG funds for the purpose of providing assistance to the Subrecipient to cover the costs of salaries and fringe benefits for up to (14) full-time equivalent positions responsible for contact tracing for COVID-19. Any indirect costs charged will be consistent with the conditions of paragraph VIII (C) (2) of this Agreement. Any amendments to this contract must be approved in writing by the Grantee and the Subrecipient.

IV. METHOD OF COMPENSATION/PAYMENT SCHEDULE

The parties agree that the total amount to be paid by the Grantee under this contract will not exceed **\$226,000**. Reimbursements (as defined in 2 CFR Part 230) for the payment of eligible expenses will be charged to the program and will not exceed the allocated amount. If discrepancies are discovered during monitoring, the Grantee reserves the right to restrict the Subrecipient to payment for eligible expenses on a reimbursement basis only. The parties agree that any costs incurred prior to July 1 of the Program Year in which the contract is executed will not be eligible for reimbursement. Payments will be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 CFR part 200.

V. NOTICES

Communication and details concerning this contract will be directed to the following contract representatives:

GRANTEE

Delores Taylor, Director
Cumberland County Community Development
P. O. Box 1829
Fayetteville, NC 28302
(910) 323-6112
FAX #: (910) 323-6114

SUBRECIPIENT

Dr. Jennifer Green, Director
Department of Public Health
1235 Ramsey Street
Fayetteville, NC 28301
(910) 433-3707
FAX #: (910) 483-3659

VI. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, part 570 [the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG).] The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to use funds available under this Agreement to supplement rather than to supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended or will be construed to create or establish the relationship of employer/employee between the parties. The Subrecipient will at all times remain an "Independent Contractor" with respect to the services to be performed under this Agreement. The Grantee will be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent contractor.

C. Hold Harmless

The Subrecipient will hold harmless, defend, and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Subrecipient will provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. Insurance and Bonding

The Subrecipient will carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum will purchase a blanket fidelity bond covering all employees in an amount equal to the agreement amount with the Grantee. The Subrecipient will also list Cumberland County Community Development Department as an additional insured. The Subrecipient will cause the insurer to provide Cumberland County Community Development Department with certification of insurance. Insurer will also provide Cumberland County Community Development Department notice of cancellation at least fifteen (15) days prior to cancellation. The Subrecipient will comply with the bonding and insurance requirements of 2 CFR part 200.

F. Debarred / Suspended

The Subrecipient must not make any award or permit any award (sub grant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 CFR part 2424. The requirement set forth in 24 CFR Part 5 applies to this program.

G. Grantor Recognition

The Subrecipient will ensure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items used pursuant to this contract will be prominently labeled to indicate Cumberland County CDBG as a funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments will not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, at its 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 activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

I. Suspension or Termination

Either party may terminate this contract by giving written notice to the other party of such termination at least thirty (30) days before the effective date of such termination and specifying the effective date thereof. Partial terminations of the Scope of Service in Paragraph IA above may only be undertaken with the prior approval of the Grantee. If this Agreement is terminated for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement will, at the option of the Grantee, become the property of the Grantee, and the Subrecipient will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein (2 CFR part 200); and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's programs, as stated in the Monitoring Policy of Cumberland County Community Development, in addition to other remedies as provided by law. If there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold all or any portion of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial and Program Management

1. Administrative Requirements

The Subrecipient agrees to comply with the administrative requirements specified in 2 CFR part 200. The Subrecipient further agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation, as necessary.

2. Cost Principles

The Subrecipient will administer its program in conformance with 2 CFR Part 230, "Cost Principles for Non-Profit Organizations"; 2 CFR Part 220, "Cost Principles for Educational Institutions"; 2 CFR Part 225, "Costs Principles for State and Local Governments" as applicable. These principles will be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient will maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records will include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required determining the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR 570.502, and 2 CFR part 200; and,
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Subrecipient will retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract will be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claim(s), audit(s), negotiation(s) or other actions that involve any of the records cited and that have started before the expiration of the four (4) years, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The Subrecipient will maintain client data demonstrating client eligibility for services provided. Such data will include, but not be limited to, client name, address, income level, or other basis for determining eligibility, and description of service provided. Such information will be made available to Grantee's monitors or its designees for review upon request.

4. Disclosure

Client information collected under this contract is confidential and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by Federal law unless written consent is obtained from such persons receiving service and, in the case of a minor, from a responsible parent/guardian.

5. Property Records

The Subrecipient will maintain real property inventory records that clearly identify properties purchased, improved, or sold. Properties retained will continue to meet eligibility criteria and will conform to the "changes in use" restrictions specified in 24 CFR 570.505, as applicable.

6. Close-Outs

The Subrecipient's obligation to the Grantee will not end until all close-out requirements are completed. Activities during this close-out period will include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balance, and accounts receivable to the Grantee), and determining the custodianship of records.

7. Audits and Inspections

The Subrecipient agrees to have an annual agency audit conducted in accordance with 2 CFR part 200. If the Subrecipient does not meet the threshold requirements for an annual audit in accordance with 2 CFR part 200, the Subrecipient will have an annual audit conducted by an independent certified public accountant in accordance with generally accepted government auditing standards (GAGAS). All Subrecipient records with respect to any matters covered by this Agreement will be made available to the Grantee, grantor agency, its designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. The Grantee will send written notice of any deficiencies to the Subrecipient within fifteen (15) days following audit/monitoring. Any deficiencies noted in monitoring reports must be fully cleared by the Subrecipient within thirty (30) days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above monitoring requirements will constitute a violation of this contract and may result in the withholding of future payments.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient will report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The recipient's use of program income will comply with the requirements set forth as 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and will reduce requests for additional funds by the amount of any such program income balance on hand. All unused program income will be returned to the Grantee at the end of the contract period.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and will submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to allocate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient will submit quarterly Progress Reports to the Grantee in the form and content as required by the Grantee. If the Subrecipient is more than 30 days delinquent in submitting its progress reports, the Grantee will discontinue processing all requests for payment until such time as the delinquent reports are received.

D. Procurement

1. Compliance

The Subrecipient will comply with Grantee's policies concerning the purchase of equipment and will maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) will revert to the Grantee upon termination of this contract.

2. Procurement Standards

The Subrecipient will procure all materials, property, or services in accordance with the requirements of 2 CFR part 200 and will subsequently follow Property Standards as outlined in 24 CFR 570.502(b), covering utilization and disposal of property.

VIII. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, The Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive orders 11375 and 12086.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection from training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the disabled in any federally assisted program. The Grantee will provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. EEO Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer.

5. Subcontract Provisions

The Subrecipient will include the provisions of Paragraph IX.A. Civil Rights in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Subrecipients or subcontractors.

B. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

C. Conduct

1. Assignability

The Subrecipient will not assign or transfer any interest in this contract without the prior written consent of the Grantee; provided that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer will be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient will not enter into any subcontracts with any agency or individual for the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts will be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient will cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed for the performance of this Agreement.

d. Selection Process

The Subrecipient will undertake to ensure that all subcontracts in the performance of this Agreement will be awarded on a fair and open competition basis. Executed copies of all subcontracts will be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, will be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and will not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest will be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or Subrecipients which are receiving funds under the CDBG Entitlement Program.

5. Lobbying

The Subrecipient hereby certifies that:

- a. 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 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 agreements;
- b. 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; and
- c. It will require that the language of paragraph (6) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts, under grants, loans, and cooperative agreements) and that all Subrecipients will certify and disclose accordingly.

6. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

8. Religious Organization

(1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation. (2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services. (3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents. (4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

IX. ENVIRONMENTAL CONDITIONS

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C. 7401, et seq.

- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, § 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Environmental Standards 24 CFR 570.604.

X. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement will not be affected thereby, and all other parts of this Agreement will nevertheless be in full force and effect.

XI. NON-APPROPRIATION CLAUSE

If appropriations of money to conduct and administer the presently scheduled program are lawfully reduced or terminated, or it is deemed in the public interest and necessity for the health, safety, or welfare of the public to so reduce or terminate this scheduled program, the Grantee, at its option, has the right to terminate this Agreement effective upon the end of the fiscal year. The County will give the Subrecipient written notice of termination under the provisions of this paragraph immediately upon receipt of actual notice by the Grantee of a reduction or termination of appropriations of money for the scheduled program, or any other necessity to reduce or terminate the program. Following the effective date of such termination the Grantee will have no further obligation to make any payments; the Grantee will have no right to recover any payments heretofore paid which were due and payable prior to the effective date of such termination.

XII. IRAN DIVESTMENT ACT CERTIFICATION

Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List ("List") created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.55-69. Contractor shall not utilize any subcontractor that is identified on the List.

XIII. E-VERIFY

Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor utilizes a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

XV. INCORPORATED DOCUMENTS

The following documents or Exhibits to this contract are hereby made a part of this Contract and fully incorporated herein by reference, and compliance with the applicable provisions of these documents or Exhibits is a condition of this Contract.

- Exhibit I - Project Objectives;
- Exhibit II – Certification Regarding Lobbying; and
- Exhibit III - Federal Contracting Requirements.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, 2020, by their respective duly authorized representatives.

GRANTEE:
COUNTY OF CUMBERLAND, NC

ATTEST:

BY: _____
Clerk to the Board of County Commissioners

BY: _____
W. MARSHALL FAIRCLOTH, CHAIR

[COUNTY SEAL]

SUBRECIPIENT:
DEPARTMENT OF SOCIAL SERVICES

ATTEST:

By: _____
Secretary of Corporation

By: _____
DR. JENNIFER GREEN, DIRECTOR

[CORPORATE SEAL]

PRE-AUDIT CERTIFICATE:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

APPROVED FOR LEGAL SUFFICIENCY:

By: _____
County Finance Director Date

By: _____
County Attorney's Office Date

(X) Non-Renewable () Renewable
Agreement Expires: June 30, 2021

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the County and State, do hereby certify that _____, who being duly sworn, personally appeared before me this day and acknowledged that she is the Clerk of the Cumberland County Board of Commissioners; that _____ is the duly appointed _____; that the seal affixed to the foregoing Agreement is the Official Seal of the Board; that said _____ is duly authorized to enter into this Agreement on behalf of said Board and that _____ signed and sealed this Agreement; and this Agreement is attested by said Clerk on behalf of said Board; all by its authority duly granted; and that said _____ acknowledged the said Agreement to be the act and deed of the _____.

WITNESS my hand and notarial seal this the _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the County and State, do hereby certify that _____, who being duly sworn, personally appeared before me this day and acknowledged that she is the Clerk of the Cumberland County Board of Commissioners; that _____ is the duly appointed _____; that the seal affixed to the foregoing Agreement is the Official Seal of the Board; that said _____ is duly authorized to enter into this Agreement on behalf of said Board and that _____ signed and sealed this Agreement; and this Agreement is attested by said Clerk on behalf of said Board; all by its authority duly granted; and that said _____ acknowledged the said Agreement to be the act and deed of the _____.

WITNESS my hand and notarial seal this the _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT I

PROJECT OBJECTIVES

DEPARTMENT OF PUBLIC HEALTH

The subrecipient will:

- Test and/or provide testing kits for approximately 4000 individuals.
- Conduct contact tracing and case investigations for all positive COVID-19 cases.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

EXHIBIT III

Federal Contracting Requirements

This attachment is incorporated into the Contract between the County and the Contractor/sub grantee. Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. All references to the "Contractor/sub grantee" or "Company" or "Vendor" or "Provider" shall be deemed to mean the Contractor/sub grantee.

This Contract may be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. The Contractor/sub grantee is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.

To the extent possible, the federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.CFR Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Contractor/sub grantee pursuant to its obligations under this Contract. The Contractor/sub grantee and its sub-Contractor/sub grantees, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.

Drug Free Workplace Requirements

Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D). All Contractor/sub grantees entering into federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.

Contractor/sub grantee Compliance

The Contractor/sub grantee shall comply with all uniform administrative requirements, cost principles, and audit requirement for federal awards.

Conflict of Interest

The Contractor/sub grantee must disclose in writing any potential conflict of interest to the County of Cumberland or pass through entity in accordance with federal policy.

Mandatory Disclosures

The Contractor/sub grantee must disclose in writing all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. **Energy Conservation** The Contractor/sub grantee and Sub Contractor/sub grantees agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq.

Federal Water Pollution Control Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor/sub grantee agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

Clean Air Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Act as amended (33 USC § 1251-1387).

The Contractor/sub grantee agrees to report any violation to the County immediately upon discovery. The Contractor/sub grantee understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency (EPA) Regional Office. Contractor/sub grantee must include this requirement in all subcontracts that exceed \$150,000.

The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Access to Records and Reports

The Contractor/sub grantee must maintain an acceptable cost accounting system. The Contractor/sub grantee agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor/sub grantee which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor/sub grantee agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor/sub grantee agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

All Contractor/sub grantees and their successors, transferees, assignees, and Sub Contractor/Sub Grantees acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff.

No Obligation by Federal Government

The County and the Contractor/sub grantee acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the County, the Contractor/sub grantee, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor/sub grantee agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the sub-Contractor/sub grantee who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor/sub grantee acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor/sub grantee's actions pertaining to this contract. Upon execution of the underlying contract, the Contractor/sub grantee certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor/sub grantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor/sub grantee to the extent the Federal Government deems appropriate.

The Contractor/sub grantee also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor/sub grantee, to the extent the Federal Government deems appropriate.

The Contractor/sub grantee agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the sub-Contractor/sub grantees who will be subject to the provisions.

Changes

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. Contractor/sub grantee's failure to do so shall constitute a material breach of the contract.

Termination

Termination Without Cause. The County may immediately terminate this Agreement at any time without cause by giving 30 days' written notice to the Contractor/sub grantee.

Termination for Default by Either Party. By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or

The other party attempts to assign, terminate or cancel this Agreement contrary to the terms hereof; or

The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

Additional Grounds for Default Termination by the County. By giving written notice to the Contractor/sub grantee, the County may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

The Contractor/sub grantee makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, Contractor/sub grantee's Proposal, or any covenant, agreement, obligation, term or condition contained in this Agreement; or

The Contractor/sub grantee takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

Cancellation of Orders and Subcontracts. In the event this Agreement is terminated by the County for any reason prior to the end of the term, the Contractor/sub grantee shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Contractor/sub grantee shall submit a statement to the County showing in detail the services performed under this Agreement to the date of termination.

No Effect on Taxes, Fees, Charges, or Reports. Any termination of the Agreement shall not relieve the Contractor/sub grantee of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve the Contractor/sub grantee of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Contractor/sub grantee from any claim for damages previously accrued or then accruing against the Contractor/sub grantee.

Obligations Upon Expiration or Termination. Upon expiration or termination of this Agreement, the Contractor/sub grantee shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other recording devices, information, or compact discs that are owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new vendor access to the systems, software, infrastructure, or processes of the Contractor/sub grantee that are necessary to migrate the Services to a new vendor; and (d) refund to the County all pre-paid sums for Products or Services that have been cancelled and will not be delivered.

No Suspension. In the event that the County disputes in good faith an allegation of default by the Contractor/sub grantee, notwithstanding anything to the contrary in this Agreement, the Contractor/sub grantee agrees that it will not terminate this Agreement or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Contractor/sub grantee, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

Authority to Terminate. The County Manager or their designee is authorized to terminate this Agreement on behalf of the County.

Audit. During the term of the Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, all books and records (including but not limited to the technical records) and facilities of the Contractor/sub grantee necessary to evaluate Contractor/sub grantee's compliance with the terms and conditions of the Agreement or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Contractor/sub grantee. However, if non-compliance is found that would have cost the County in excess of \$5,000 but for the audit, then the Contractor/sub grantee shall be required to reimburse the County for the cost of the audit.

Remedies

Liquidated Damages: The County and the Contractor/sub grantee acknowledge and agree that the County may incur costs if the Contractor/sub grantee fails to meet the delivery times set forth in the Request for Proposal for the Products and Services. The parties further acknowledge and agree that: (a) the County may be damaged by such failures, including loss of goodwill and administrative costs; but that (b) the costs that the County might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor/sub grantee agrees to pay liquidated damages at the rates set forth in the Request for Proposal (if applicable). The parties agree that the liquidated damages set forth in the Request for Proposal shall be the County's exclusive remedy for loss of goodwill and administrative costs, attributable to a failure by the Contractor/sub grantee to meet such delivery times, but shall not be the remedy for the cost to cover or other direct damages.

Right to Cover: If the Contractor/sub grantee fails to meet any completion date or resolution time set forth in this Agreement (including the Exhibits), and it fails to cure such default within one (1) business day after receiving written notice from the County of such failure, the County may take any of the following actions with or without terminating this Agreement, and in addition to and without limiting any other remedies it may have:

Employ such means as it may reasonably deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Contractor/sub grantee is again able to resume performance under this Agreement; and

Deduct any and all reasonable expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Contractor/sub grantee and, should the County's reasonable cost of obtaining or performing the services exceed the amount due the Contractor/sub grantee, collect the difference from the Contractor/sub grantee.

Right to Withhold Payment. If the Contractor/sub grantee materially breaches any provision of this Agreement, the County shall have a right to withhold all payments due to the Contractor/sub grantee with respect to the services that are the subject of such breach until such breach has been fully cured.

Specific Performance and Injunctive Relief. The Contractor/sub grantee agrees that due to the potential impact on public health, monetary damages may not be an adequate remedy for the Contractor/sub grantee's failure to provide the Services required by this Agreement, and monetary damages may not be the equivalent of the performance of such obligation. Accordingly, the Contractor/sub grantee hereby agrees that the County may seek an order granting specific performance of such obligations of the Contractor/sub grantee in a court of competent jurisdiction within the State of North Carolina. The Contractor/sub grantee further consents to the County seeking injunctive relief (including a temporary restraining order) to assure performance in the event the Contractor/sub grantee breaches the Agreement in any material respect.

Setoff. Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred as a result of the other party's breach of this Agreement, following any applicable cure periods, and provided such party has given notice of its intention to apply a setoff prior to making the payment deduction, together with documentary evidence demonstrating that such party has actually incurred the damages and/or expenses being setoff.

Other Remedies. Except as specifically set forth in the main body of this Agreement, the remedies set forth above shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy

Debarment and Suspension

A contract award (see CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor/sub grantee shall certify compliance.

This contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part. 3000. As such, the Contractor/sub grantee is required to verify that none of the Contractor/sub grantee, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

The Contractor/sub grantee is required to comply with 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies that:

This certification in this clause is a material representation of fact relied upon by the County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available by the County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

Equal Employment Opportunity

During the performance of this contract, the Contractor/sub grantee agrees as follows:

1. The Contractor/sub grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor/sub grantee 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 Contractor/sub grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The Contractor/sub grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/sub grantee, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The Contractor/sub grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor/sub grantee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor/sub grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by executive Order 11375, and with the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor/sub grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor/sub grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or

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

7. The Contractor/sub grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor/sub grantee or vendor. The Contractor/sub grantee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor/sub grantee becomes involved in, or is threatened with, litigation with a Subcontractor/sub grantee or vendor as a result of such direction by the administering agency the Contractor/sub grantee may request the United States to enter into such litigation to protect the interests of the United States.

Davis-Bacon Requirements

Labor Wage Determination Number: N/A

If applicable to this contract, the Contractor/sub grantee agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-348).

1. *Minimum Wages.*

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor/sub grantee and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1) (iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed

under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor/sub grantee and its sub-Contractor/sub grantees at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

The work to be performed by the classification requested is not performed by a classification in the wage determination.

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor/sub grantee and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor/sub grantee, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor/sub grantee shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor/sub grantee does not make payments to a trustee or other third person, the Contractor/sub grantee may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor/sub grantee, that the applicable

standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor/sub grantee to set aside assets, in a separate account, for the meeting of obligations under the plan or program.

2. *Withholding.*

The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor/sub grantee under this contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor/sub grantee, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor/sub grantee or any sub-Contractor/sub grantee the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Sponsor may, after written notice to the Contractor/sub grantee, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. *Payrolls and Basic Records.*

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor/sub grantee during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor/sub grantee shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractor/sub grantees employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor/sub grantee shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Sponsor. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime Contractor/sub grantee is

responsible for the submission of copies of payrolls by all sub-Contractor/sub grantees. Contractor/sub grantees and sub-Contractor/sub grantees shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Sponsor, the Contractor/sub grantee, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor/sub grantee to require a sub-Contractor/sub grantee to provide addresses and social security numbers to the prime Contractor/sub grantee for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor/sub grantee or Subcontractor/sub grantee or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor/sub grantee or sub-Contractor/sub grantee to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor/sub grantee or sub-contractor/sub grantee shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Sponsor, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor/sub grantee or sub-contractor/sub grantee fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor/sub grantee, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. *Apprentices and Trainees.*

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor/sub grantee to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor/sub grantee is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor/sub grantee's or sub-Contractor/sub grantee's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor/sub grantee will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor/sub grantee will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor/sub grantee shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor/sub grantee or sub contractor/sub grantee shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Sponsor may by appropriate instructions require, and also a clause requiring the sub contractor/sub grantee to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any sub contractor/sub grantee or lower tier sub contractor/sub grantee with all the contract clauses in 29 CFR Part 5.5.

Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and a sub contractor/sub grantee as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes' clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor/sub grantee (or any of its sub contractor/sub grantees) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor/sub grantee certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor/sub grantee's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

Copeland "Anti-Kickback" Act

Contractor/sub grantee. The Contractor/sub grantee must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) and the requirements of 29 CFR Part 3 *as may be applicable*, which are incorporated by reference into this contract.

Contractor/sub grantee and sub-contractor/sub grantees are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor/sub grantee and each sub-contractor/sub grantee must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week

Subcontracts. The Contractor/sub grantee or sub-contractor/sub grantee shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the Subcontractor/sub grantees to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any Subcontractor/sub grantee or lower tier Subcontractor/sub grantee with all of these contract clauses.

Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and Subcontractor/sub grantee as provided in 29 CFR § 5.12."

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

1. Overtime requirements. No Contractor/sub grantee or Subcontractor/sub grantee contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor/sub grantee and any Subcontractor/sub grantee responsible therefor shall be liable for the unpaid wages. In addition, such Contractor/sub grantee and Subcontractor/sub grantee shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of

the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor/sub grantee or Subcontractor/sub grantee under any such contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor/sub grantee, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor/sub grantee or Subcontractor/sub grantee for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontractor/sub grantees. The Contractor/sub grantee or Subcontractor/sub grantee shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for compliance by any sub-Contractor/sub grantees or lower tier Subcontractor/sub grantee with the clauses set forth in paragraphs (1) through (4) of this section.”

Rights to Inventions Made Under a Contract or Agreement

Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

Rights in Data - The following requirements apply to each contract involving experimental, developmental or research work:

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

Except for its own internal use, the Purchaser or Contractor/sub grantee may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor/sub grantee authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution. In accordance with 49 CFR § 18.34 and 49 CFR § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for

"Federal Government purposes," any subject data or copyright described in subsections (2)(b)(i) and (2)(b)(ii) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Any subject data developed under that contract, whether or not a copyright has been obtained; and

Any rights of copyright purchased by the Purchaser or Contractor/sub grantee using Federal assistance in whole or in part.

When federal assistance is awarded for experimental, developmental, or research work, it is the general intention to increase knowledge available to the public rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Contractor/sub grantee performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agree to make available to the public, either the license in the copyright to any subject data developed in the course of that contract or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor/sub grantee's use whose costs are financed in whole or in part with Federal assistance.

Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor/sub grantee agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor/sub grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor/sub grantee shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Nothing contained in this clause regarding rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

Data developed by the Purchaser or Contractor/sub grantee and financed entirely without the use of Federal assistance that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor/sub grantee identifies that data in writing at the time of delivery of the contract work.

Unless determined otherwise, the Contractor/sub grantee agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor/sub grantee agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Procurement of Recovered Materials

Contractor/sub grantee and Subcontractor/sub grantee must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor/sub grantee and Subcontractor/sub grantees are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
2. The Contractor/sub grantee has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

Section 6002(c) establishes exceptions to the preferences for recovery EPA-Designed products if the Contractor/sub grantee can demonstrate the item is:

- Not reasonably available within a timeframe providing for compliance with the contract performance schedule.
- Fails to meet reasonable contract performance requirements; or
- Is only available at an unreasonable price.

Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

Safeguarding Personal Identifiable Information:

Contractor/sub grantee will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable federal, state, and/or local laws regarding privacy and obligations of confidentiality.

DHS Seal, Logo, and Flags

The Contractor/sub grantee shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without pre-approval by the specific federal agency.



COMMUNITY DEVELOPMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: 11/30/2020

**SUBJECT: COMMUNITY DEVELOPMENT FUNDING AGREEMENT WITH
FAYETTEVILLE URBAN MINISTRY, INC. FOR HOUSING
STABILIZATION ASSISTANCE SERVICES**

Requested by: AMY H. CANNON, COUNTY MANAGER

Presenter(s): DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

BACKGROUND

A Request for Proposal (RFP) was released between March 2, 2020 – April 27, 2020 seeking applications from eligible agencies to provide public services (human services), public facilities / infrastructure, and affordable housing developments. Proposals for various project types were received by Community Development. The selection committee reviewed all proposals and Fayetteville Urban Ministry, Incorporated was one of the agencies selected to provide housing stabilization assistance which includes providing case management, rental assistance and utility assistance to low to moderate income households. The selected program meets the eligibility requirements for the public services activity and Community Development desires to enter into a contract with the agency in an amount not to exceed \$145,000. This program will continue to meet the high demand for housing stabilization assistance during the COVID-19 pandemic crisis. Community Development Block Grant funds are currently available for this project.

RECOMMENDATION / PROPOSED ACTION

Staff recommends and requests that the following item be placed on the December 21, 2020 Board of Commissioners' agenda as a consent item:

- Approve the Community Development contract with Fayetteville Urban Ministry, Incorporated in the

amount not to exceed \$145,000 to provide housing stabilization assistance services.

ATTACHMENTS:

Description

Type

Agreement with Fayetteville Urban Ministry, Inc.

Backup Material

**AGREEMENT BETWEEN
COUNTY OF CUMBERLAND
COMMUNITY DEVELOPMENT DEPARTMENT
AND
FAYETTEVILLE URBAN MINISTRY, INC.
FOR
CDBG PUBLIC SERVICES PROGRAM**

THIS AGREEMENT, entered into this 1st day of July 1, 2020 by and between the County of Cumberland (hereinafter called the Grantee), a body politic and corporate of the State of North Carolina, and Fayetteville Urban Ministry, Inc. (hereinafter called the Sub recipient), a North Carolina non-profit corporation for Fayetteville Urban Ministry, Inc. located at 701 Whitfield Street, Fayetteville, North Carolina.

WHEREAS, the Grantee has applied for and received Community Development Block Grant (CDBG) funds from the United States Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended, Public Law 93-383;

WHEREAS, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, which included supplemental appropriation to the CDBG program to address the economic impacts of the COVID-19 pandemic; and

NOW, THEREFORE, the parties agree that;

I. SCOPE OF SERVICES

A. Activities/Principal Tasks

The Sub recipient will provide services under the 2020 CDBG Program Year in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such programs will include the following Public Service activities eligible under 24 CFR 570.201(e) of the Community Development Block Grant Program:

1. Program Delivery. The Subrecipient will coordinate housing and services for eligible families and individuals who are homeless or at-risk of being homeless. Such services will include the following:

Activity #1 Providing case management and housing stabilization assistance to eligible households in Cumberland County and ensuring households are able to obtain and/or maintain stable permanent housing through the financial assistance and services. Financial assistance such as rent/mortgage and utilities shall be paid directly to the vendors and shall not exceed three (3) months of assistance (unless waived by HUD).

2. General Administration. The following general administration activities are necessary to provide the activities described in Activities/Principal Tasks

Activity #1 Payment of Expenses: The Sub recipient will be responsible for fiscal administration of the CDBG Public Service funds. As such, the Sub recipient will be responsible for the collection of all necessary source documentation to substantiate all expenditures prior to submission to the Grantee for payment. The Sub recipient will submit all requests for payment with a cover memorandum and the following source documentation:

Payroll Expenses: All requests for payment of eligible payroll expenses will include a copy of a timesheet (in the format specified by the Grantee) signed and dated by both the employee and the employee's supervisor. To accompany the timesheet, the Sub recipient will submit a work progress report to correspond to the hours submitted for payment. The work progress report will include, at a minimum, a synopsis of the dates and times worked; the number of clients assisted, the specific services that were provided to the clients, and/or the services that were performed for the program.

Other Expenses: All requests for payment of eligible expenses will include a copy of the invoice or receipt for the expenditure as well as a copy of the check documenting payment of the expense by the Sub recipient. The invoice / receipt will indicate the date the expense was incurred, the name of the Sub recipient (if applicable), and the amount of the expense.

The Sub recipient will submit requests for payment of expenditures incurred on behalf of the program to the Grantee at least on a monthly basis. If such requests are not received regularly, the Grantee reserves the right to reprogram any unused funds to assist other eligible agencies. The Grantee will give the Sub recipient 15 days' notice prior to such reprogramming of funds taking place.

Activity #2 Grant Close-out: The Sub recipient will be responsible for the preparation and submission of all documents and reports relative to final close-out of the grant.

Activity #3 Financial Accountability: The Sub recipient will conduct accepted accounting procedures (in accordance with 2 CFR part 200 to ensure compliance and tracking of all funds received and disbursed by the Sub recipient. An annual audit will be conducted by a qualified independent firm contracted, using required procurement procedures.

B. National Objectives

The Sub recipient certifies that the activities carried out with funds provided under this Agreement will meet the CDBG Program's National Objective of providing principal benefit to low/moderate income persons, as defined in 24 CFR 570.208(a)(2)(i)(C). As a part of meeting this National Objective, the Sub recipient will ensure that it verifies the income of each of its clients in a manner consistent with the Census Long Form definition of income, as defined in 24 CFR 570.3.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub recipient agrees to provide the levels of program services as listed on Exhibit I, which is incorporated by reference. Unless amended by mutual written agreement by the Sub recipient and the Grantee, the Sub recipient will perform the described tasks and complete the tasks of eligible activities in conformance with the Project Schedule attached as Exhibit I.

D. Staffing

The Sub recipient will assign Key Personnel to the CDBG PY2020 contract for the Public Service Program in order to carry out the scope of services of this agreement.

E. Performance Monitoring

The Grantee will monitor the performance of the Sub recipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Sub recipient within thirty (30) days after being notified by the Grantee, contract suspension procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Sub recipient will begin on the 1st day of July, 2020, and end on the 30th day of June, 2021.

III. FUNDING SOURCE - PY 2020 CDBG

The Grantee will allocate \$145,000 in CDBG funds for the purpose of providing assistance to the Sub recipient to cover the costs of rent/mortgage, utilities, case management salaries and fringes, and program office supplies. Any indirect costs charged will be consistent with the conditions of paragraph VIII (C) (2) of this Agreement. Any amendments to this contract must be approved in writing by the Grantee and the Sub recipient.

IV. METHOD OF COMPENSATION/PAYMENT SCHEDULE

The parties agree that the total amount to be paid by the Grantee under this contract will not exceed \$145,000. Reimbursements (as defined in 2 CFR Part 230) for the payment of eligible expenses will be charged to the program and will not exceed the allocated amount. If discrepancies are discovered during monitoring, the Grantee reserves

the right to restrict the Sub recipient to payment for eligible expenses on a reimbursement basis only. The parties agree that any costs incurred prior to July 1 of the Program Year in which the contract is executed will not be eligible for reimbursement. Payments will be contingent upon certification of the Sub recipient's financial management system in accordance with the standards specified in 2 CFR part 200.

V. NOTICES

Communication and details concerning this contract will be directed to the following contract representatives:

GRANTEE

Delores Taylor, Director
Cumberland County Community Development
P. O. Box 1829
Fayetteville, NC 28302
(910) 323-6112
FAX #: (910) 323-6114

SUBRECIPIENT

Johnny Wilson, Executive Director
Fayetteville Urban Ministry
701 Whitfield Street
Fayetteville, NC 28306
(910) 483-5944
FAX #: (910) 483-5116

VI. SPECIAL CONDITIONS

A. **Continuum of Care Participation** - The Sub recipient is required to participate in the Fayetteville / Cumberland County Continuum of Care on Homelessness activities to ensure adequate representation in the local continuum of care network. The Sub recipient is required to participate in the Coordinated Intake/Referral Process in the local continuum of care network. The Sub recipient is also required to maintain client level data in the local Homeless Information Management System (HMIS).

B. The Sub recipient will provide the Grantee with a copy of its annual audit report for the current contract period.

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, part 570 [the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG).] The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to use funds available under this Agreement to supplement rather than to supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended or will be construed to create or establish the relationship of employer/employee between the parties. The Sub recipient will at all times remain an "Independent Contractor" with respect to the services to be performed under this Agreement. The Grantee will be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Sub recipient is an independent contractor.

C. Hold Harmless

The Sub recipient will hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Sub recipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Sub recipient will provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. Insurance and Bonding

The Sub recipient will carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum will purchase a blanket fidelity bond covering all employees in an amount equal to the agreement amount with the Grantee. The Sub recipient will also list Cumberland County Community Development Department as an additional insured. The Sub recipient will cause the insurer to provide Cumberland County Community Development Department with certification of insurance. Insurer will also provide Cumberland County Community Development Department notice of cancellation at least fifteen (15) days prior to cancellation. The Sub recipient will comply with the bonding and insurance requirements of 2 CFR part 200.

F. Debarred / Suspended

The Sub recipient must not make any award or permit any award (sub grant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 CFR part 2424. The requirement set forth in 24 CFR Part 5 applies to this program.

G. Grantor Recognition

The Sub recipient will ensure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items used pursuant to this contract will be prominently labeled to indicate Cumberland County CDBG as a funding source. In addition, the Sub recipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The Grantee or Sub recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments will not invalidate this Agreement, nor relieve or release the Grantee or Sub recipient from its obligations under this Agreement.

The Grantee may, at its 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 activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Sub recipient.

I. Suspension or Termination

Either party may terminate this contract by giving written notice to the other party of such termination at least thirty (30) days before the effective date of such termination and specifying the effective date thereof. Partial terminations of the Scope of Service in Paragraph IA above may only be undertaken with the prior approval of the Grantee. If this Agreement is terminated for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub recipient under this Agreement will, at the option of the Grantee, become the property of the Grantee, and the Sub recipient will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Sub recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein (2 CFR part 200); and the Grantee may declare the Sub recipient ineligible for any further participation in the Grantee's programs, as stated in the Monitoring Policy of Cumberland County Community Development, in addition to other remedies as provided by law. If there is probable cause to believe the Sub recipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold all or any portion of said contract funds until such time as the Sub recipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial and Program Management

1. Administrative Requirements

The Sub recipient agrees to comply with the administrative requirements specified in 2 CFR part 200. The Sub recipient further agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation as necessary.

2. Cost Principles

The Sub recipient will administer its program in conformance with 2 CFR Part 230, "Cost Principles for Non-Profit Organizations"; 2 CFR Part 220, "Cost Principles for Educational Institutions"; 2 CFR Part 225, "Costs Principles for State and Local Governments" as applicable. These principles will be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub recipient will maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records will include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required determining the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR 570.502, and 2 CFR part 200; and,
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Sub recipient will retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract will be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claim(s), audit(s), negotiation(s) or other actions that involve any of the records cited and that have started before the expiration of the four (4) years, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The Sub recipient will maintain client data demonstrating client eligibility for services provided. Such data will include, but not be limited to, client name, address, income level, or other basis for determining eligibility, and description or service provided. Such information will be made available to Grantee's monitors or its designees for review upon request.

4. Disclosure

Client information collected under this contract is confidential and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Sub recipient's responsibilities with respect to services provided under this contract, is prohibited by Federal law unless written consent is obtained from such persons receiving service and, in the case of a minor, from a responsible parent/guardian.

5. Property Records

The Sub recipient will maintain real property inventory records that clearly identify properties purchased, improved, or sold. Properties retained will continue to meet eligibility criteria and will conform to the "changes in use" restrictions specified in 24 CFR 570.505, as applicable.

6. Close-Outs

The Sub recipient's obligation to the Grantee will not end until all close-out requirements are completed. Activities during this close-out period will include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balance, and accounts receivable to the Grantee), and determining the custodianship of records.

7. Audits and Inspections

The Sub recipient agrees to have an annual agency audit conducted in accordance with 2 CFR part 200. If the Sub recipient does not meet the threshold requirements for an annual audit in accordance with 2 CFR part 200, the Sub recipient will have an annual audit conducted by an independent certified public accountant in accordance with generally accepted government auditing standards (GAGAS). All Sub recipient records with respect to any matters covered by this Agreement will be made available to the Grantee, grantor agency, its designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. The Grantee will send written notice of any deficiencies to the Sub recipient within fifteen (15) days following

audit/monitoring. Any deficiencies noted in monitoring reports must be fully cleared by the Sub recipient within thirty (30) days after receipt by the Sub recipient. Failure of the Sub recipient to comply with the above monitoring requirements will constitute a violation of this contract and may result in the withholding of future payments.

C. Reporting and Payment Procedures

1. Program Income

The Sub recipient will report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The recipient's use of program income will comply with the requirements set forth as 24 CFR 570.504. By way of further limitations, the Sub recipient may use such income during the contract period for activities permitted under this contract and will reduce requests for additional funds by the amount of any such program income balance on hand. All unused program income will be returned to the Grantee at the end of the contract period.

2. Indirect Costs

If indirect costs are charged, the Sub recipient will develop an indirect cost allocation plan for determining the appropriate Sub recipient's share of administrative costs and will submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Sub recipient funds available under this contract based upon information submitted by the Sub recipient and consistent with any approved budget and Grantee policy concerning payments. Payments will be made for eligible expenses actually incurred by the Sub recipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with program income balances available in Sub recipient accounts. In addition, the Grantee reserves the right to allocate funds available under this contract for costs incurred by the Grantee on behalf of the Sub recipient.

4. Progress Reports

The Sub recipient will submit quarterly Progress Reports to the Grantee in the form and content as required by the Grantee. If the Sub recipient is more than 30 days delinquent in submitting its progress reports, the Grantee will discontinue processing all requests for payment until such time as the delinquent reports are received.

D. Procurement

1. Compliance

The Sub recipient will comply with Grantee's policies concerning the purchase of equipment and will maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) will revert to the Grantee upon termination of this contract.

2. Procurement Standards

The Sub recipient will procure all materials, property, or services in accordance with the requirements of 2 CFR part 200 and will subsequently follow Property Standards as outlined in 24 CFR 570.502(b), covering utilization and disposal of property.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Sub recipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, The Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive orders 11375 and 12086.

2. Nondiscrimination

The Sub recipient will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Sub recipient will take affirmative action to ensure that all employment practices are free from such

discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection from training, including apprenticeship. The Sub recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Section 504

The Sub recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the disabled in any federally assisted program. The Grantee will provide the Sub recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. EEO Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer.

5. Subcontract Provisions

The Sub recipient will include the provisions of Paragraph IX.A. Civil Rights in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub recipients or subcontractors.

B. Employment Restrictions

1. Prohibited Activity

The Sub recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

C. Conduct

1. Assignability

The Sub recipient will not assign or transfer any interest in this contract without the prior written consent of the Grantee; provided that claims for money due or to become due to the Sub recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer will be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Sub recipient will not enter into any subcontracts with any agency or individual for the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Sub recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts will be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Sub recipient will cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed for the performance of this Agreement.

d. Selection Process

The Sub recipient will undertake to ensure that all subcontracts in the performance of this Agreement will be awarded on a fair and open competition basis. Executed copies of all subcontracts will be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Sub recipient agrees that no funds provided, nor personnel employed under this contract, will be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Sub recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and will not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub recipient further covenants that in the performance of this Agreement no person having such a financial interest will be employed or retained by the Sub recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or sub recipients which are receiving funds under the CDBG Entitlement Program.

5. Lobbying

The Sub recipient hereby certifies that:

- a. 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 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 agreements;
- b. 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; and
- c. It will require that the language of paragraph (6) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts, under grants, loans, and cooperative agreements) and that all sub recipients will certify and disclose accordingly.

6. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

8. Religious Organization

(1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation. (2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services. (3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its

mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents. (4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

X. ENVIRONMENTAL CONDITIONS

The Sub recipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C. 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, § 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Environmental Standards 24 CFR 570.604.

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement will not be affected thereby, and all other parts of this Agreement will nevertheless be in full force and effect.

XII. NON-APPROPRIATION CLAUSE

If appropriations of money to conduct and administer the presently scheduled program are lawfully reduced or terminated, or it is deemed in the public interest and necessity for the health, safety, or welfare of the public to so reduce or terminate this scheduled program, the Grantee, at its option, has the right to terminate this Agreement effective upon the end of the fiscal year. The County will give the Sub recipient written notice of termination under the provisions of this paragraph immediately upon receipt of actual notice by the Grantee of a reduction or termination of appropriations of money for the scheduled program, or any other necessity to reduce or terminate the program. Following the effective date of such termination the Grantee will have no further obligation to make any payments; the Grantee will have no right to recover any payments heretofore paid which were due and payable prior to the effective date of such termination.

XIII. IRAN DIVESTMENT ACT CERTIFICATION

Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List ("List") created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.55-69. Contractor shall not utilize any subcontractor that is identified on the List.

XIV. E-VERIFY

Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor utilizes a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

XV. Incorporated Documents

The following documents or Exhibits to this contract are hereby made a part of this Contract and fully incorporated herein by reference, and compliance with the applicable provisions of these documents or Exhibits is a condition of this Contract.

- Exhibit I - Project Schedule;
- Exhibit II – Certification Regarding Lobbying; and
- Exhibit III - Federal Contracting Requirements.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, 2020, by their respective duly authorized representatives.

GRANTEE:
COUNTY OF CUMBERLAND, NC

ATTEST:

BY: _____
Clerk to the Board of County Commissioners

BY: _____
Chair

[COUNTY SEAL]

SUBRECIPIENT:
FAYETTEVILLE URBAN MINISTRY, INC.

ATTEST:

By: _____
Secretary of Corporation

By: _____
President

[CORPORATE SEAL]

PRE-AUDIT CERTIFICATE:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

APPROVED FOR LEGAL SUFFICIENCY:

By: _____
County Finance Director Date

By: _____
County Attorney's Office Date

(X) Non-Renewable () Renewable
Agreement Expires: June 30, 2021

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the County and State, do hereby certify that _____, who being duly sworn, personally appeared before me this day and acknowledged that she is the Clerk of the Cumberland County Board of Commissioners; that _____ is the duly appointed _____; that the seal affixed to the foregoing Agreement is the Official Seal of the Board; that said _____ is duly authorized to enter into this Agreement on behalf of said Board and that _____ signed and sealed this Agreement; and this Agreement is attested by said Clerk on behalf of said Board; all by its authority duly granted; and that said _____ acknowledged the said Agreement to be the act and deed of the _____.

WITNESS my hand and notarial seal this the _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the State of _____,
certify that _____, personally came before me this day and acknowledged that he/she is
the _____ of FAYETTEVILLE URBAN MINISTRY, INC., a non-profit corporation of the State
of _____, and that by authority duly given and as the act of the corporation, the foregoing
instrument was signed in its name by its _____, sealed
with its corporation seal and attested by him/her as its _____.

WITNESS my hand and notarial seal this the _____ day of _____, 2020.

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT I

**PROJECT SCHEDULE
PY 2020-2021**

FAYETTEVILLE URBAN MINISTRY, INC.

Your tasks/goals should be consistent with the listed Activities/Principal Tasks under the Scope of Services and General Administrative Services.

SCOPE OF SERVICES ACTIVITIES /PRINCIPAL TASKS	1st QUARTER JUL, AUG, SEP 2020	2ND QUARTER OCT, NOV, DEC 2020	3RD QUARTER JAN, FEB, MAR 2021	4TH QUARTER APR, MAY, JUN 2021	ANNUAL JUL 1, 2020 THRU JUN 30, 2021
Persons receiving assistance (Households / Persons)	17/47	17/47	17/47	19/49	70/190

EXHIBIT II

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

EXHIBIT III

Federal Contracting Requirements

This attachment is incorporated into the Contract between the County and the Contractor/sub grantee. Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. All references to the "Contractor/sub grantee" or "Company" or "Vendor" or "Provider" shall be deemed to mean the Contractor/sub grantee.

This Contract may be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. The Contractor/sub grantee is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.

To the extent possible, the federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.CFR Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Contractor/sub grantee pursuant to its obligations under this Contract. The Contractor/sub grantee and its sub-Contractor/sub grantees, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.

Drug Free Workplace Requirements

Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D). All Contractor/sub grantees entering into federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.

Contractor/sub grantee Compliance

The Contractor/sub grantee shall comply with all uniform administrative requirements, cost principles, and audit requirement for federal awards.

Conflict of Interest

The Contractor/sub grantee must disclose in writing any potential conflict of interest to the County of Cumberland or pass through entity in accordance with federal policy.

Mandatory Disclosures

The Contractor/sub grantee must disclose in writing all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. **Energy Conservation** The Contractor/sub grantee and Sub Contractor/sub grantees agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq.

Federal Water Pollution Control Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor/sub grantee agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

Clean Air Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Act as amended (33 USC § 1251-1387).

The Contractor/sub grantee agrees to report any violation to the County immediately upon discovery. The Contractor/sub grantee understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency (EPA) Regional Office. Contractor/sub grantee must include this requirement in all subcontracts that exceed \$150,000.

The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Access to Records and Reports

The Contractor/sub grantee must maintain an acceptable cost accounting system. The Contractor/sub grantee agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor/sub grantee which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor/sub grantee agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor/sub grantee agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

All Contractor/sub grantees and their successors, transferees, assignees, and Sub Contractor/Sub Grantees acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff.

No Obligation by Federal Government

The County and the Contractor/sub grantee acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the County, the Contractor/sub grantee, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor/sub grantee agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the sub-Contractor/sub grantee who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor/sub grantee acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor/sub grantee's actions pertaining to this contract. Upon execution of the underlying contract, the Contractor/sub grantee certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor/sub grantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor/sub grantee to the extent the Federal Government deems appropriate.

The Contractor/sub grantee also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor/sub grantee, to the extent the Federal Government deems appropriate.

The Contractor/sub grantee agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the sub-Contractor/sub grantees who will be subject to the provisions.

Changes

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. Contractor/sub grantee's failure to do so shall constitute a material breach of the contract.

Termination

Termination Without Cause. The County may immediately terminate this Agreement at any time without cause by giving 30 days' written notice to the Contractor/sub grantee.

Termination for Default by Either Party. By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or

The other party attempts to assign, terminate or cancel this Agreement contrary to the terms hereof; or

The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

Additional Grounds for Default Termination by the County. By giving written notice to the Contractor/sub grantee, the County may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

The Contractor/sub grantee makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, Contractor/sub grantee's Proposal, or any covenant, agreement, obligation, term or condition contained in this Agreement; or

The Contractor/sub grantee takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

Cancellation of Orders and Subcontracts. In the event this Agreement is terminated by the County for any reason prior to the end of the term, the Contractor/sub grantee shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Contractor/sub grantee shall submit a statement to the County showing in detail the services performed under this Agreement to the date of termination.

No Effect on Taxes, Fees, Charges, or Reports. Any termination of the Agreement shall not relieve the Contractor/sub grantee of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve the Contractor/sub grantee of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Contractor/sub grantee from any claim for damages previously accrued or then accruing against the Contractor/sub grantee.

Obligations Upon Expiration or Termination. Upon expiration or termination of this Agreement, the Contractor/sub grantee shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other recording devices, information, or compact discs that are owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new vendor access to the systems, software, infrastructure, or processes of the Contractor/sub grantee that are necessary to migrate the Services to a new vendor; and (d) refund to the County all pre-paid sums for Products or Services that have been cancelled and will not be delivered.

No Suspension. In the event that the County disputes in good faith an allegation of default by the Contractor/sub grantee, notwithstanding anything to the contrary in this Agreement, the Contractor/sub grantee agrees that it will not terminate this Agreement or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Contractor/sub grantee, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

Authority to Terminate. The County Manager or their designee is authorized to terminate this Agreement on behalf of the County.

Audit. During the term of the Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, all books and records (including but not limited to the technical records) and facilities of the Contractor/sub grantee necessary to evaluate Contractor/sub grantee's compliance with the terms and conditions of the Agreement or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Contractor/sub grantee. However, if non-compliance is found that would have cost the County in excess of \$5,000 but for the audit, then the Contractor/sub grantee shall be required to reimburse the County for the cost of the audit.

Remedies

Liquidated Damages: The County and the Contractor/sub grantee acknowledge and agree that the County may incur costs if the Contractor/sub grantee fails to meet the delivery times set forth in the Request for Proposal for the Products and Services. The parties further acknowledge and agree that: (a) the County may be damaged by such failures, including loss of goodwill and administrative costs; but that (b) the costs that the County might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor/sub grantee agrees to pay liquidated damages at the rates set forth in the Request for Proposal (if applicable). The parties agree that the liquidated damages set forth in the Request for Proposal shall be the County's exclusive remedy for loss of goodwill and administrative costs, attributable to a failure by the Contractor/sub grantee to meet such delivery times, but shall not be the remedy for the cost to cover or other direct damages.

Right to Cover: If the Contractor/sub grantee fails to meet any completion date or resolution time set forth in this Agreement (including the Exhibits), and it fails to cure such default within one (1) business day after receiving written notice from the County of such failure, the County may take any of the following actions with or without terminating this Agreement, and in addition to and without limiting any other remedies it may have:

Employ such means as it may reasonably deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Contractor/sub grantee is again able to resume performance under this Agreement; and

Deduct any and all reasonable expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Contractor/sub grantee and, should the County's reasonable cost of obtaining or performing the services exceed the amount due the Contractor/sub grantee, collect the difference from the Contractor/sub grantee.

Right to Withhold Payment. If the Contractor/sub grantee materially breaches any provision of this Agreement, the County shall have a right to withhold all payments due to the Contractor/sub grantee with respect to the services that are the subject of such breach until such breach has been fully cured.

Specific Performance and Injunctive Relief. The Contractor/sub grantee agrees that due to the potential impact on public health, monetary damages may not be an adequate remedy for the Contractor/sub grantee's failure to provide the Services required by this Agreement, and monetary damages may not be the equivalent of the performance of such obligation. Accordingly, the Contractor/sub grantee hereby agrees that the County may seek an order granting specific performance of such obligations of the Contractor/sub grantee in a court of competent jurisdiction within the State of North Carolina. The Contractor/sub grantee further consents to the County seeking injunctive relief (including a temporary restraining order) to assure performance in the event the Contractor/sub grantee breaches the Agreement in any material respect.

Setoff. Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred as a result of the other party's breach of this Agreement, following any applicable cure periods, and provided such party has given notice of its intention to apply a setoff prior to making the payment deduction, together with documentary evidence demonstrating that such party has actually incurred the damages and/or expenses being setoff.

Other Remedies. Except as specifically set forth in the main body of this Agreement, the remedies set forth above shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy

Debarment and Suspension

A contract award (see CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor/sub grantee shall certify compliance.

This contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part. 3000. As such, the Contractor/sub grantee is required to verify that none of the Contractor/sub grantee, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

The Contractor/sub grantee is required to comply with 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies that:

This certification in this clause is a material representation of fact relied upon by the County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available by the County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

Equal Employment Opportunity

During the performance of this contract, the Contractor/sub grantee agrees as follows:

1. The Contractor/sub grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor/sub grantee 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 Contractor/sub grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The Contractor/sub grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/sub grantee, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The Contractor/sub grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor/sub grantee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor/sub grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by executive Order 11375, and with the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor/sub grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor/sub grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or

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

7. The Contractor/sub grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor/sub grantee or vendor. The Contractor/sub grantee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor/sub grantee becomes involved in, or is threatened with, litigation with a Subcontractor/sub grantee or vendor as a result of such direction by the administering agency the Contractor/sub grantee may request the United States to enter into such litigation to protect the interests of the United States.

Davis-Bacon Requirements

Labor Wage Determination Number: N/A

If applicable to this contract, the Contractor/sub grantee agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-348).

1. *Minimum Wages.*

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor/sub grantee and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1) (iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed

under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor/sub grantee and its sub-Contractor/sub grantees at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

The work to be performed by the classification requested is not performed by a classification in the wage determination.

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor/sub grantee and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor/sub grantee, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor/sub grantee shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor/sub grantee does not make payments to a trustee or other third person, the Contractor/sub grantee may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor/sub grantee, that the applicable

standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor/sub grantee to set aside assets, in a separate account, for the meeting of obligations under the plan or program.

2. *Withholding.*

The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor/sub grantee under this contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor/sub grantee, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor/sub grantee or any sub-Contractor/sub grantee the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Sponsor may, after written notice to the Contractor/sub grantee, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. *Payrolls and Basic Records.*

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor/sub grantee during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor/sub grantee shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractor/sub grantees employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor/sub grantee shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Sponsor. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime Contractor/sub grantee is

responsible for the submission of copies of payrolls by all sub-Contractor/sub grantees. Contractor/sub grantees and sub-Contractor/sub grantees shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Sponsor, the Contractor/sub grantee, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor/sub grantee to require a sub-Contractor/sub grantee to provide addresses and social security numbers to the prime Contractor/sub grantee for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor/sub grantee or Subcontractor/sub grantee or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor/sub grantee or sub-Contractor/sub grantee to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor/sub grantee or sub-contractor/sub grantee shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Sponsor, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor/sub grantee or sub-contractor/sub grantee fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor/sub grantee, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. *Apprentices and Trainees.*

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor/sub grantee to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor/sub grantee is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor/sub grantee's or sub-Contractor/sub grantee's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor/sub grantee will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor/sub grantee will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor/sub grantee shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor/sub grantee or sub contractor/sub grantee shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Sponsor may by appropriate instructions require, and also a clause requiring the sub contractor/sub grantee to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any sub contractor/sub grantee or lower tier sub contractor/sub grantee with all the contract clauses in 29 CFR Part 5.5.

Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and a sub contractor/sub grantee as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes' clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor/sub grantee (or any of its sub contractor/sub grantees) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor/sub grantee certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor/sub grantee's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

Copeland "Anti-Kickback" Act

Contractor/sub grantee. The Contractor/sub grantee must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) and the requirements of 29 CFR Part 3 *as may be applicable*, which are incorporated by reference into this contract.

Contractor/sub grantee and sub-contractor/sub grantees are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor/sub grantee and each sub-contractor/sub grantee must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week

Subcontracts. The Contractor/sub grantee or sub-contractor/sub grantee shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the Subcontractor/sub grantees to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any Subcontractor/sub grantee or lower tier Subcontractor/sub grantee with all of these contract clauses.

Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and Subcontractor/sub grantee as provided in 29 CFR § 5.12."

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

1. Overtime requirements. No Contractor/sub grantee or Subcontractor/sub grantee contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor/sub grantee and any Subcontractor/sub grantee responsible therefor shall be liable for the unpaid wages. In addition, such Contractor/sub grantee and Subcontractor/sub grantee shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of

the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor/sub grantee or Subcontractor/sub grantee under any such contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor/sub grantee, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor/sub grantee or Subcontractor/sub grantee for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontractor/sub grantees. The Contractor/sub grantee or Subcontractor/sub grantee shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for compliance by any sub-Contractor/sub grantees or lower tier Subcontractor/sub grantee with the clauses set forth in paragraphs (1) through (4) of this section.”

Rights to Inventions Made Under a Contract or Agreement

Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

Rights in Data - The following requirements apply to each contract involving experimental, developmental or research work:

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

Except for its own internal use, the Purchaser or Contractor/sub grantee may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor/sub grantee authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution. In accordance with 49 CFR § 18.34 and 49 CFR § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for

"Federal Government purposes," any subject data or copyright described in subsections (2)(b)(i) and (2)(b)(ii) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Any subject data developed under that contract, whether or not a copyright has been obtained; and

Any rights of copyright purchased by the Purchaser or Contractor/sub grantee using Federal assistance in whole or in part.

When federal assistance is awarded for experimental, developmental, or research work, it is the general intention to increase knowledge available to the public rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Contractor/sub grantee performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agree to make available to the public, either the license in the copyright to any subject data developed in the course of that contract or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor/sub grantee's use whose costs are financed in whole or in part with Federal assistance.

Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor/sub grantee agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor/sub grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor/sub grantee shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Nothing contained in this clause regarding rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

Data developed by the Purchaser or Contractor/sub grantee and financed entirely without the use of Federal assistance that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor/sub grantee identifies that data in writing at the time of delivery of the contract work.

Unless determined otherwise, the Contractor/sub grantee agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor/sub grantee agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Procurement of Recovered Materials

Contractor/sub grantee and Subcontractor/sub grantee must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor/sub grantee and Subcontractor/sub grantees are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
2. The Contractor/sub grantee has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

Section 6002(c) establishes exceptions to the preferences for recovery EPA-Designed products if the Contractor/sub grantee can demonstrate the item is:

- Not reasonably available within a timeframe providing for compliance with the contract performance schedule.
- Fails to meet reasonable contract performance requirements; or
- Is only available at an unreasonable price.

Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

Safeguarding Personal Identifiable Information:

Contractor/sub grantee will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable federal, state, and/or local laws regarding privacy and obligations of confidentiality.

DHS Seal, Logo, and Flags

The Contractor/sub grantee shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without pre-approval by the specific federal agency.



COMMUNITY DEVELOPMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: 11/30/2020

**SUBJECT: COMMUNITY DEVELOPMENT FUNDING AGREEMENT WITH
FAMILY ENDEAVORS, INC. FOR HOUSING STABILIZATION
ASSISTANCE SERVICES**

Requested by: AMY H. CANNON, COUNTY MANAGER

Presenter(s): DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

BACKGROUND

A Request for Proposal (RFP) was released between March 2, 2020 – April 27, 2020 seeking applications from eligible agencies to provide public services (human services), public facilities / infrastructure, and affordable housing developments. Proposals for various project types were received by Community Development. The selection committee reviewed all proposals and Family Endeavors, Incorporated (d/b/a Endeavors) was one of the agencies selected to provide housing stabilization assistance which includes providing case management, rental assistance and utility assistance to low to moderate income households.

The selected program meets the eligibility requirements for the public services activity and Community Development desires to enter into a contract with the agency for an amount not to exceed \$200,000. This program will continue to meet the high demand for housing stabilization assistance during the COVID-19 pandemic crisis. Community Development Block Grant funds are currently available for this project.

RECOMMENDATION / PROPOSED ACTION

Staff recommends and requests that the following item be placed on the December 21, 2020 Board of Commissioners' agenda as a consent item:

- Approve the Community Development contract with Family Endeavors, Inc. (d/b/a Endeavors) in the

amount not to exceed \$200,000.

ATTACHMENTS:

Description

Type

Agreement with Family Endeavors, Inc. (d/b/a Endeavors)

Backup Material

**AGREEMENT BETWEEN
COUNTY OF CUMBERLAND
COMMUNITY DEVELOPMENT DEPARTMENT
AND
FAMILY ENDEAVORS, INC. d/b/a ENDEAVORS
FOR
CDBG PUBLIC SERVICES PROGRAM**

THIS AGREEMENT, entered into this ____ day of _____, 2020 by and between the County of Cumberland (hereinafter called the Grantee), a body politic and corporate of the State of North Carolina, and Family Endeavors, Inc. d/b/a Endeavors (hereinafter called the "Subrecipient"), with an office located at 535 Bandera Road, San Antonio, Texas 78228.

WHEREAS, the Grantee has applied for and received Community Development Block Grant (CDBG) funds from the United States Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended, Public Law 93-383;

WHEREAS, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, which included supplemental appropriation to the CDBG program to address the economic impacts of the COVID-19 pandemic; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in using such funds;

NOW, THEREFORE, the parties agree that;

I. Scope of Services

A. Activities/Principal Tasks

The Subrecipient will provide services under the 2020 CDBG Program Year in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such programs will include the following Public Service activities eligible under 24 CFR 570.201(e) of the Community Development Block Grant Program:

1. **Program Delivery.** The Subrecipient will provide housing and services for eligible families and individuals who are homeless or at-risk of being homeless. Such services will include the following:

Activity #1 Providing case management and housing stabilization assistance to eligible households in Cumberland County and ensuring households are able to obtain and/or maintain stable permanent housing through the financial assistance and services. Financial assistance such as rent/mortgage and utilities shall be paid directly to the vendors and shall not exceed three (3) months of assistance (unless waived by HUD).

2. **General Administration.** The following general administration activities are necessary to provide the activities described in Activities/Principal Tasks

Activity #1 **Payment of Expenses:** The Sub recipient will be responsible for fiscal administration of the CDBG Public Service funds. As such, the Subrecipient will be responsible for the collection of all necessary source documentation to substantiate all expenditures prior to submission to the Grantee for payment. The Sub recipient will submit all requests for payment with a cover memorandum and the following source documentation:

Payroll Expenses: All requests for payment of eligible payroll expenses will include a copy of a timesheet (in the format specified by the Grantee) signed and dated by both the employee and the employee's supervisor. To accompany the timesheet, the Subrecipient will submit a work progress report to correspond to the hours submitted for payment. The work progress report will include, at a minimum, a synopsis of the dates and times worked; the number of clients assisted, the specific services that were provided to the clients, and/or the services that were performed for the program.

Other Expenses: All requests for payment of eligible expenses will include a copy of the invoice or receipt for the expenditure as well as a copy of the check documenting payment

of the expense by the Subrecipient. The invoice / receipt will indicate the date the expense was incurred, the name of the Subrecipient (if applicable), and the amount of the expense.

The Subrecipient will submit requests for payment of expenditures incurred on behalf of the program to the Grantee at least on a monthly basis.

Activity #2 **Grant Close-out:** The Subrecipient will be responsible for the preparation and submission of all documents and reports relative to final close-out of the grant.

Activity #3 **Financial Accountability:** The Subrecipient will conduct accepted accounting procedures (in accordance with 2 CFR part 200 to ensure compliance and tracking of all funds received and disbursed by the Subrecipient. An annual audit will be conducted by a qualified independent firm contracted, using required procurement procedures.

B. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the CDBG Program's National Objective of providing principal benefit to low/moderate income persons, as defined in 24 CFR 570.208(a)(2)(i)(C). As a part of meeting this National Objective, the Subrecipient will ensure that it verifies the income of each of its clients in a manner consistent with the Census Long Form definition of income, as defined in 24 CFR 570.3.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the levels of program services as listed on Exhibit I, which is incorporated by reference. Unless amended by mutual written agreement by the Subrecipient and the Grantee, the Subrecipient will perform the described tasks and complete the tasks of eligible activities in conformance with the Project Schedule attached as Exhibit I.

D. Staffing

The Subrecipient will assign Key Personnel to the CDBG PY2020 contract for the Public Service Program in order to carry out the scope of services of this agreement.

E. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within thirty (30) days after being notified by the Grantee, contract suspension procedures will be initiated.

II. Time of Performance

Services of the Subrecipient will begin on the 1st day of August, 2020, and end on the 30th day of June, 2021.

III. Funding Source - PY 2020 CDBG

The Grantee will allocate \$200,000 in CDBG funds for the purpose of providing assistance to the Subrecipient to cover the costs of case management, rent/mortgage, and utilities. Any indirect costs charged will be consistent with the conditions of paragraph VIII (C) (2) of this Agreement. Any amendments to this contract must be approved in writing by the Grantee and the Subrecipient.

IV. Method of Compensation/Payment Schedule

The parties agree that the total amount to be paid by the Grantee under this contract will not exceed **\$200,000**. Reimbursements (as defined in 2 CFR Part 230) for the payment of eligible expenses will be charged to the program and will not exceed the allocated amount. If discrepancies are discovered during monitoring, the Grantee reserves the right to restrict the Subrecipient to payment for eligible expenses on a reimbursement basis only. The parties agree that any costs incurred prior to August 1 of the Program Year in which the contract is executed will not be eligible for reimbursement. Payments will be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 CFR part 200.

V. Notices

Communication and details concerning this contract will be directed to the following contract representatives:

COUNTY

Delores Taylor, Director
Cumberland County Community Development
P. O. Box 1829, 707 Executive Place
Fayetteville, NC 28302
(910) 323-6112
FAX #: (910) 323-6114

SUBRECIPIENT

Jon Allman
President and Chief Executive Director
Family Endeavors, Inc.
535 Bandera Road
San Antonio, TX 78228
(201) 431-6466
FAX #: (210) 431-6442

VI. Special Conditions

- A. **The Subrecipient will submit payment requests to the Grantee at a minimum of once per month.** If such requests are not received regularly, the Grantee reserves the right to reprogram any unused funds to assist other eligible agencies. The Grantee will give the Subrecipient 15 days' notice prior to such reprogramming of funds taking place.
- B. The Subrecipient will provide the Grantee with a copy of its annual audit report for the current contract period.
- C. **Continuum of Care Participation** - The Subrecipient is required to participate in the Fayetteville / Cumberland County Continuum of Care on Homelessness activities to ensure adequate representation in the local continuum of care network. The Subrecipient is required to participate in the Coordinated Intake/Referral Process in the local continuum of care network. The Subrecipient is also required to maintain client level data in the local Homeless Information Management System (HMIS).

VII. General Conditions**A. General Compliance**

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, part 570 [the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)]. The Subrecipient also agrees to comply with all other applicable Federal, State, and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to use funds available under this Agreement to supplement rather than to supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended or will be construed to create or establish the relationship of employer/employee between the parties. The Subrecipient will at all times remain an "Independent Contractor" with respect to the services to be performed under this Agreement. The Grantee will be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent contractor.

C. Hold Harmless

The Subrecipient will hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Subrecipient will provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. Insurance and Bonding

The Subrecipient will carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum will purchase a blanket fidelity bond covering all employees in an amount equal to the agreement amount with the Grantee. The Subrecipient will also list Cumberland County Community Development Department as an additional insured. The Subrecipient will cause the insurer to provide Cumberland County Community Development Department with certification of insurance. Insurer will also provide Cumberland County Community Development Department notice of cancellation at least fifteen (15) days prior to cancellation. The Subrecipient will comply with the bonding and insurance requirements of 2 CFR part 200.

F. Debarred / Suspended

The Subrecipient must not make any award or permit any award (sub grant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 CFR part 2424. The requirement set forth in 24 CFR Part 5 applies to this program.

G. Grantor Recognition

The Subrecipient will ensure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items used pursuant to this contract will be prominently labeled to indicate Cumberland County CDBG as a funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments will not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, at its 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 activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

I. Suspension or Termination

Either party may terminate this contract by giving written notice to the other party of such termination at least thirty (30) days before the effective date of such termination and specifying the effective date thereof. Partial terminations of the Scope of Service in Paragraph IA above may only be undertaken with the prior approval of the Grantee. If this Agreement is terminated for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement will, at the option of the Grantee, become the property of the Grantee, and the Subrecipient will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein (2 CFR part 200); and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's programs, as stated in the Monitoring Policy of Cumberland County Community Development, in addition to other remedies as provided by law. If there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold all or any portion of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VIII. Administrative Requirements

A. Financial and Program Management

1. Administrative Requirements

The Subrecipient agrees to comply with the administrative requirements specified in 2 CFR part 200. The Subrecipient further agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation as necessary.

2. Cost Principles

The Subrecipient will administer its program in conformance with 2 CFR Part 230, "Cost Principles for Non-Profit Organizations"; 2 CFR Part 220, "Cost Principles for Educational Institutions"; 2 CFR Part 225, "Costs Principles for State and Local Governments" as applicable. These principles will be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient will maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records will include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required determining the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR 570.502, and 2 CFR part 200; and,
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Subrecipient will retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract will be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claim(s), audit(s), negotiation(s) or other actions that involve any of the records cited and that have started before the expiration of the four (4) years, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The Subrecipient will maintain client data demonstrating client eligibility for services provided. Such data will include, but not be limited to, Homeless Management Information System number, client name, housing status, income level, or other basis for determining eligibility, and description or service provided. Such information will be made available to Grantee's monitors or its designees for review upon request.

4. Disclosure

Client information collected under this contract is confidential and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by Federal law unless written consent is obtained from such persons receiving service and, in the case of a minor, from a responsible parent/guardian.

5. Property Records

The Subrecipient will maintain real property inventory records that clearly identify properties purchased, improved or sold. Properties retained will continue to meet eligibility criteria and will conform to the "changes in use" restrictions specified in 24 CFR 570.505, as applicable.

6. Close-Outs

The Subrecipient's obligation to the Grantee will not end until all close-out requirements are completed. Activities during this close-out period will include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balance, and accounts receivable to the Grantee), and determining the custodianship of records.

7. Audits and Inspections

The Subrecipient agrees to have an annual agency audit conducted in accordance with 2 CFR part 200. If the Subrecipient does not meet the threshold requirements for an annual audit in accordance with 2 CFR part 200, the Subrecipient will have an annual audit conducted by an independent certified public accountant in accordance with generally accepted government auditing standards (GAGAS). All Subrecipient records with respect to any matters covered by this Agreement will be made available to the Grantee, grantor agency, its designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. The Grantee will send written notice of any deficiencies to the Subrecipient within fifteen (15) days following audit/monitoring. Any deficiencies noted in monitoring reports must be fully cleared by the Subrecipient within thirty (30) days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above monitoring requirements will constitute a violation of this contract and may result in the withholding of future payments.

C. REPORTING AND PAYMENT PROCEDURES

1. Program Income

The Subrecipient will report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The recipient's use of program income will comply with the requirements set forth as 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract, and will reduce requests for additional funds by the amount of any such program income balance on hand. All unused program income will be returned to the Grantee at the end of the contract period.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and will submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to allocate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient will submit quarterly Progress Reports to the Grantee in the form and content as required by the Grantee. If the Subrecipient is more than 30 days delinquent in submitting its progress reports, the Grantee will discontinue processing all requests for payment until such time as the delinquent reports are received.

D. Procurement

1. Compliance

The Subrecipient will comply with Grantee's policies concerning the purchase of equipment and will maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) will revert to the Grantee upon termination of this contract.

2. Procurement Standards

The Subrecipient will procure all materials, property, or services in accordance with the requirements of 2 CFR part 200, and will subsequently follow Property Standards as outlined in 24 CFR 570.502(b), covering utilization and disposal of property.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, The Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive orders 11375 and 12086.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection from training, including apprenticeship. The

Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the disabled in any federally assisted program. The Grantee will provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. EEO Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer.

5. Subcontract Provisions

The Subrecipient will include the provisions of Paragraph IX.A. Civil Rights in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Subrecipients or subcontractors.

B. EMPLOYMENT RESTRICTIONS

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

C. Conduct

1. Assignability

The Subrecipient will not assign or transfer any interest in this contract without the prior written consent of the Grantee; provided that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer will be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient will not enter into any subcontracts with any agency or individual for the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts will be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient will cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed for the performance of this Agreement.

d. Selection Process

The Subrecipient will undertake to ensure that all subcontracts in the performance of this Agreement will be awarded on a fair and open competition basis. Executed copies of all subcontracts will be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, will be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and will not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest will be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or Subrecipients which are receiving funds under the CDBG Entitlement Program.

5. Lobbying

The Subrecipient hereby certifies that:

a. 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 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 agreements;

b. 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; and

c. It will require that the language of paragraph (6) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts, under grants, loans, and cooperative agreements) and that all Subrecipients will certify and disclose accordingly.

6. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

8. Religious Organization

(1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation. (2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or

services. (3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents. (4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

X. Environmental Conditions

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C. 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, § 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Environmental Standards 24 CFR 570.604.

XI. Severability

If any provision of this Agreement is held invalid, the remainder of this Agreement will not be affected thereby and all other parts of this Agreement will nevertheless be in full force and effect.

XII. Non-Appropriation Clause

If appropriations of money to conduct and administer the presently scheduled program are lawfully reduced or terminated, or it is deemed in the public interest and necessity for the health, safety, or welfare of the public to so reduce or terminate this scheduled program, the Grantee, at its option, has the right to terminate this Agreement effective upon the end of the fiscal year. The County will give the Subrecipient written notice of termination under the provisions of this paragraph immediately upon receipt of actual notice by the Grantee of a reduction or termination of appropriations of money for the scheduled program, or any other necessity to reduce or terminate the program. Following the effective date of such termination the Grantee will have no further obligation to make any payments; the Grantee will have no right to recover any payments heretofore paid which were due and payable prior to the effective date of such termination.

XIII. Iran Divestment Act Certification

Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List ("List") created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.55-69. Contractor shall not utilize any subcontractor that is identified on the List.

XIV. E-Verify

Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor utilizes a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

XV. Incorporated Documents

The following documents or Exhibits to this contract are hereby made a part of this Contract and fully incorporated herein by reference, and compliance with the applicable provisions of these documents or Exhibits is a condition of this Contract.

- Exhibit I - Project Schedule;
- Exhibit II – Certification Regarding Lobbying; and
- Exhibit III - Federal Contracting Requirements.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, 2020, by their respective duly authorized representatives.

GRANTEE:
COUNTY OF CUMBERLAND, NC

ATTEST:

BY: _____
Clerk to the Board of County Commissioners

BY: _____
Chair

[COUNTY SEAL]

SUBRECIPIENT:
FAMILY ENDEAVORS, INC. (DBA ENDEAVORS)

ATTEST:

By: _____
Secretary of Corporation

By: _____
President

[CORPORATE SEAL]

PRE-AUDIT CERTIFICATE:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

APPROVED FOR LEGAL SUFFICIENCY:

By: _____
County Finance Director Date

By: _____
County Attorney's Office Date

(X) Non-Renewable () Renewable
Agreement Expires: June 30, 2021

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the County and State, do hereby certify that _____, who being duly sworn, personally appeared before me this day and acknowledged that she is the Clerk of the Cumberland County Board of Commissioners; that _____ is the duly appointed _____; that the seal affixed to the foregoing Agreement is the Official Seal of the Board; that said _____ is duly authorized to enter into this Agreement on behalf of said Board and that _____ signed and sealed this Agreement; and this Agreement is attested by said Clerk on behalf of said Board; all by its authority duly granted; and that said _____ acknowledged the said Agreement to be the act and deed of the _____.

WITNESS my hand and notarial seal this the _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public of the County and State aforesaid, certify that _____, personally appeared before me this day and acknowledged that he/she is (Assistant) Secretary of FAMILY ENDEAVORS, INC. (DBA ENDEAVORS), and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by him/her as its (Assistant) Secretary.

WITNESS my hand and Notarial Seal, this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

EXHIBIT I

**PROJECT SCHEDULE
PY 2020-2021**

FAMILY ENDEAVORS, INC.

Your tasks/goals should be consistent with the listed Activities/Principal Tasks under the Scope of Services and General Administrative Services.

SCOPE OF SERVICES ACTIVITIES /PRINCIPAL TASKS	1st QUARTER JUL, AUG, SEP 2020	2ND QUARTER OCT, NOV, DEC 2020	3RD QUARTER JAN, FEB, MAR 2021	4TH QUARTER APR, MAY, JUN 2021	ANNUAL JUL 1, 2020 THRU JUN 30, 2021
Provision of Services (Households / Persons)	15/30	15/30	15/30	15/30	60/120

EXHIBIT II

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

EXHIBIT III

Federal Contracting Requirements

This attachment is incorporated into the Contract between the County and the Contractor/sub grantee. Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. All references to the "Contractor/sub grantee" or "Company" or "Vendor" or "Provider" shall be deemed to mean the Contractor/sub grantee.

This Contract may be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. The Contractor/sub grantee is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.

To the extent possible, the federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.CFR Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Contractor/sub grantee pursuant to its obligations under this Contract. The Contractor/sub grantee and its sub-Contractor/sub grantees, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.

Drug Free Workplace Requirements

Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D). All Contractor/sub grantees entering into federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.

Contractor/sub grantee Compliance

The Contractor/sub grantee shall comply with all uniform administrative requirements, cost principles, and audit requirement for federal awards.

Conflict of Interest

The Contractor/sub grantee must disclose in writing any potential conflict of interest to the County of Cumberland or pass through entity in accordance with federal policy.

Mandatory Disclosures

The Contractor/sub grantee must disclose in writing all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. **Energy Conservation** The Contractor/sub grantee and Sub Contractor/sub grantees agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq.

Federal Water Pollution Control Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor/sub grantee agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

Clean Air Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Act as amended (33 USC § 1251-1387).

The Contractor/sub grantee agrees to report any violation to the County immediately upon discovery. The Contractor/sub grantee understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency (EPA) Regional Office. Contractor/sub grantee must include this requirement in all subcontracts that exceed \$150,000.

The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Access to Records and Reports

The Contractor/sub grantee must maintain an acceptable cost accounting system. The Contractor/sub grantee agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor/sub grantee which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor/sub grantee agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor/sub grantee agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

All Contractor/sub grantees and their successors, transferees, assignees, and Sub Contractor/Sub Grantees acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff.

No Obligation by Federal Government

The County and the Contractor/sub grantee acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the County, the Contractor/sub grantee, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor/sub grantee agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the sub-Contractor/sub grantee who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor/sub grantee acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor/sub grantee's actions pertaining to this contract. Upon execution of the underlying contract, the Contractor/sub grantee certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor/sub grantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor/sub grantee to the extent the Federal Government deems appropriate.

The Contractor/sub grantee also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor/sub grantee, to the extent the Federal Government deems appropriate.

The Contractor/sub grantee agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the sub-Contractor/sub grantees who will be subject to the provisions.

Changes

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. Contractor/sub grantee's failure to do so shall constitute a material breach of the contract.

Termination

Termination Without Cause. The County may immediately terminate this Agreement at any time without cause by giving 30 days' written notice to the Contractor/sub grantee.

Termination for Default by Either Party. By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or

The other party attempts to assign, terminate or cancel this Agreement contrary to the terms hereof; or

The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

Additional Grounds for Default Termination by the County. By giving written notice to the Contractor/sub grantee, the County may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

The Contractor/sub grantee makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, Contractor/sub grantee's Proposal, or any covenant, agreement, obligation, term or condition contained in this Agreement; or

The Contractor/sub grantee takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

Cancellation of Orders and Subcontracts. In the event this Agreement is terminated by the County for any reason prior to the end of the term, the Contractor/sub grantee shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Contractor/sub grantee shall submit a statement to the County showing in detail the services performed under this Agreement to the date of termination.

No Effect on Taxes, Fees, Charges, or Reports. Any termination of the Agreement shall not relieve the Contractor/sub grantee of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve the Contractor/sub grantee of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Contractor/sub grantee from any claim for damages previously accrued or then accruing against the Contractor/sub grantee.

Obligations Upon Expiration or Termination. Upon expiration or termination of this Agreement, the Contractor/sub grantee shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other recording devices, information, or compact discs that are owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new vendor access to the systems, software, infrastructure, or processes of the Contractor/sub grantee that are necessary to migrate the Services to a new vendor; and (d) refund to the County all pre-paid sums for Products or Services that have been cancelled and will not be delivered.

No Suspension. In the event that the County disputes in good faith an allegation of default by the Contractor/sub grantee, notwithstanding anything to the contrary in this Agreement, the Contractor/sub grantee agrees that it will not terminate this Agreement or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Contractor/sub grantee, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

Authority to Terminate. The County Manager or their designee is authorized to terminate this Agreement on behalf of the County.

Audit. During the term of the Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, all books and records (including but not limited to the technical records) and facilities of the Contractor/sub grantee necessary to evaluate Contractor/sub grantee's compliance with the terms and conditions of the Agreement or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Contractor/sub grantee. However, if non-compliance is found that would have cost the County in excess of \$5,000 but for the audit, then the Contractor/sub grantee shall be required to reimburse the County for the cost of the audit.

Remedies

Liquidated Damages: The County and the Contractor/sub grantee acknowledge and agree that the County may incur costs if the Contractor/sub grantee fails to meet the delivery times set forth in the Request for Proposal for the Products and Services. The parties further acknowledge and agree that: (a) the County may be damaged by such failures, including loss of goodwill and administrative costs; but that (b) the costs that the County might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor/sub grantee agrees to pay liquidated damages at the rates set forth in the Request for Proposal (if applicable). The parties agree that the liquidated damages set forth in the Request for Proposal shall be the County's exclusive remedy for loss of goodwill and administrative costs, attributable to a failure by the Contractor/sub grantee to meet such delivery times, but shall not be the remedy for the cost to cover or other direct damages.

Right to Cover: If the Contractor/sub grantee fails to meet any completion date or resolution time set forth in this Agreement (including the Exhibits), and it fails to cure such default within one (1) business day after receiving written notice from the County of such failure, the County may take any of the following actions with or without terminating this Agreement, and in addition to and without limiting any other remedies it may have:

Employ such means as it may reasonably deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Contractor/sub grantee is again able to resume performance under this Agreement; and

Deduct any and all reasonable expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Contractor/sub grantee and, should the County's reasonable cost of obtaining or performing the services exceed the amount due the Contractor/sub grantee, collect the difference from the Contractor/sub grantee.

Right to Withhold Payment. If the Contractor/sub grantee materially breaches any provision of this Agreement, the County shall have a right to withhold all payments due to the Contractor/sub grantee with respect to the services that are the subject of such breach until such breach has been fully cured.

Specific Performance and Injunctive Relief. The Contractor/sub grantee agrees that due to the potential impact on public health, monetary damages may not be an adequate remedy for the Contractor/sub grantee's failure to provide the Services required by this Agreement, and monetary damages may not be the equivalent of the performance of such obligation. Accordingly, the Contractor/sub grantee hereby agrees that the County may seek an order granting specific performance of such obligations of the Contractor/sub grantee in a court of competent jurisdiction within the State of North Carolina. The Contractor/sub grantee further consents to the County seeking injunctive relief (including a temporary restraining order) to assure performance in the event the Contractor/sub grantee breaches the Agreement in any material respect.

Setoff. Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred as a result of the other party's breach of this Agreement, following any applicable cure periods, and provided such party has given notice of its intention to apply a setoff prior to making the payment deduction, together with documentary evidence demonstrating that such party has actually incurred the damages and/or expenses being setoff.

Other Remedies. Except as specifically set forth in the main body of this Agreement, the remedies set forth above shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy

Debarment and Suspension

A contract award (see CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor/sub grantee shall certify compliance.

This contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part. 3000. As such, the Contractor/sub grantee is required to verify that none of the Contractor/sub grantee, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

The Contractor/sub grantee is required to comply with 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies that:

This certification in this clause is a material representation of fact relied upon by the County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available by the County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

Equal Employment Opportunity

During the performance of this contract, the Contractor/sub grantee agrees as follows:

1. The Contractor/sub grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor/sub grantee 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 Contractor/sub grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The Contractor/sub grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/sub grantee, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The Contractor/sub grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor/sub grantee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor/sub grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by executive Order 11375, and with the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor/sub grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor/sub grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or

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

7. The Contractor/sub grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor/sub grantee or vendor. The Contractor/sub grantee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor/sub grantee becomes involved in, or is threatened with, litigation with a Subcontractor/sub grantee or vendor as a result of such direction by the administering agency the Contractor/sub grantee may request the United States to enter into such litigation to protect the interests of the United States.

Davis-Bacon Requirements

Labor Wage Determination Number: N/A

If applicable to this contract, the Contractor/sub grantee agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-348).

1. *Minimum Wages.*

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor/sub grantee and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1) (iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed

under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor/sub grantee and its sub-Contractor/sub grantees at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

The work to be performed by the classification requested is not performed by a classification in the wage determination.

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor/sub grantee and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor/sub grantee, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor/sub grantee shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor/sub grantee does not make payments to a trustee or other third person, the Contractor/sub grantee may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor/sub grantee, that the applicable

standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor/sub grantee to set aside assets, in a separate account, for the meeting of obligations under the plan or program.

2. *Withholding.*

The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor/sub grantee under this contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor/sub grantee, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor/sub grantee or any sub-Contractor/sub grantee the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Sponsor may, after written notice to the Contractor/sub grantee, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. *Payrolls and Basic Records.*

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor/sub grantee during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor/sub grantee shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractor/sub grantees employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor/sub grantee shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Sponsor. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime Contractor/sub grantee is

responsible for the submission of copies of payrolls by all sub-Contractor/sub grantees. Contractor/sub grantees and sub-Contractor/sub grantees shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Sponsor, the Contractor/sub grantee, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor/sub grantee to require a sub-Contractor/sub grantee to provide addresses and social security numbers to the prime Contractor/sub grantee for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor/sub grantee or Subcontractor/sub grantee or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor/sub grantee or sub-Contractor/sub grantee to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor/sub grantee or sub-contractor/sub grantee shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Sponsor, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor/sub grantee or sub-contractor/sub grantee fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor/sub grantee, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. *Apprentices and Trainees.*

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor/sub grantee to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor/sub grantee is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor/sub grantee's or sub-Contractor/sub grantee's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor/sub grantee will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor/sub grantee will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor/sub grantee shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor/sub grantee or sub contractor/sub grantee shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Sponsor may by appropriate instructions require, and also a clause requiring the sub contractor/sub grantee to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any sub contractor/sub grantee or lower tier sub contractor/sub grantee with all the contract clauses in 29 CFR Part 5.5.

Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and a sub contractor/sub grantee as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes' clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor/sub grantee (or any of its sub contractor/sub grantees) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor/sub grantee certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor/sub grantee's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

Copeland "Anti-Kickback" Act

Contractor/sub grantee. The Contractor/sub grantee must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) and the requirements of 29 CFR Part 3 *as may be applicable*, which are incorporated by reference into this contract.

Contractor/sub grantee and sub-contractor/sub grantees are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor/sub grantee and each sub-contractor/sub grantee must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week

Subcontracts. The Contractor/sub grantee or sub-contractor/sub grantee shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the Subcontractor/sub grantees to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any Subcontractor/sub grantee or lower tier Subcontractor/sub grantee with all of these contract clauses.

Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and Subcontractor/sub grantee as provided in 29 CFR § 5.12."

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

1. Overtime requirements. No Contractor/sub grantee or Subcontractor/sub grantee contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor/sub grantee and any Subcontractor/sub grantee responsible therefor shall be liable for the unpaid wages. In addition, such Contractor/sub grantee and Subcontractor/sub grantee shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of

the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor/sub grantee or Subcontractor/sub grantee under any such contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor/sub grantee, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor/sub grantee or Subcontractor/sub grantee for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontractor/sub grantees. The Contractor/sub grantee or Subcontractor/sub grantee shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for compliance by any sub-Contractor/sub grantees or lower tier Subcontractor/sub grantee with the clauses set forth in paragraphs (1) through (4) of this section.”

Rights to Inventions Made Under a Contract or Agreement

Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

Rights in Data - The following requirements apply to each contract involving experimental, developmental or research work:

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

Except for its own internal use, the Purchaser or Contractor/sub grantee may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor/sub grantee authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution. In accordance with 49 CFR § 18.34 and 49 CFR § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for

"Federal Government purposes," any subject data or copyright described in subsections (2)(b)(i) and (2)(b)(ii) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Any subject data developed under that contract, whether or not a copyright has been obtained; and

Any rights of copyright purchased by the Purchaser or Contractor/sub grantee using Federal assistance in whole or in part.

When federal assistance is awarded for experimental, developmental, or research work, it is the general intention to increase knowledge available to the public rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Contractor/sub grantee performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agree to make available to the public, either the license in the copyright to any subject data developed in the course of that contract or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor/sub grantee's use whose costs are financed in whole or in part with Federal assistance.

Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor/sub grantee agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor/sub grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor/sub grantee shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Nothing contained in this clause regarding rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

Data developed by the Purchaser or Contractor/sub grantee and financed entirely without the use of Federal assistance that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor/sub grantee identifies that data in writing at the time of delivery of the contract work.

Unless determined otherwise, the Contractor/sub grantee agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor/sub grantee agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Procurement of Recovered Materials

Contractor/sub grantee and Subcontractor/sub grantee must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor/sub grantee and Subcontractor/sub grantees are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
2. The Contractor/sub grantee has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

Section 6002(c) establishes exceptions to the preferences for recovery EPA-Designed products if the Contractor/sub grantee can demonstrate the item is:

- Not reasonably available within a timeframe providing for compliance with the contract performance schedule.
- Fails to meet reasonable contract performance requirements; or
- Is only available at an unreasonable price.

Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

Safeguarding Personal Identifiable Information:

Contractor/sub grantee will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable federal, state, and/or local laws regarding privacy and obligations of confidentiality.

DHS Seal, Logo, and Flags

The Contractor/sub grantee shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without pre-approval by the specific federal agency.



COMMUNITY DEVELOPMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: 11/30/2020

**SUBJECT: COMMUNITY DEVELOPMENT FUNDING AGREEMENT WITH
HILLSIDE – FMHA, LLC FOR INSTALLATION OF NEW HVAC UNITS**

Requested by: AMY H. CANNON, COUNTY MANAGER

Presenter(s): DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

BACKGROUND

A Request for Proposal (RFP) was released between March 2, 2020 – April 27, 2020 seeking applications from eligible agencies to provide public services (human services), public facilities / infrastructure, and affordable housing developments. Proposals for various project types were received by Community Development. The selection committee reviewed all proposals and Hillside – FMHA LLC was one of the agencies selected to receive funding for the installation of new heating, ventilation, and cooling systems in thirty-two (32) units at the property located at 1920 Rosehill Road, Fayetteville, North Carolina. The selected program meets the eligibility requirements for providing affordable housing to low- and moderate- income elderly households and Community Development desires to enter into a contract with the agency for a funding amount not to exceed \$187,400. Community Development Block Grant funds are currently available for this project.

RECOMMENDATION / PROPOSED ACTION

Staff recommends and requests that the the following item be placed on the December 21, 2020 Board of Commissioners agenda as a consent item:

- Approve the Community Development contract with Hillside-FMHA LLC in the amount not to exceed \$187,400 for the installation of 32 new HVAC units.

ATTACHMENTS:

Description

Agreement with Hillside - FMHA LLC

Type

Backup Material

**AGREEMENT BETWEEN
COUNTY OF CUMBERLAND
COMMUNITY DEVELOPMENT DEPARTMENT
AND
HILLSIDE – FMHA LLC**

THIS AGREEMENT, entered into this ____ day of _____, 2020 by and between the County of Cumberland (hereinafter called the Grantee), a body politic and corporate of the State of North Carolina, and Hillside – FMHA LLC, (hereinafter called the "Subrecipient"), with an office located at 1000 Ramsey Street, Fayetteville, North Carolina.

WHEREAS, the Grantee received Community Development Block Grant (CDBG) funds from the United States Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended, Public Law 93-383;

WHEREAS, the Grantee, has offered the Subrecipient grant funds to use to employ contractors to rehabilitate and improve their property to meet rehabilitation standards;

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in using such funds; and

NOW, THEREFORE, the parties agree that;

I. Scope of Services

A. Activities/Principal Tasks

The Subrecipient will provide services under the 2020 CDBG Program Year in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such programs will include the following activities eligible under 24 CFR 570.202 of the Community Development Block Grant Program:

1. **Rehabilitation**. The Subrecipient will employ contractors to install new heating, ventilation, and air conditioning (HVAC) systems in thirty-two (32) units at the property located at 1920 Rosehill Road, Fayetteville, North Carolina. The Subrecipient will ensure that the property is rehabilitated (as applicable) to state and local standards. Community Development staff will conduct the initial inspections on the units to determine the level of repairs that are needed. The Subrecipient will assume this role upon securing a qualified person to assume this responsibility. The Subrecipient will work closely with the Community Development staff to ensure that properties are rehabilitated as required. At all times, the Subrecipient shall permit Community Development staff or the U.S. Government or its designee to examine and inspect the rehabilitation work.
2. **General Administration**. The following general administration activities are necessary to provide the activities described in Activities/Principal Tasks

Activity #1 **Payment of Expenses**: The Subrecipient will be responsible for fiscal administration of the CDBG funds. As such, the Subrecipient will be responsible for the collection of all necessary source documentation to substantiate all expenditures prior to submission to the Grantee for payment. The Subrecipient will submit all requests for payment with a cover memorandum and the following source documentation:

Other Expenses: All requests for payment of eligible expenses will include a copy of the invoice or receipt for the expenditure as well as a copy of the check documenting payment of the expense by the Subrecipient. The invoice / receipt will indicate the date the expense was incurred, the name of the Subrecipient (if applicable), and the amount of the expense.

Activity #2 **Grant Close-out**: The Subrecipient will be responsible for the preparation and submission of all documents and reports relative to final close-out of the grant.

Activity #3 **Financial Accountability**: The Subrecipient will conduct accepted accounting procedures (in accordance with 2 CFR part 200 to ensure compliance and tracking of all funds received and disbursed by the Subrecipient. An annual audit will be conducted by a qualified independent firm contracted, using required procurement procedures.

B. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the CDBG Program's National Objective of providing principal benefit to low/moderate income persons, as defined in 24 CFR 570.208. As a part of meeting this National Objective, the Subrecipient will ensure that it verifies the income of each of its clients in a manner consistent with HUD's definition of income, as defined in 24 CFR 570.3.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the levels of program services as listed in this contract under Section I, Scope of Services.

D. Staffing

The Subrecipient will assign Key Personnel to the CDBG PY2020 contract in order to carry out the scope of services of this agreement.

E. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within thirty (30) days after being notified by the Grantee, contract suspension procedures will be initiated.

II. Time of Performance

Services of the Subrecipient may begin after the 15th day of December, 2020, upon receipt of a Written Notice to Proceed properly signed by the Community Development Director or designee. The Subrecipient is required to have all work completed by the 30th day of November, 2021. The parties agree that in no event will the Subrecipient or its selected contractors commence work until he/she has received a written Notice to Proceed signed by the Community Development Director or designee.

III. Funding Source - PY 2020 CDBG

The Grantee will allocate CDBG funds not to exceed \$187,400 for the purpose of rehabilitation of thirty-two (32) dwelling units. Any indirect costs charged will be consistent with the conditions of paragraph VIII (C) (2) of this Agreement. Any amendments to this contract must be approved in writing by the Grantee and the Subrecipient.

IV. Method of Compensation/Payment Schedule

The parties agree that the total amount to be paid by the Grantee under this contract will not exceed **\$187,400**. Reimbursements (as defined in 2 CFR Part 230) for the payment of eligible expenses will be charged to the program and will not exceed the allocated amount. If discrepancies are discovered during monitoring, the Grantee reserves the right to restrict the Subrecipient to payment for eligible expenses on a reimbursement basis only. The parties agree that any costs incurred prior to December 15th of the Program Year in which the contract is executed will not be eligible for reimbursement. Payments will be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 CFR part 200.

V. Notices

Communication and details concerning this contract will be directed to the following contract representatives:

COUNTY

Delores Taylor, Director
Cumberland County Community Development
P. O. Box 1829, 707 Executive Place
Fayetteville, NC 28302
(910) 323-6112
FAX #: (910) 323-6114

SUBRECIPIENT

Dawn Weeks, Executive Director
Hillside – FMHA, LLC
1000 Ramsey Street
Fayetteville, NC 28301
(910) 483-3648

VI. Special Conditions

A. The Subrecipient will provide the Grantee with a copy of its annual audit report for the current contract period.

VII. General Conditions

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, part 570 [the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG).] The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to use funds available under this Agreement to supplement rather than to supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended or will be construed to create or establish the relationship of employer/employee between the parties. The Subrecipient will at all times remain an "Independent Contractor" with respect to the services to be performed under this Agreement. The Grantee will be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent contractor.

C. Hold Harmless

The Subrecipient will hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Subrecipient will provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. Insurance and Bonding

The Subrecipient will carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum will purchase a blanket fidelity bond covering all employees in an amount equal to the agreement amount with the Grantee. The Subrecipient will also list Cumberland County Community Development Department as an additional insured. The Subrecipient will cause the insurer to provide Cumberland County Community Development Department with certification of insurance. Insurer will also provide Cumberland County Community Development Department notice of cancellation at least fifteen (15) days prior to cancellation. The Subrecipient will comply with the bonding and insurance requirements of 2 CFR part 200.

F. Debarred / Suspended

The Subrecipient must not make any award or permit any award (sub grant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 CFR part 2424. The requirement set forth in 24 CFR Part 5 applies to this program.

G. Grantor Recognition

The Subrecipient will ensure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items used pursuant to this contract will be prominently labeled to indicate Cumberland County CDBG as a funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments will not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, at its 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 activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

I. Suspension or Termination

Either party may terminate this contract by giving written notice to the other party of such termination at least thirty (30) days before the effective date of such termination and specifying the effective date thereof. Partial terminations of the Scope of Service in Paragraph IA above may only be undertaken with the prior approval of the Grantee. If

this Agreement is terminated for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement will, at the option of the Grantee, become the property of the Grantee, and the Subrecipient will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein (2 CFR part 200); and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's programs, as stated in the Monitoring Policy of Cumberland County Community Development, in addition to other remedies as provided by law. If there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold all or any portion of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VIII. Administrative Requirements

A. Financial and Program Management

1. Administrative Requirements

The Subrecipient agrees to comply with the administrative requirements specified in 2 CFR part 200. The Subrecipient further agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation as necessary.

2. Cost Principles

The Subrecipient will administer its program in conformance with 2 CFR Part 230, "Cost Principles for Non-Profit Organizations"; 2 CFR Part 220, "Cost Principles for Educational Institutions"; 2 CFR Part 225, "Costs Principles for State and Local Governments" as applicable. These principles will be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient will maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records will include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required determining the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR 570.502, and 2 CFR part 200; and,
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Subrecipient will retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract will be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claim(s), audit(s), negotiation(s) or other actions that involve any of the records cited and that have started before the expiration of the four (4) years, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The Subrecipient will maintain client data demonstrating client eligibility for services provided. Such data will include, but not be limited to, Homeless Management Information System number, client name, housing status, income level, or other basis for determining eligibility, and description or service provided. Such information will be made available to Grantee's monitors or its designees for review upon request.

4. Disclosure

Client information collected under this contract is confidential and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by Federal law unless written consent is obtained from such persons receiving service and, in the case of a minor, from a responsible parent/guardian.

5. Property Records

The Subrecipient will maintain real property inventory records that clearly identify properties purchased, improved or sold. Properties retained will continue to meet eligibility criteria and will conform to the "changes in use" restrictions specified in 24 CFR 570.505, as applicable.

6. Close-Outs

The Subrecipient's obligation to the Grantee will not end until all close-out requirements are completed. Activities during this close-out period will include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balance, and accounts receivable to the Grantee), and determining the custodianship of records.

7. Audits and Inspections

The Subrecipient agrees to have an annual agency audit conducted in accordance with 2 CFR part 200. If the Subrecipient does not meet the threshold requirements for an annual audit in accordance with 2 CFR part 200, the Subrecipient will have an annual audit conducted by an independent certified public accountant in accordance with generally accepted government auditing standards (GAGAS). All Subrecipient records with respect to any matters covered by this Agreement will be made available to the Grantee, grantor agency, its designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. The Grantee will send written notice of any deficiencies to the Subrecipient within fifteen (15) days following audit/monitoring. Any deficiencies noted in monitoring reports must be fully cleared by the Subrecipient within thirty (30) days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above monitoring requirements will constitute a violation of this contract and may result in the withholding of future payments.

C. REPORTING AND PAYMENT PROCEDURES

1. Program Income

The Subrecipient will report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The recipient's use of program income will comply with the requirements set forth as 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract, and will reduce requests for additional funds by the amount of any such program income balance on hand. All unused program income will be returned to the Grantee at the end of the contract period.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and will submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to allocate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient will submit quarterly Progress Reports to the Grantee in the form and content as required by the Grantee. If the Subrecipient is more than 30 days delinquent in submitting its progress reports, the

Grantee will discontinue processing all requests for payment until such time as the delinquent reports are received.

D. Procurement

1. Compliance

The Subrecipient will comply with Grantee's policies concerning the purchase of equipment and will maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) will revert to the Grantee upon termination of this contract.

2. Procurement Standards

The Subrecipient will procure all materials, property, or services in accordance with the requirements of 2 CFR part 200, and will subsequently follow Property Standards as outlined in 24 CFR 570.502(b), covering utilization and disposal of property.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, The Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive orders 11375 and 12086.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection from training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the disabled in any federally assisted program. The Grantee will provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. EEO Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer.

5. Subcontract Provisions

The Subrecipient will include the provisions of Paragraph IX.A. Civil Rights in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Subrecipients or subcontractors.

B. EMPLOYMENT RESTRICTIONS

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

C. Conduct

1. Assignability

The Subrecipient will not assign or transfer any interest in this contract without the prior written consent of the Grantee; provided that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer will be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient will not enter into any subcontracts with any agency or individual for the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts will be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient will cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed for the performance of this Agreement.

d. Selection Process

The Subrecipient will undertake to ensure that all subcontracts in the performance of this Agreement will be awarded on a fair and open competition basis. Executed copies of all subcontracts will be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, will be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and will not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest will be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or Subrecipients which are receiving funds under the CDBG Entitlement Program.

5. Lobbying

The Subrecipient hereby certifies that:

a. 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 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 agreements;

b. 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; and

c. It will require that the language of paragraph (6) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts, under grants, loans, and cooperative agreements) and that all Subrecipients will certify and disclose accordingly.

6. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

8. Religious Organization

(1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation. (2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services. (3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents. (4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

X. Environmental Conditions

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C. 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, § 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Environmental Standards 24 CFR 570.604.

XI. Severability

If any provision of this Agreement is held invalid, the remainder of this Agreement will not be affected thereby and all other parts of this Agreement will nevertheless be in full force and effect.

XII. Non-Appropriation Clause

If appropriations of money to conduct and administer the presently scheduled program are lawfully reduced or terminated, or it is deemed in the public interest and necessity for the health, safety, or welfare of the public to so reduce or terminate this scheduled program, the Grantee, at its option, has the right to terminate this Agreement effective upon the end of the fiscal year. The County will give the Subrecipient written notice of termination under the provisions of this paragraph immediately upon receipt of actual notice by the Grantee of a reduction or termination of appropriations of money for the scheduled program, or any other necessity to reduce or terminate the program. Following the effective date of such termination the Grantee will have no further obligation to make any payments; the Grantee will have no right to recover any payments heretofore paid which were due and payable prior to the effective date of such termination.

XIII. Iran Divestment Act Certification

Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List ("List") created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.55-69. Contractor shall not utilize any subcontractor that is identified on the List.

XIV. E-Verify

Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor utilizes a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

XV. Incorporated Documents

The following documents or Exhibits to this contract are hereby made a part of this Contract and fully incorporated herein by reference, and compliance with the applicable provisions of these documents or Exhibits is a condition of this Contract.

- Exhibit I – Certification Regarding Lobbying; and
- Exhibit II - Federal Contracting Requirements.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, 2020, by their respective duly authorized representatives.

GRANTEE:
COUNTY OF CUMBERLAND, NC

ATTEST:

BY: _____
Clerk to the Board of County Commissioners

BY: _____
Chair

[COUNTY SEAL]

SUBRECIPIENT:
HILLSIDE – FMHA LLC

ATTEST:

By: _____
Secretary of Corporation

By: _____
President

[CORPORATE SEAL]

PRE-AUDIT CERTIFICATE:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

APPROVED FOR LEGAL SUFFICIENCY:

By: _____
County Finance Director Date

By: _____
County Attorney's Office Date

(X) Non-Renewable () Renewable
Agreement Expires: June 30, 2021

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the County and State, do hereby certify that _____, who being duly sworn, personally appeared before me this day and acknowledged that she is the Clerk of the Cumberland County Board of Commissioners; that _____ is the duly appointed _____; that the seal affixed to the foregoing Agreement is the Official Seal of the Board; that said _____ is duly authorized to enter into this Agreement on behalf of said Board and that _____ signed and sealed this Agreement; and this Agreement is attested by said Clerk on behalf of said Board; all by its authority duly granted; and that said _____ acknowledged the said Agreement to be the act and deed of the _____.

WITNESS my hand and notarial seal this the _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, _____, a Notary Public of the County and State aforesaid, certify that _____, personally appeared before me this day and acknowledged that he/she is (Assistant) Secretary of HILLSIDE – FMHA LLC, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by him/her as its (Assistant) Secretary.

WITNESS my hand and Notarial Seal, this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

EXHIBIT I

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

EXHIBIT II

Federal Contracting Requirements

This attachment is incorporated into the Contract between the County and the Contractor/sub grantee. Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. All references to the "Contractor/sub grantee" or "Company" or "Vendor" or "Provider" shall be deemed to mean the Contractor/sub grantee.

This Contract may be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. The Contractor/sub grantee is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.

To the extent possible, the federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.CFR Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Contractor/sub grantee pursuant to its obligations under this Contract. The Contractor/sub grantee and its sub-Contractor/sub grantees, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.

Drug Free Workplace Requirements

Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D). All Contractor/sub grantees entering into federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.

Contractor/sub grantee Compliance

The Contractor/sub grantee shall comply with all uniform administrative requirements, cost principles, and audit requirement for federal awards.

Conflict of Interest

The Contractor/sub grantee must disclose in writing any potential conflict of interest to the County of Cumberland or pass through entity in accordance with federal policy.

Mandatory Disclosures

The Contractor/sub grantee must disclose in writing all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. **Energy Conservation** The Contractor/sub grantee and Sub Contractor/sub grantees agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq.

Federal Water Pollution Control Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor/sub grantee agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

Clean Air Act

For contracts in excess of \$150,000, the Contractor/sub grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Act as amended (33 USC § 1251-1387).

The Contractor/sub grantee agrees to report any violation to the County immediately upon discovery. The Contractor/sub grantee understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency (EPA) Regional Office. Contractor/sub grantee must include this requirement in all subcontracts that exceed \$150,000.

The Contractor/sub grantee agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Access to Records and Reports

The Contractor/sub grantee must maintain an acceptable cost accounting system. The Contractor/sub grantee agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor/sub grantee which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor/sub grantee agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor/sub grantee agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

All Contractor/sub grantees and their successors, transferees, assignees, and Sub Contractor/Sub Grantees acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff.

No Obligation by Federal Government

The County and the Contractor/sub grantee acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the County, the Contractor/sub grantee, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor/sub grantee agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the sub-Contractor/sub grantee who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor/sub grantee acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor/sub grantee's actions pertaining to this contract. Upon execution of the underlying contract, the Contractor/sub grantee certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor/sub grantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor/sub grantee to the extent the Federal Government deems appropriate.

The Contractor/sub grantee also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor/sub grantee, to the extent the Federal Government deems appropriate.

The Contractor/sub grantee agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the sub-Contractor/sub grantees who will be subject to the provisions.

Changes

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. Contractor/sub grantee's failure to do so shall constitute a material breach of the contract.

Termination

Termination Without Cause. The County may immediately terminate this Agreement at any time without cause by giving 30 days' written notice to the Contractor/sub grantee.

Termination for Default by Either Party. By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or

The other party attempts to assign, terminate or cancel this Agreement contrary to the terms hereof; or

The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

Additional Grounds for Default Termination by the County. By giving written notice to the Contractor/sub grantee, the County may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

The Contractor/sub grantee makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, Contractor/sub grantee's Proposal, or any covenant, agreement, obligation, term or condition contained in this Agreement; or

The Contractor/sub grantee takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

Cancellation of Orders and Subcontracts. In the event this Agreement is terminated by the County for any reason prior to the end of the term, the Contractor/sub grantee shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Contractor/sub grantee shall submit a statement to the County showing in detail the services performed under this Agreement to the date of termination.

No Effect on Taxes, Fees, Charges, or Reports. Any termination of the Agreement shall not relieve the Contractor/sub grantee of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve the Contractor/sub grantee of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Contractor/sub grantee from any claim for damages previously accrued or then accruing against the Contractor/sub grantee.

Obligations Upon Expiration or Termination. Upon expiration or termination of this Agreement, the Contractor/sub grantee shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other recording devices, information, or compact discs that are owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new vendor access to the systems, software, infrastructure, or processes of the Contractor/sub grantee that are necessary to migrate the Services to a new vendor; and (d) refund to the County all pre-paid sums for Products or Services that have been cancelled and will not be delivered.

No Suspension. In the event that the County disputes in good faith an allegation of default by the Contractor/sub grantee, notwithstanding anything to the contrary in this Agreement, the Contractor/sub grantee agrees that it will not terminate this Agreement or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Contractor/sub grantee, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

Authority to Terminate. The County Manager or their designee is authorized to terminate this Agreement on behalf of the County.

Audit. During the term of the Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, all books and records (including but not limited to the technical records) and facilities of the Contractor/sub grantee necessary to evaluate Contractor/sub grantee's compliance with the terms and conditions of the Agreement or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Contractor/sub grantee. However, if non-compliance is found that would have cost the County in excess of \$5,000 but for the audit, then the Contractor/sub grantee shall be required to reimburse the County for the cost of the audit.

Remedies

Liquidated Damages: The County and the Contractor/sub grantee acknowledge and agree that the County may incur costs if the Contractor/sub grantee fails to meet the delivery times set forth in the Request for Proposal for the Products and Services. The parties further acknowledge and agree that: (a) the County may be damaged by such failures, including loss of goodwill and administrative costs; but that (b) the costs that the County might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor/sub grantee agrees to pay liquidated damages at the rates set forth in the Request for Proposal (if applicable). The parties agree that the liquidated damages set forth in the Request for Proposal shall be the County's exclusive remedy for loss of goodwill and administrative costs, attributable to a failure by the Contractor/sub grantee to meet such delivery times, but shall not be the remedy for the cost to cover or other direct damages.

Right to Cover: If the Contractor/sub grantee fails to meet any completion date or resolution time set forth in this Agreement (including the Exhibits), and it fails to cure such default within one (1) business day after receiving written notice from the County of such failure, the County may take any of the following actions with or without terminating this Agreement, and in addition to and without limiting any other remedies it may have:

Employ such means as it may reasonably deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Contractor/sub grantee is again able to resume performance under this Agreement; and

Deduct any and all reasonable expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Contractor/sub grantee and, should the County's reasonable cost of obtaining or performing the services exceed the amount due the Contractor/sub grantee, collect the difference from the Contractor/sub grantee.

Right to Withhold Payment. If the Contractor/sub grantee materially breaches any provision of this Agreement, the County shall have a right to withhold all payments due to the Contractor/sub grantee with respect to the services that are the subject of such breach until such breach has been fully cured.

Specific Performance and Injunctive Relief. The Contractor/sub grantee agrees that due to the potential impact on public health, monetary damages may not be an adequate remedy for the Contractor/sub grantee's failure to provide the Services required by this Agreement, and monetary damages may not be the equivalent of the performance of such obligation. Accordingly, the Contractor/sub grantee hereby agrees that the County may seek an order granting specific performance of such obligations of the Contractor/sub grantee in a court of competent jurisdiction within the State of North Carolina. The Contractor/sub grantee further consents to the County seeking injunctive relief (including a temporary restraining order) to assure performance in the event the Contractor/sub grantee breaches the Agreement in any material respect.

Setoff. Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred as a result of the other party's breach of this Agreement, following any applicable cure periods, and provided such party has given notice of its intention to apply a setoff prior to making the payment deduction, together with documentary evidence demonstrating that such party has actually incurred the damages and/or expenses being setoff.

Other Remedies. Except as specifically set forth in the main body of this Agreement, the remedies set forth above shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy

Debarment and Suspension

A contract award (see CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor/sub grantee shall certify compliance.

This contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part. 3000. As such, the Contractor/sub grantee is required to verify that none of the Contractor/sub grantee, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

The Contractor/sub grantee is required to comply with 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies that:

This certification in this clause is a material representation of fact relied upon by the County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available by the County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

Equal Employment Opportunity

During the performance of this contract, the Contractor/sub grantee agrees as follows:

1. The Contractor/sub grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor/sub grantee 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 Contractor/sub grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The Contractor/sub grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/sub grantee, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The Contractor/sub grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor/sub grantee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor/sub grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by executive Order 11375, and with the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor/sub grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor/sub grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or

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

7. The Contractor/sub grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor/sub grantee or vendor. The Contractor/sub grantee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor/sub grantee becomes involved in, or is threatened with, litigation with a Subcontractor/sub grantee or vendor as a result of such direction by the administering agency the Contractor/sub grantee may request the United States to enter into such litigation to protect the interests of the United States.

Davis-Bacon Requirements

Labor Wage Determination Number: N/A

If applicable to this contract, the Contractor/sub grantee agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-348).

1. *Minimum Wages.*

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor/sub grantee and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1) (iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed

under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor/sub grantee and its sub-Contractor/sub grantees at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

The work to be performed by the classification requested is not performed by a classification in the wage determination.

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor/sub grantee and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor/sub grantee, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor/sub grantee shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor/sub grantee does not make payments to a trustee or other third person, the Contractor/sub grantee may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor/sub grantee, that the applicable

standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor/sub grantee to set aside assets, in a separate account, for the meeting of obligations under the plan or program.

2. *Withholding.*

The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor/sub grantee under this contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor/sub grantee, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor/sub grantee or any sub-Contractor/sub grantee the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Sponsor may, after written notice to the Contractor/sub grantee, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. *Payrolls and Basic Records.*

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor/sub grantee during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor/sub grantee shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractor/sub grantees employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor/sub grantee shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Sponsor. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime Contractor/sub grantee is

responsible for the submission of copies of payrolls by all sub-Contractor/sub grantees. Contractor/sub grantees and sub-Contractor/sub grantees shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Contractor/sub grantee will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Sponsor, the Contractor/sub grantee, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor/sub grantee to require a sub-Contractor/sub grantee to provide addresses and social security numbers to the prime Contractor/sub grantee for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor/sub grantee or Subcontractor/sub grantee or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor/sub grantee or sub-Contractor/sub grantee to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor/sub grantee or sub-contractor/sub grantee shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Sponsor, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor/sub grantee or sub-contractor/sub grantee fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor/sub grantee, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. *Apprentices and Trainees.*

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor/sub grantee to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor/sub grantee is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor/sub grantee's or sub-Contractor/sub grantee's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor/sub grantee will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor/sub grantee will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor/sub grantee shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor/sub grantee or sub contractor/sub grantee shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Sponsor may by appropriate instructions require, and also a clause requiring the sub contractor/sub grantee to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any sub contractor/sub grantee or lower tier sub contractor/sub grantee with all the contract clauses in 29 CFR Part 5.5.

Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and a sub contractor/sub grantee as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes' clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor/sub grantee (or any of its sub contractor/sub grantees) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor/sub grantee certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor/sub grantee's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

Copeland "Anti-Kickback" Act

Contractor/sub grantee. The Contractor/sub grantee must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) and the requirements of 29 CFR Part 3 *as may be applicable*, which are incorporated by reference into this contract.

Contractor/sub grantee and sub-contractor/sub grantees are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor/sub grantee and each sub-contractor/sub grantee must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week

Subcontracts. The Contractor/sub grantee or sub-contractor/sub grantee shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the Subcontractor/sub grantees to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for the compliance by any Subcontractor/sub grantee or lower tier Subcontractor/sub grantee with all of these contract clauses.

Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor/sub grantee and Subcontractor/sub grantee as provided in 29 CFR § 5.12."

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

1. Overtime requirements. No Contractor/sub grantee or Subcontractor/sub grantee contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor/sub grantee and any Subcontractor/sub grantee responsible therefor shall be liable for the unpaid wages. In addition, such Contractor/sub grantee and Subcontractor/sub grantee shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of

the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor/sub grantee or Subcontractor/sub grantee under any such contract or any other Federal contract with the same prime Contractor/sub grantee, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor/sub grantee, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor/sub grantee or Subcontractor/sub grantee for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontractor/sub grantees. The Contractor/sub grantee or Subcontractor/sub grantee shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime Contractor/sub grantee shall be responsible for compliance by any sub-Contractor/sub grantees or lower tier Subcontractor/sub grantee with the clauses set forth in paragraphs (1) through (4) of this section.”

Rights to Inventions Made Under a Contract or Agreement

Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

Rights in Data - The following requirements apply to each contract involving experimental, developmental or research work:

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

Except for its own internal use, the Purchaser or Contractor/sub grantee may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor/sub grantee authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution. In accordance with 49 CFR § 18.34 and 49 CFR § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for

"Federal Government purposes," any subject data or copyright described in subsections (2)(b)(i) and (2)(b)(ii) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Any subject data developed under that contract, whether or not a copyright has been obtained; and

Any rights of copyright purchased by the Purchaser or Contractor/sub grantee using Federal assistance in whole or in part.

When federal assistance is awarded for experimental, developmental, or research work, it is the general intention to increase knowledge available to the public rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Contractor/sub grantee performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agree to make available to the public, either the license in the copyright to any subject data developed in the course of that contract or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor/sub grantee's use whose costs are financed in whole or in part with Federal assistance.

Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor/sub grantee agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor/sub grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor/sub grantee shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Nothing contained in this clause regarding rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

Data developed by the Purchaser or Contractor/sub grantee and financed entirely without the use of Federal assistance that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor/sub grantee identifies that data in writing at the time of delivery of the contract work.

Unless determined otherwise, the Contractor/sub grantee agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor/sub grantee agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor/sub grantee 's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor/sub grantee agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor/sub grantee also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Procurement of Recovered Materials

Contractor/sub grantee and Subcontractor/sub grantee must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor/sub grantee and Subcontractor/sub grantees are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
2. The Contractor/sub grantee has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

Section 6002(c) establishes exceptions to the preferences for recovery EPA-Designed products if the Contractor/sub grantee can demonstrate the item is:

- Not reasonably available within a timeframe providing for compliance with the contract performance schedule.
- Fails to meet reasonable contract performance requirements; or
- Is only available at an unreasonable price.

Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

Safeguarding Personal Identifiable Information:

Contractor/sub grantee will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable federal, state, and/or local laws regarding privacy and obligations of confidentiality.

DHS Seal, Logo, and Flags

The Contractor/sub grantee shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without pre-approval by the specific federal agency.



SOIL AND WATER CONSERVATION DISTRICT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 **AGENDA SESSION**

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: DONNA FOSTER, CUMBERLAND COUNTY SOIL & WATER
CONSERVATION DISTRICT, ADMINISTRATIVE PROGRAM OFFICER**

DATE: 12/2/2020

**SUBJECT: EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM
APPLICATION FOR FEDERAL ASSISTANCE SF-424 REVISION TO
INCREASE GRANT AWARD AND ASSOCIATED BUDGET ORDINANCE
AMENDMENT #B210057**

Requested by: AMY H. CANNON, COUNTY MANAGER

**Presenter(s): TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

BACKGROUND

The Cumberland County Soil & Water Conservation District was notified that it would be receiving additional grant funding for Round 1 of the Emergency Watershed Protection (EWP) Program. When originally approved by the Board of Commissioners' on August 17, 2020, the amounts for the Round 1 award were as follows:

BR# 210058

Total \$1,118,111.00

Federal \$868,583.50

Non-Federal \$249,527.50

The requested amendment, has been approved by the Cumberland County Soil & Water Conservation Board of Supervisors and is requested as follows for the Round 1 Amendment (Increase):

BR#210057

Total \$1,228,625.89

Federal Increased to \$954,434.64

Non-Federal Increased to \$274,191.25

(An increase of \$110,515.00)

The additional funds will be used to add other stream debris clearance projects to the existing project list.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval and requests that the Notice of Grant and Agreement Award submission for Round 1, Amendment 1 of the Emergency Watershed Protection (EWP) Program and Associated Budget Ordinance Amendment #B210057 be moved forward for consideration at the December 21, 2020 Board of Commissioners' Regular Meeting as a Consent Agenda item.

ATTACHMENTS:

Description	Type
USDA NRCS Round 1 Application Amendment 1	Backup Material
Amended Rd1 Proj List	Backup Material

Round 1

Application for Federal Assistance SF-424

*** 1. Type of Submission:**

- ☐ Preapplication
☐ Application
☒ Changed/Corrected Application

*** 2. Type of Application:**

- ☐ New
☐ Continuation
☒ Revision

*** If Revision, select appropriate letter(s):**

A: Increase Award

*** Other (Specify):**

*** 3. Date Received:**

10/07/2020

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

NR204532XXXXC045

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

*** a. Legal Name:**

Cumberland County

*** b. Employer/Taxpayer Identification Number (EIN/TIN):**

56-6000291

*** c. Organizational DUNS:**

0885716900000

d. Address:

*** Street1:**

117 Dick Street

Street2:

*** City:**

Fayetteville

County/Parish:

*** State:**

NC: North Carolina

Province:

*** Country:**

USA: UNITED STATES

*** Zip / Postal Code:**

28301-5749

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Mr.

*** First Name:**

Mitchell

Middle Name:

*** Last Name:**

Miller

Suffix:

Title:

Organizational Affiliation:

*** Telephone Number:**

910-484-8479 ext. 3

Fax Number:

*** Email:**

mitchell.miller@nc.nacdn.net

Application for Federal Assistance SF-424

* 9. Type of Applicant 1: Select Applicant Type:

B: County Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

* 10. Name of Federal Agency:

USDA - Natural Resources Conservation Service

11. Catalog of Federal Domestic Assistance Number:

CFDA Title:

* 12. Funding Opportunity Number:

NA

* Title:

Emergency Watershed Protection Program grant

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

* 15. Descriptive Title of Applicant's Project:

Cumberland County EWP Round 1 (Hurricane Florence) Amendment 1

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:**

* a. Applicant 08,09

* b. Program/Project EWP

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:

* a. Start Date: 08/28/2020

* b. End Date: 03/09/2021

18. Estimated Funding (\$):

* a. Federal	954,434.64
* b. Applicant	274,191.25
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	1,228,625.89

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name: Amy

Middle Name:

* Last Name: Cannon

Suffix:

* Title: County Manager

* Telephone Number: 910-678-7723 Fax Number:

* Email: acannon@co.cumberland.nc.us

* Signature of Authorized Representative:



* Date Signed:



AGREEMENT ID: NR204532XXXXC045
SPONSOR: Cumberland County ROUND 1
PROJECT: EWP – Locally Led FA-TA

EMERGENCY WATERSHED PROTECTION PROGRAM STATEMENT OF WORK

PURPOSE

The purpose of this agreement is for the United States Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as the “NRCS”, to provide technical and financial assistance to the Cumberland County, hereinafter referred to as the “Sponsor”, for EWP Project # 5038-37-9-18-032/033/034/035/036/037/038/066/067/068/069/070/071/072/073/074/075/076/077/078/079 (Hurricane Florence) in Cumberland County, North Carolina for implementation of recovery measures, that, if left undone, pose a risk to life and/or property.

OBJECTIVES

The design and installation of EWP measures as detailed in the individual Damage Survey Reports (DSR) and described here:

- 5038-032: Autry: 1301&1321ClintonRoad: \$173,654.00 (NC PE Sealed Design Required) (\$98,654.00 increase)
- 5038-066: BarcelonaDrBransonCr: \$34,500.00 (NC PE Sealed Design Required)
- 5038-073: FleaHillDrWadeSite: \$69,000.00 (NC PE Sealed Design Required)
- 5038-076: MorgantonRdHybartsBrBransonCr: \$99,475.00 (NC PE Sealed Design Required)
- 5038-033: Cedar Creek: \$138,240.00 (Hazardous Debris Removal)
- 5038-034: McBrideRdandUnnamedFearTrib: \$3,000.00 (Hazardous Debris Removal)
- 5038-035: RamseySt-CarverCreek: \$20,000.00 (Hazardous Debris Removal)
- 5038-036: SlocombRdandUnnamedFearTrib: \$20,000.00 (Hazardous Debris Removal)
- 5038-037: Vass Road-Unnamed Trib to Little River: \$55,000.00 (Hazardous Debris Removal)
- 5038-038: W Manchester-Little River: \$4,000.00 (Hazardous Debris Removal)
- 5038-067: BaywoodRdReeceCr: \$11,500.00 (Hazardous Debris Removal)
- 5038-068: BuckCrMagnoliaRd: \$5,750.00 (Hazardous Debris Removal)
- 5038-069: CanadyPondRdUnnamedTrib: \$6,900.00 (Hazardous Debris Removal)
- 5038-070: CedarCrRdLocksCr: \$81,000.00 (Hazardous Debris Removal)
- 5038-071: CouncilRdColdCampCr: \$11,500.00 (Hazardous Debris Removal)
- 5038-072: CoventryRdBuckheadCr: \$47,150.00 (Hazardous Debris Removal)
- 5038-074: GalatiaChurchRdStuartCr: \$11,500.00 (Hazardous Debris Removal)
- 5038-075: HW53McKinnonRd: \$17,250.00 (Hazardous Debris Removal)
- 5038-077: PetersCr: \$142,600.00 (Hazardous Debris Removal)
- 5038-078: Rt295UnderwoodRdGumLogCanal: \$135,546.00 (Hazardous Debris Removal)
- 5038-079: SpencerRdBeaverDamCr: \$9,200.00 (Hazardous Debris Removal)

BUDGET NARRATIVE

A. The estimated Round 1 costs for the Project:

1.

Total Estimated Construction Costs:	<u>\$1,096,765.00 (\$98,654.00 increase)</u>
Total Estimated Project Budgets (all project sites):	<u>\$1,228,625.89 (\$110,514.89 increase)</u>

Total Estimated Federal Assistance: \$954,434.64 (\$85,851.39 increase)

The budget includes:

Financial Assistance (FA):

Sites 032/033/034/035/036/037/038 and

066/067/068/069/070/071/072/073/074/075/076/077/078/079

Available NRCS Construction Assistance (75% NRCS) = \$822,573.75 (\$73,990.50 increase)

Required Sponsor Construction Assistance (25%) = \$274,191.25 (\$24,663.50 increase)

Total Estimated Construction Costs = \$1,096,765.00 (\$98,654.00 increase)

Technical Assistance (TA):

Sites 032/033/034/035/036/037/038 and

066/067/068/069/070/071/072/073/074/075/076/077/078/079

Available NRCS Technical Assistance = \$131,860.89 (\$11,860.89 increase)

2. NRCS pays up to 75 percent of eligible construction costs and Sponsor pays 25 percent of construction costs. NRCS will contribute up to 12 percent of the total construction cost not to exceed \$131,860.89 for contract administration and construction management costs. It is possible that technical and administrative costs will exceed this amount requiring the Sponsor to contribute resources to complete technical and administrative work.
3. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for financial assistance (FA) and one for technical assistance (TA). FA costs are associated with construction activities; TA costs are associated with services. These expenditures shall be accounted for separately in order for expenses to be eligible for reimbursement.
4. NRCS will provide FA for actual costs as reimbursement to the Sponsor for approved on-the-ground construction costs, subject to above limits. If costs are reduced, reimbursement will be reduced accordingly. Construction costs are associated with the installation of the project measures including labor, equipment and materials.
5. NRCS will provide TA reimbursement to the Sponsor for technical and administrative costs directly charged to the project, subject to the above limits. If costs are reduced, reimbursement will be reduced accordingly. These costs include
 - a. engineering costs include, but not limited to, developing a project design that includes construction drawings and specifications, an operation and maintenance plan, a quality assurance/inspection plan and an engineer's estimate of the project installation costs in addition to providing necessary quality assurance during construction.
 - b. contract administration costs include, but not limited to, soliciting, evaluating, awarding and administering contracts for construction and engineering services, including project management, verifying invoices and record keeping.
6. The Sponsor will contribute funds toward the total construction costs in either direct cash expenditures, the value of non-cash materials or services, or in-kind contributions. The value of any in-kind contribution shall be agreed to in writing prior to implementation.

RESPONSIBILITIES OF THE PARTIES

A. Sponsor will—

1. Accomplish construction of the EWP project measures by contracting, in-kind construction services, or a combination of both.
2. Ensure and certify by signing this agreement that its cost share obligation is from a non-Federal source.
3. Comply with the terms and conditions of this agreement and the attached general terms and conditions except those that are not applicable to State and local governments.
4. Acquire adequate real property rights (land and water), permits and licenses in accordance with local, state, and Federal laws necessary for the installation of EWP project measures at no cost to NRCS prior to construction. This includes any rights associated with required environmental mitigation. Costs related to land rights and permits are the Sponsor's responsibility and ineligible for reimbursement.
5. Accept all financial and other responsibility for excess costs resulting from their failure to obtain, or their delay in obtaining, adequate land and water rights, permits and licenses needed for the Project.
6. Provide the agreed-to portion of the actual, eligible and approved construction cost. These costs may be in the form of cash, in-kind construction services, or a combination of both. Final construction items that are eligible construction costs will be agreed upon during the pre-design conference. These costs consist of costs from contracts awarded to contractors and eligible Sponsor in-kind construction costs for materials, labor, and equipment. The Sponsor shall provide NRCS documentation to support all eligible construction costs. Construction costs incurred prior to the Sponsor and NRCS signing this agreement are ineligible and will not be reimbursed.
7. Be responsible for 100 percent of all ineligible construction costs and 100 percent of any unapproved upgrade to increase the level of protection over and above that described in the DSR.
8. Account for and report FA and TA expenditures separately in order for expenses to be eligible for reimbursement. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for TA and one for FA, requiring this separation.
9. The contracts for design services and construction described in this Agreement shall not be awarded to the Sponsor or to any firm in which any Sponsor's official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.

10. For in-kind construction services (materials, labor, and/or equipment supplied by the Sponsor), develop a Plan of Operations describing the construction services to be performed including estimated quantities and values. The Plan of Operations shall be concurred in by NRCS at the pre-design conference. In-kind construction services for equipment shall not exceed published FEMA equipment rates unless otherwise documented and concurred in advance by NRCS.
11. The following documentation is required to support the Sponsor's request for reimbursement of in-kind construction services:
 - a. Invoices covering actual costs of materials used in constructing the eligible EWP project measures.
 - b. Records documenting the type, quality, and quantities of materials actually used in constructing the eligible EWP project measures.
 - c. Daily time records for each employee showing name, classification, wage rate, hours, and dates actually employed for constructing the eligible EWP project measures.
 - d. Equipment operating records showing the type and size of equipment, hourly rate, actual hours of operation and dates used to install the eligible EWP project measures. Equipment idle time is not eligible in-kind construction services, even if on the job site, and should not be included in the equipment operating records.
12. Ensure that any special requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.
13. The Sponsor must secure at its own expense all Federal, State, and local permits and licenses necessary for completion of the work described in this agreement as well as any necessary natural resource rights and provide copies of all permits and licenses obtained to NRCS.
14. Will arrange and pay for any necessary location, removal, or relocation of utilities. EWP program regulations prohibit NRCS from reimbursing the Sponsor or otherwise paying for any such costs; nor do the costs qualify as a Sponsor cost-share contribution.
15. Ensure that technical and engineering standards and specifications of NRCS are adhered to during construction of the Project, as interpreted by NRCS Program/Technical Contact. Provide NRCS Program/Technical Contact progress reports as necessary and agreed to. Progress reports should include technical on-site inspections of work accomplished for the period, work planned, results of material tests, deficient work products and/or tests with corrective actions taken, modifications anticipated, technical problems encountered, contractual issues and other relevant information.
16. Ensure that all contractors on NRCS assisted projects are performing their work in accordance with OSHA regulations and the Contract Work Hours and Safety Standards Act (40 USC 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). The Sponsor is responsible for periodically checking the contractor's compliance with safety requirements.

17. Provide PE-certified as-built drawings and quantities for the project. A copy of the as-built drawings will be submitted to the NRCS Program/Technical Contact.
18. Pay the contractor(s) for work performed in accordance with the agreement and submit a SF-270, "Request for Advance or Reimbursement" to the ezFedgrants system or the designated email box below with a copy to the Program/Technical Contact with all documentation to support the request. Final payment request shall be submitted within 90 calendar days of completion of the EWP project measures. Payments will be withheld until all required documentation is submitted and complete.
 - a. The **required supporting documentation for reimbursement of construction costs** include invoices and proof of payment to the contractor showing the items and quantities installed and certified by the engineer of record along with any supporting documentation such as quantity calculations, rock weight tickets, etc.
 - b. The **required supporting documentation for reimbursement of in-kind construction expenses** will include employee time sheets, employee hourly rate, equipment operating logs, equipment hourly rate, and material quantities and invoices.
 - c. The **required documentation for reimbursement of technical and administrative services** will be invoices and proof of payment to consultants and/or employee time sheets along with the employee's hourly rate, hours worked, and date work was performed.
19. Ensure that information in the System for Award Management (SAM) is current and accurate until the final financial report (SF-425) under this award or final payment is received, whichever is later.
20. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of the contract(s) awarded under this Agreement. This includes, but is not limited to disputes, claims, protests of award, source evaluation, and litigation that may result from the Project. Such actions will be at the expense of the Sponsor, including any legal expenses. The Sponsor will advise, consult with, and obtain prior written concurrence of NRCS on any litigation matters in which NRCS could have a financial interest.
21. Sponsor must indemnify and hold NRCS harmless to the extent permitted by State law for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the Sponsor in connection with its acquisition and management of the Emergency Watershed Protection Program pursuant to this agreement. Further, the Sponsor agrees that NRCS will have no responsibility for acts and omissions of the Sponsor, its agents, successors, assigns, employees, contractors, or lessees in connection with the acquisition and management of the Emergency Watershed Protection Program pursuant to this agreement that result in violation of any laws and regulations that are now or that may in the future become applicable.
22. Retain all records dealing with the award and administration of the contract(s) for 3 years from the date of the Sponsor's submission of the final request for reimbursement or until final audit findings have been resolved, whichever is longer. If any litigation is started

before the expiration of the 3-year period, records are to be retained until the litigation is resolved or the end of the 3-year period, whichever is longer. Make such records available to the Comptroller General of the United States or his or her duly authorized representative and accredited representatives of the Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpts, and transcriptions.

23. Be liable to the NRCS for damages sustained by the NRCS as a result of the contractor failing to complete the work within the specified time. The damages will be based upon the additional costs incurred by the NRCS resulting from the contractor not completing the work within the allowable performance period. These costs include but are not limited to personnel costs, travel, etc. The NRCS will have the right to withhold such amount out of any monies that may be then due or that may become due and payable to the Sponsor. This liability is not applicable to the extent that the contract performance time is extended by court judgment unless such judgment results from actions of the Sponsor not concurred in by NRCS.
24. Take necessary legal action, including bringing suit, to collect from the contractor any monies due in connection with the contract, or upon request of NRCS, assign and transfer to NRCS any or all claims, demands, and causes of action of every kind whatsoever that the Sponsor has against the contractor or his or her sureties.
25. Submit performance reports on an annual basis to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division staff via email to: FPAC.BC.GAD@usda.gov. Reports are due 30 calendar days after the reporting period and are based on the agreement period of performance start date.
26. Submit SF-425 Financial Reports on a semi-annual basis to ezFedGrants or to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: FPAC.BC.GAD@usda.gov. Reports are due 30 calendar days after the reporting period on July 31 and January 31. Please note that financial reporting is based on the calendar year.
27. Submit payment requests to ezFedgrants or to the Farm Production and Conservation(FPAC) Grants and Agreements Division via email to: FPAC.BC.GAD@usda.gov on a monthly or quarterly basis. Refer to the General Terms and Conditions for more information regarding payment requests.

B. NRCS will—

1. Assist Sponsor in establishing design parameters; determine eligible construction costs during the pre-design conference.
2. Designate a Government representative (GR) to serve as liaison with the Sponsor and identify that person's contact information with this executed agreement.
3. Review, comment and concur in preliminary and final plans, specifications, O&M Plan, Plan of Operations (if required) and QAP.

4. Make periodic site visits during the installation of the EWP project measures to review construction progress, document conformance to engineering plans and specifications, and provide any necessary clarification on the Sponsor's responsibilities.
5. Upon notification of the completion of the EWP project measures, NRCS shall promptly review the performance of the Sponsor to determine if the requirements of this agreement and fund expenditures as agreed have been met.
6. Make payment to the Sponsor covering NRCS' share of the cost upon receipt and approval of Form SF-270 and supporting documentation, withholding the amount of damages sustained by NRCS as provided for in this agreement. In the event there are questions regarding the SF 270 and supporting documentation, NRCS will contact the Sponsor in a timely manner to resolve concerns.

C. MUTUALLY AGREED

1. The furnishing of financial, administrative, and/or technical assistance above the original funding amount by NRCS is contingent on there being sufficient unobligated and uncommitted funding in the Emergency Watershed Protection Program that is available for obligation in the year in which the assistance will be provided. NRCS may not make commitments in excess of funds authorized by law or made administratively available. Congress may impose obligational limits on program funding that constrains NRCS's ability to provide such assistance.
2. In the event of default of a construction contract awarded pursuant to this agreement, any additional funds properly allocable as construction costs required to ensure completion of the job are to be provided in the same ratio as construction funds are contributed by the parties under the terms of this agreement. Any excess costs including interest resulting from a judgment collected from the defaulting contractor, or his or her surety, will be prorated between the Sponsor and NRCS in the same ratio as construction funds are contributed under the terms of the agreement.
3. Additional funds, including interest properly allocable as construction costs as determined by NRCS, required as a result of decision of the CO or a court judgment in favor of a claimant will be provided in the same ratio as construction funds are contributed under the terms of this agreement. NRCS will not be obligated to contribute funds under any agreement or commitment made by the Sponsor without prior concurrence of NRCS.
4. The State Conservationist may make adjustments in the estimated cost to NRCS set forth in this agreement for constructing the EWP measures. Such adjustments may increase or decrease the amount of estimated funds that are related to differences between such estimated cost and the amount of the awarded contract or to changes, differing site conditions, quantity variations, or other actions taken under the provisions of the contract. No adjustment will be made to change the cost sharing assistance provided by NRCS as set forth in this agreement, nor reduce funds below the amount required to carry out NRCS' share of the contract.
5. Except for item 4. above (last sentence), this document may be revised as mutually agreed through a written amendment duly executed by authorized officials of all signatory parties to this agreement.

6. NRCS, at its sole discretion, may refuse to cost share should the Sponsor, in administering the contract, elect to proceed without obtaining concurrence as set out in this agreement.
7. Once the project is completed and all requests for reimbursement submitted, any excess funding remaining in the agreement will be de-obligated from the agreement.
8. If inconsistencies arise between the language in the Statement of Work (SOW) in the agreement and the general terms and conditions, the language in the SOW takes precedence.

EXPECTED ACCOMPLISHMENTS AND DELIVERABLES

1. Prepare design, construction specifications, and drawings in accordance with standard engineering principles that comply with NRCS programmatic requirements; and/or contract/install the designed construction. Any design services will be by a professional registered engineer. Sponsor will obtain NRCS review and concurrence on the design, construction plans, and specifications. The Sponsor must ensure description of work is reviewed, concurred, and approved by NRCS. A copy of the final signed and sealed plans and specifications shall be provided to NRCS.
2. Contract for services and construction in accordance with the Code of Federal Regulations (CFR), 2 CFR § 200.317 through 200.326, applicable State regulations, and the Sponsor's procurement regulations, as appropriate. (See general terms and conditions attached to this agreement for a link to the CFR.) In accordance with 2 CFR § 200.326, contracts must contain the applicable provisions described in Appendix II to Part 200. Davis-Bacon Act would not apply under this Federal program legislation.
3. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Sponsor will notify NRCS of environmental clearance, modification of construction plans, or any unresolved concerns as well as copies of all permits, licenses, and other documents required by Federal, state, and local statutes and ordinances prior to solicitation for installation of the EWP project measures. All modifications to the plans and specifications shall be reviewed and concurred on by NRCS.
4. Prepare and submit for NRCS concurrence an Operation and Maintenance (O&M) Plan, if applicable, prior to commencement of work. The O&M Plan shall describe the activities the Sponsor will do to ensure the project performs as designed. Upon completion of the project measures, the Sponsor shall assume responsibility for O&M.
5. Prior to commencement of work and/or solicitation of bids, submit for NRCS review and concurrence a Quality Assurance Plan (QAP). The QAP shall outline technical and administrative expertise required to ensure the EWP project measures are installed in accordance with the plans and specifications, identify individuals with the expertise, describe items to be inspected, list equipment required for inspection, outline the frequency and timing of inspection (continuous or periodic), outline inspection procedures, and record keeping requirements. A copy of the final QAP shall be provided to NRCS prior to commencement of construction.
6. Provide construction inspection in accordance with the QAP.

AGREEMENT ID: NR204532XXXXC045

SPONSOR: Cumberland County ROUND 1

PROJECT: EWP – Locally Led FA-TA

7. Arrange for and conduct final inspection of completed project with NRCS to determine whether all work has been performed in accordance with contractual requirements.
Provide a PE certification that the Project was installed in accordance with approved plans and specifications.

RESOURCES REQUIRED:

As stated in this agreement.

AGREEMENT ID: NR204532XXXXC045
SPONSOR: Cumberland County ROUND 1
PROJECT: EWP – Locally Led FA-TA

MILESTONES

Milestones shall include, but not limited to, the following items:

1. Pre-design/construction conference within 30 days of signing agreement.
2. Submit to NRCS a schedule with time lines of major items to be completed within 30 days of the pre-design conference.
3. Acquire needed real property rights and permits prior to start of construction.
4. Complete any necessary engineering surveys (for sites identified as requiring NC PE sealed designs).
5. Complete draft engineering plans and specifications for NRCS review (for sites identified as requiring NC PE sealed designs).
6. Complete final engineering plans and specifications (for sites identified as requiring NC PE sealed designs).
7. Complete quality assurance plan and operation and maintenance plan (for sites identified as requiring NC PE sealed designs).
8. Solicit bids.
9. Award contract.
10. Manage construction contract and provide quality assurance as described in the QAP.
11. Provide 30-day progress reports at timely intervals
12. Provide final inspection.
13. Complete as-built drawings and/or final report.
14. Submit final payment.



ASSISTANT COUNTY MANAGER - ENVIRONMENTAL/ COMMUNITY SAFETY

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

DATE: 12/2/2020

**SUBJECT: STATEMENT OF WORK AND COMMUNICATIONS EQUIPMENT AND
SERVICES AGREEMENT FOR ELEVEN MOTOROLA MCC7500
DISPATCH CONSOLES FOR 500 EXECUTIVE PLACE**

Requested by: AMY H. CANNON, COUNTY MANAGER

**Presenter(s): TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

BACKGROUND

In order to avoid mark-up costs, certain fixtures, furnishing, and technology for the new Cumberland County Emergency Services Center will be purchased directly by the County. This includes eleven (11) Motorola Dispatch Consoles. These consoles are not being placed for bid and must be purchased from Motorola in order to be compatible with existing radio infrastructure. Staff was recently made aware that Motorola will extend a substantial discount on the eleven consoles through December 28, 2020 totaling \$443,607. Attached is a Statement of Work and Communications Equipment and Services Agreement from Motorola Solutions which details the specifications and types of equipment to be provided with the consoles.

Construction bids are due back to the County on December 17, 2020, but staff is asking that the purchase of the consoles be approved in order to take advantage of the vendor discount.

The total cost for the eleven consoles is \$1,593,607 before the discount and consists of the following:

- Console and Control Stations: \$1,159,059
- Installation/System Integration Services: \$434,547

The discounted price from Motorola Solutions, which expires December 28, 2020, is \$1,150,000 (a savings of \$443,607). Funds are available and budgeted for this purchase under the 500 Executive Place Project.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the Statement of Work, and the Communications and Equipment Services Agreement, and approval to make the sole source purchase from Motorola. Staff requests this be moved forward as a Consent Agenda Item to the December 21, 2020 Board of Commissioner's Meeting.

ATTACHMENTS:

Description	Type
Motorola SOW & Service Agreement	Backup Material

MCC7500 CONSOLES



The design, technical, and cost information furnished with this proposal is proprietary information of Motorola Solutions, Inc. (Motorola). Such information is submitted with the restriction that it is to be used only for the evaluation of the proposal, and is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the proposal, without the express written permission of Motorola Solutions, Inc.

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MOTOROLA SOLUTIONS

Motorola Solutions, Inc.
1303 E. Algonquin Rd.
Schaumburg, IL 60196
USA

Tel. + 1 847 576 5000
Fax + 1 847 538 6020

11/12/2020

Gene Booth
Cumberland County Emergency Services
131 Dick St
Fayetteville, NC 28301

Subject: MCC7500 Consoles

Dear,

Motorola Solutions, Inc. ("Motorola") is pleased to have the opportunity to provide Cumberland County with quality communications equipment and services. The Motorola project team has taken great care to propose a solution that will meet your needs and provide unsurpassed value.

To best meet the functional and operational specifications of this solicitation, Motorola's solution includes a combination of hardware, software, and services. Specifically, this solution is for MCC7500 console equipment and provides:

- Eleven MCC7500 console operator positions with conventional channel gateway equipment

We thank you for the opportunity to furnish Cumberland County with "best in class" solutions and we hope to strengthen our relationship by implementing this project. Our goal is to provide you with the best products and services available in the communications industry.

Sincerely,

Motorola Solutions, Inc.

[Scott Hopkins]
[Motorola Solutions VP]

STATEMENT OF WORK

Motorola is proposing to Cumberland County the installation and configuration of the following equipment at the specified locations.

Site Name	Major Equipment
Cumberland County Operation Dispatch Center	MCC7500 Console equipment with CSC and CCGW, Eleven console operator positions.

The document delineates the general responsibilities between Motorola and Cumberland County as agreed to by contract.

1.1 MOTOROLA RESPONSIBILITIES

Motorola's general responsibilities include the following:

- Perform the programming and optimization of the Motorola supplied equipment described above.
- Schedule the programming and optimization in agreement with Cumberland County.
- Provide Cumberland County with the appropriate system interconnect specifications.

1.2 CUMBERLAND COUNTY RESPONSIBILITIES

Cumberland County will assume responsibility for the installation and performance of all equipment and work necessary for completion of this project that is not provided by Motorola. Cumberland County's general responsibilities include the following:

- Provide all buildings, equipment shelters, and towers required for installation
- Cumberland County personnel shall install all console operator dispatch and related backroom network equipment.
- Cumberland County personnel will provide and install all required network and peripheral equipment and cables. These to include any KVM extension cables that may be required.
- Insure communications sites meet space, grounding, power, and connectivity requirements for the installation of all equipment.
- Obtain all licensing, site access, or permitting required for project implementation.
- Obtain frequencies or FCC licenses for project as required.
- Provide required Ethernet interconnections to the appropriate VIPER P25 Master Site.
- Provide adequate physical space, HVAC and electrical requirements at all locations for the new equipment
- Motorola will assist Cumberland County with technical requirements and specifications for site links.
- Cumberland County will provide a dedicated delivery point, such as a warehouse, for receipt, inventory and storage of equipment prior to delivery to the site(s).
- Coordinate the activities of all Cumberland County's vendors or other contractors.



1.3 ASSUMPTIONS

Motorola's proposal on information gathered from meetings with Cumberland County and an analysis of their existing system and requirements. All assumptions have been listed below for review. Should Motorola's assumptions be deemed incorrect or not agreeable to Cumberland County, a revised proposal with the necessary changes and adjusted costs will be required. Changes to the equipment or scope of the project after contract will require a change order.

- Eleven (11) new MCC7500's console positions are provided to be located at the Cumberland County 911 Operations Center. The County's existing system will also include equipment to operate up to twenty four (24) conventional radio resources.
- Instant Recall Recorder software for each operator position is included.
- One twenty two (22) inch touch screen monitor display is included for each operator position
- The standard console spare equipment package is included for the Dispatch Center
- A Conventional Site Controller is supplied to operate the console in backup mode in the event of a Master Site link failure
- The VIPER System Manager must approve the addition of all consoles or new talk groups for Cumberland County. Cumberland County shall work directly with VIPER personnel to obtain any working agreements or documentation that may be required regarding use of the VIPER system as well as connection of the MCC7500 consoles.
- VIPER Master Site License expansion costs required for the consoles are included.
- Consoles utilized on the VIPER system will operate on version 7.17.3 ASTRO P25 system release. Cost for future system upgrades of the consoles are not included in the equipment but will be provided as part of the proposal. VIPER console users must maintain console release versions that are current with the VIPER system release.
- The Cumberland County console site will require Ethernet connectivity with the designated VIPER Zone Master Site. Obtaining Ethernet connectivity as well as any recurring costs for connectivity to VIPER shall be the responsibility of Cumberland County. Motorola will provide Cumberland County with the Ethernet requirements and specifications for the console to Master Site link.
- IP logging recorder equipment and analog telephony logger are provided with this quote and requires confirmation of specifications with Cumberland County.
- One (1) Archiving Interface Server (AIS) and Firewall are provided that would interface with an IP radio logger voice recorder. The IP logging recorder is used for long term recording of VIPER trunked radio traffic as well as conventional radio stations that connect to the consoles.
- Twenty (20) new All Band APX Control stations are provided to serve as backup for Primary Viper talk groups in the event of a Master Site link failure.
- No towers, shelters, generators or UPS devices are included in this pricing.
- The pricing quoted assumes adequate physical space, HVAC and electrical requirements at all locations for the new equipment.



DESCRIPTION

Motorola is proposing a communications solution for Cumberland County, North Carolina that details implementation of a Motorola P25 MCC7500 IP consoles. Eleven new MCC7500 console operator positions will be provided and installed at the new Cumberland County dispatch facility. The consoles will join the VIPER statewide radio network system and have leased Ethernet links to the VIPER P25 Master Site. Motorola has developed a comprehensive design and implementation plan based on the needs of Cumberland County. The integration plan accounts for how console equipment will be installed.

The system design consists of a MCC7500 IP based Consoles to be located at the Main 911 Dispatch facility as requested by the customer. The proposal provides eleven operator position MCC7500 IP based Consoles at the 911 Dispatch. Consoles are anticipated to be utilized and connected with the statewide VIPER P25 radio network Master Core designated by Viper. Conventional Channel Gateway (CCGW) equipment is provided to control up to forty (40) conventional resources (911 Dispatch) for use with the respective MCC7500 console locations. Examples of conventional resources are backup 800 MHz resources for VIPER, conventional UHF, and VHF channel resources.

A Conventional Site Controller (CSC) is supplied at each of the locations to operate the console in backup mode in the event of a Master Site link failure.

Software based Instant Recall voice recorder systems will be installed on each operator position computer at each respective location. This will allow for recall of recordings of recent voice traffic by the dispatch operator. This system is not a replacement for and does not provide functionality of a long-term voice recorder or recording storage system. Long-term voice recording equipment or IP recording equipment is not part of this quotation.

Advantages of connecting with a VIPER Core

- MCC7500 Consoles connected to Viper eliminates the need for the console owner to purchase a core or master site. The consoles joining Viper use a customer leased Ethernet connection to the appropriate Viper core or Master site. The consoles utilize the Viper Master site for operation and configuration.
- Consoles joining Viper join the Viper statewide P25 network and have access to many Viper and county mutual aid and interoperable response talk groups as well as other county talk groups without the need to purchase control stations to access the talk groups.
- Directly connected consoles to cores employ mission critical public safety features such as console priority and full duplex operation that allow dispatchers to have priority over field users and enjoy enhanced receive audio processing.

In addition to the robust feature sets that are available with MCC 7500 consoles the user joins the statewide P25 radio network that also consists of approximately 50 dispatch centers across the state. This network allows for greater flexibility during disaster and disaster response scenarios. Console configurations can be quickly developed and loaded allowing affected areas to relocate dispatch center operations, quickly add any required talk groups, and maintain communications to local and visiting mutual aid personnel via the Viper P25 system. A county's console site user profile can be loaded at other MCC7500 Dispatch Centers that are connected to Viper allowing



the foreign dispatch center in the equipment to technically serve as a backup radio dispatch center for the affected dispatch center.

2.1 COMMUNICATIONS CONSOLES

The MCC 7500 consoles are Motorola's mission critical IP console supporting our ASTRO 25 network, and is the most advanced offering in our line of radio dispatching products.

The MCC 7500 console features Motorola's proven Gold Elite graphical user interface (GUI). Key information and critical functions are clearly identified with easy to understand icons. Dispatchers can quickly recognize these icons instead of reading text, thus maximizing their productivity.

The critical tools users need to communicate with field personnel are at their fingertips. Dispatchers can quickly see information about who is calling, the time and call type. Channels or talkgroups are displayed in on-screen "folders" for prioritization. Flashing red indicators easily identify incoming emergencies.

The MCC 7500 Dispatch Console equipment consists of a family of products that work together through the ASTRO 25 system IP network to enable dispatchers to communicate to users in the field as well as manage dispatching resources and channels.

- The MCC 7500 Dispatch Console is an IP-based radio dispatch console. It can manage trunked audio, conventional audio and paging tones.
- The Conventional Channel Gateway provides an IP interface for analog and digital conventional systems, allowing dispatchers to communicate with these resources through the MCC 7500 dispatch console.
- The Aux I/O allows dispatchers to monitor and/or control the statuses of external devices via relay closures and input buffers.
- The Conventional Site Controller supports continued communication between and operation of the various components of a dispatch console site in the event the site loses communications with the radio network controller.

New Motorola MCC7500 IP based console equipment that is utilized with the Motorola P25 radio systems will be installed at the Cumberland County Dispatch facility. The new console equipment will consist of eleven operator positions at the dispatch center. The consoles will use conventional channel gateways (CCGW) to operate conventional channels and control stations for existing systems communications and interoperability requirements.

Upon implementation, the CCGW equipment will support interoperability, backup and conventional operation. The consoles will have a direct connection to the VIPER Master site. This connectivity will support wide area P25 operation for the consoles.

2.2 MCC 7500 CONSOLES

The Motorola MCC 7500 Dispatch Console is Motorola's high-tier, mission-critical IP radio Dispatch Console equipment.

Many of the features in the CENTRACOM Gold Series Elite product are carried forward to the Motorola MCC 7500 Dispatch Console.



In addition to these legacy features, the Motorola MCC 7500 Dispatch Console product line can provide new features. Some of the more important new features include:

- Seamless integration with ASTRO® 25 trunking systems.
- Supports the IP protocols of the ASTRO® 25 system's transport network, so MGEGs and AEBs are no longer needed to interface the Dispatch Consoles to a trunking system, and no CEB is needed for conventional systems.
- Encryption and decryption in the dispatch positions which allows true end-to-end encryption in the radio system.
- Remote centralized end-to-end key management using over the Ethernet keying (OTEK).
- Configuration of the MCC 7500 Dispatch Consoles through the radio system's centralized configuration subsystem allowing for a single point for configuring the radio system.
- Management of the MCC 7500 Dispatch Consoles through the radio system's centralized network management subsystem allowing a single point for managing faults, accounting, performance, and security of the radio system.
- Centralized and/or distributed logging of conventional and trunked radio audio, associated radio call information, and certain radio system events.

Motorola's MCC 7500 Dispatch Consoles consists of:

- MCC 7500 Dispatch Console
- MCC 7500 Archiving Interface Server (AIS)
- Logging Recorder
- Auxiliary Input & Output (Aux I/O) Server
- Conventional Channel Gateway (Analog and Digital)
- Conventional Site Controller

Motorola MCC 7500 Dispatch Console equipment connects directly to the system's IP transport network. It uses the IP packet protocols for passing call control data and call audio through the system.

Dispatch Consoles

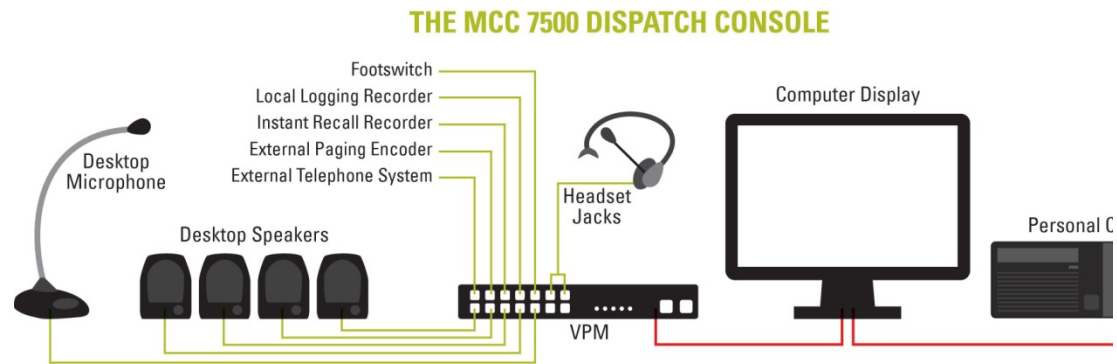
The MCC 7500 Dispatch Console equipment consists of the MCC 7500 Dispatch Console (and its associated peripheral hardware), the MCC 7500 Archiving Interface Server (and its associated logging recorder and replay station), the Conventional Channel Gateway (CCGW) (also known as the conventional base station interface) either analog or digital, and the Aux I/O server.

In addition, Active Directory Domain Controllers are required for a console with MCC 7500 Dispatch Consoles. The Domain Controller is needed to support Domain Name Server (DNS) and Active Directory services for the MCC 7500 Dispatch Consoles. The controllers are located at the P25 Master Site.

Each dispatch console registers and affiliates with the central controller. This affiliation procedure manages intra- and inter-zone (trunking only) traffic flow. Call traffic is routed only to a dispatch console which is actively monitoring that group. Consequently, every dispatch console in the system must be assigned a unique ID, just as each radio has its own unique ID. Aux I/Os allow customers to



control external devices through relay closures and sense the state of external devices through input buffers from the MCC 7500 Dispatch Console.



2.3 MCC 7500 DISPATCH CONSOLE WITH VPM OVERVIEW

The MCC 7500 Dispatch Console is a Mission Critical IP command and control solution designed to provide optimal quality audio and reliable communication. A dispatch console or “console position” interfaces directly to the IP network to support communication and administration activities for trunked and conventional radios.

Each console operator can be setup to monitor talkgroups, multi-groups, and channel resources. Additionally, the MCC 7500 console can be established to provide end-to-end voice encryption for secure communication, priority handling of emergency calls, and Agency Partitioning depending on your system architecture and system implementation.

2.3.1 Console Site Architectures

A console site in the MCC 7500 Dispatch Console subsystem can have one or more console operator positions. The location of the dispatch console, the system architectures it supports and customer requirements determine the equipment included at a console site. The console site can be found in one of the following site architectures:

- **Console Site** - co-located at a Master Site
- **Remote Console Site** - co-located at a Conventional RF Site
- **Remote Console Site**
- **Remote Console Site at a Distributed Conventional Hub Site in a Conventional Subsystem**

Console sites are designated as co-located or remote based on how they interface to the masterSite (zone core). A console site is considered co-located if the site’s Ethernet LAN switch is connected directly to a port on one of the master site LAN switches. Up to four console sites can be co-located at a master site that includes two master site LAN switches.

Remote Console Sites require a console site router or Site Gateway device and are connected to the zone core through a Wide Area Network (WAN) link. Large control rooms with many dispatch consoles may be divided into two or more console sites to support performance and availability requirements.



2.3.2 Dispatch Consoles

A Console Site can contain various Dispatch Console Subsystems each consisting of various different components depending on the console site architecture and features purchased. Dispatch console operator positions can share some of the subsystem equipment at a console site. A Dispatch Console Subsystem could contain any of the following equipment:

- MCC 7500 Dispatch Console Operator Position (a Windows-based platform)
- Voice Processor Module (VPM) for each operator position – Interface to peripheral equipment
- Peripheral Equipment: Speakers, Microphones, other peripherals
- Archiving Interface Server (AIS) – interface support for the console and logging equipment
- Logging Recorders and Replay stations – for audio and information archiving
- Aux I/O Servers – an interface external components with the console
- Ethernet LAN Switch – Remote Console Site
- Site Router or Site Gateway devices (for a Remote Console Site)

Equipment at a remote site that would not be considered part of the dispatch console subsystem but might be co-located with the dispatch console subsystem could include, but may not be limited to, the following:

- Network Time Protocol source
- Conventional Channel Interface devices (routers or site gateway devices)
- Conventional Base Radios
- Conventional Site Controller

Each Console Operator Position has a dedicated VPM which interfaces to the Ethernet LAN Switch at the console site. Additionally, if the Audio Logging is implemented, the Archiving Interface Server (AIS) also has a dedicated VPM. The VPM provides all the audio processing services and encryption/decryption services for the VPM-based dispatch console and the AIS which include the following:

- Vocoding services capable of supporting AMBE and IMBE
- Audio processing services - capable of supporting audio level adjustments, summing, filtering, and multiple, simultaneous audio streams.
- Encryption and decryption services - Capable of supporting multiple simultaneous encryption/decryption sessions using multiple algorithms and multiple secure keys.

2.3.3 Dispatch Console — Operator Position

The MCC 7500 Dispatch Console consists of a Motorola-certified tower PC with built-in LAN connection, a monitor, and the operator interface.

The computer used in the MCC 7500 Dispatch Console Operator position uses the Microsoft® Windows Vista® Business edition Operating System and Motorola software to provide call processing services through a graphical user interface (GUI).

The MCC 7500 Dispatch Console includes a suite of Application Programming Interfaces (APIs that may be used by third-party companies to interface Computer-Aided Dispatch (CAD) systems, Non-Motorola dispatch consoles, or other devices with the Motorola radio system.

Dispatch Operator Position





1. Power Button
2. Headset
3. USB 3.0 charging data port
4. USB 3.0 data port

2.3.4 Voice Processor Module (VPM)

The Voice Processor Module (VPM) is a device that combines the functions of a voice card, encryption card, and a general purpose input/output module in an MCC 7500 Console subsystem. The VPM provides the necessary interfaces to connect analog devices to the MCC 7500 digital console and it is responsible for audio routing between the dispatch operator, peripherals, and the local network. It contains both digital and analog (audio) circuits to support the secure and clear voice processing.

The low-profile VPM can be rack mounted, console furniture mounted or placed on the desktop. The VPM communicates with the console operator position computer over Ethernet. The VPM can be up to 100 Meters (328 feet) from the Ethernet switch. This allows the operator position computers to be installed in a separate computer room and the VPM to be at the operator position.

VPM Front View



2.3.5 MCC 7500 VPM Peripherals

MCC 7500 VPM works with the following peripherals:

- One desktop microphone
- Two headset jacks
- Eight desktop speakers
- One logging recorder
- One radio instant recall recorder
- One telephone instant recall recorder
- One external telephone set
- One external paging encoder
- One footswitch
- One generic transmit audio input

2.3.6 Desktop Speakers

The VPM can support up to eight speakers. Each speaker on a dispatch console contains unique audio. That is, an audio source cannot appear in multiple speakers at a single dispatch console.

Desktop Speaker



The speaker is a self-contained unit that is placed on a desktop, mounted in a rack/furniture, mounted on a wall, or mounted on a computer monitor. It contains an amplifier that provides a maximum of 2 Watts of power. The VPM provides power for the speakers through its interconnecting cable. A mounting bracket is included with the speaker. The speaker is designed for use near computer monitors.

The speaker provides the user with a continuous volume control. This serves as a master volume control for all the audio that appears in the speaker. When the user adjusts this volume control, all the audio in the speaker is increased or decreased by the same amount. The speaker is configured to provide either full muting or a fixed level (determined by the hardware and not user adjustable) when its volume control is set to its minimum level. The cable supplied with the speaker contains one end with two of the pins shorted together. When plugged into the speaker, this end causes the minimum volume to be set to full mute. If the other end of the cable is plugged into the speaker, the minimum volume is set to the minimum level.

2.3.7 Desk Microphone

The VPM is capable of supporting a desktop microphone. The desktop microphone contains a microphone cartridge on a flexible shaft and two buttons in its base. One button controls the General Transmit feature. The other button controls the Monitor feature.

Gooseneck Microphone



The desk microphone is permanently fastened down, or it is left loose so the dispatch console user can pick it up while using it. The 18-inch long, flexible shaft allows the base to be placed behind a keyboard or writing area and still be able to position the microphone head within a few inches of the speaker's mouth.

If a desk microphone is connected to a dispatch console while no headsets are connected, the desk microphone is active whenever any transmit function is active.

If a desk microphone is connected to a dispatch console while one or two headsets are connected, the desk microphone is only active during a transmit function if its transmit button is pressed. This prevents the desk microphone from picking up unwanted background sound while the dispatch console user is using a headset to transmit.

The microphone head is compatible for use with CRT monitors.

2.3.8 Footswitch

The VPM can support a single footswitch, which can contain either one or two pedals:

- If a footswitch with one pedal is used, the pedal controls the General Transmit feature.
- If a footswitch with two pedals is used, one pedal controls the General Transmit feature and the other controls the Monitor feature.

The footswitch allows users to operate these features with their feet so their hands are freed for other tasks. If desired, the footswitch is permanently fastened to the floor.

MCC 7500 Footswitch



2.3.9 Instant Recall Recorder Port (for Radio)

The Instant Recall Recorder (IRR) port (for radio) allows an instant recall recorder to be connected to a dispatch console. The port provides an RJ45 connector with a 600 Ohm analog audio output containing the receive radio audio on the selected channels. Tones generated by the dispatch console (For example, emergency tones, callback tones, and busy tones) are not included in the audio output. In this way, they do not interfere with a dispatch console user's ability to understand the voice audio that is recorded.

No playback speaker input or recording control line output are provided on the port. Generally, the third-party instant recall recorder provides these functions.

Short-term, console-specific audio recording is a mechanism used to record a portion of the inbound audio present on a specific dispatch console and make it readily available to the dispatch console user. This recorded audio is retained by the recording system for a short period of time (typically about 60 minutes) and is easily played back by the dispatch console user, which allows the dispatch console user to replay received audio that might have missed.

2.3.10 External Paging Encoder Port

The External Paging Encoder Port feature allows an external tone paging encoder to be used with a dispatch console to provide tone paging services. Paging tones generated by the encoder are transmitted by the dispatch console on the selected conventional radio resource(s). If a user wants to send paging tones on an ASTRO® 25 Conventional channel, an external paging encoder is required. This feature has an RJ45 connector with an analog 600 Ohm audio input to which the paging tones are applied. A Paging Push-to-Talk (PTT) input enables a dry contact closure to be applied that indicates when the dispatch console should transmit the tones on the radio channel(s).

When the dispatch console sees the Paging PTT input go active, it transmits the audio appearing at the audio input on the selected conventional channel(s). If PL Stripping is enabled on a conventional channel, the PL is stripped when the paging tones are transmitted. No de-emphasis filtering is performed and no talk extend is provided with externally generated tones. Generally, the external paging encoder provides these functions.

2.3.11 Local Logging Recorder Port

The Local Logging Recorder Port allows an external logging recorder to be connected to a dispatch console. The port provides an RJ45 connector with a 600 Ohm analog output. The audio that appears on this output is configured and is typically the audio that is transmitted and/or received at that dispatch console.

The configuration of audio presented at this port is tied to the physical dispatch console, so that no matter what user is logged on the dispatch console, the same type of audio is logged. This configuration is done as part of configuring the dispatch console at the radio system's network manager. The local logging recorder port is configured to log any combination of the audio sources listed below:

- Audio received from the currently selected radio resources. The level of this audio is not affected by either the individual volume setting of the radio resource or the master volume control on the speaker or headset jack.
- Microphone audio being transmitted to the currently selected radio resources by the operator.

- Microphone audio being transmitted to unselected radio resources by the operator.
- Any tones generated by the dispatch console that appear in its speakers, such as trunking tones and emergency tones.
- Tones generated by an external paging encoder.

Long-term, console-specific audio recording is used to record a portion of the inbound and outbound audio present on a specific dispatch console. This recording is usually done by providing a logging port at the dispatch console and wiring that port to a track of an audio recording device. These recordings are typically archived for long-term storage and provide a historical record of the Radio Communications made at a given dispatch console.

2.3.12 Headset Jacks

The VPM is capable of supporting up to two headset jacks. A headset jack allows a dispatch console user to use a headset while operating the dispatch console. The headset jack supports headsets that use either PJ7 (6-wire) or PJ327 (4-wire) long frame connectors. 6-wire headsets have a PTT button while 4-wire headsets do not have a PTT button. The headset jacks ship from the factory configured for 6-wire headsets. If 4-wire operation is desired, changes must be made inside the headset jack box depending on the version of the headset box.

Headset Jack



The headset jack contains two volume controls:

- For adjusting the level of received radio audio
- For adjusting the level of received telephone audio

A small dimple is molded into the headset jack housing near the telephone volume control so a dispatch console user can tell them apart without having to look at them. The headset jack allows users to use headsets, which both decreases the ambient noise in a control room and reduces the effect of any ambient noise on dispatch console transmissions. This improves the quality of the audio being transmitted from the control room and allows the dispatch console users to hear received audio more clearly.

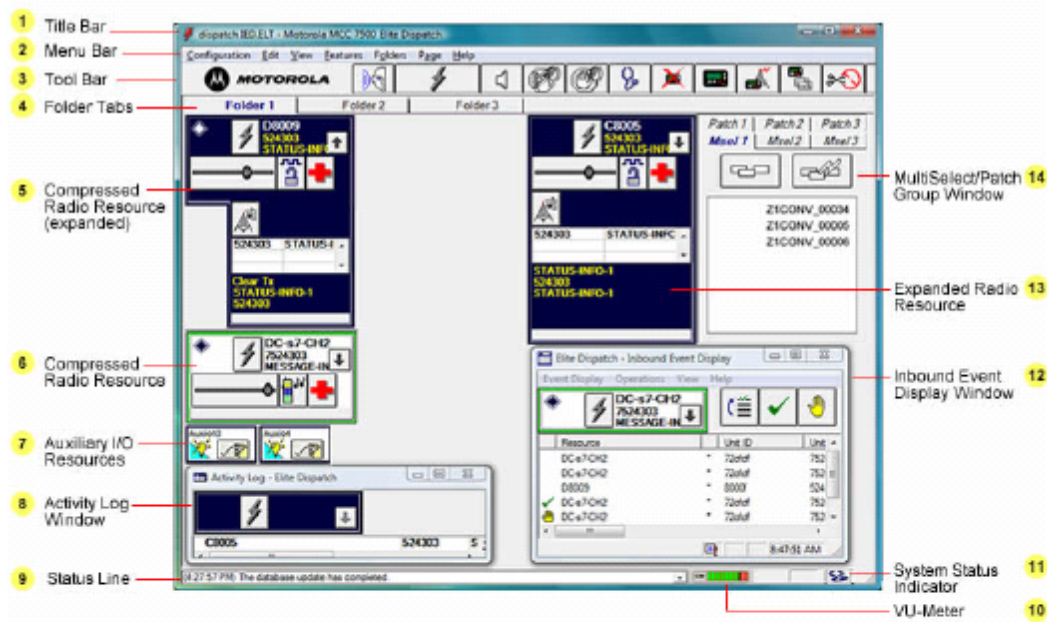
When a headset is plugged into a headset jack, the selected receive audio is typically removed from the speaker(s) and routed to the headset earpiece.

If a telephone set connected to a dispatch console external telephone port is taken off hook while a headset is connected to a dispatch console, the selected radio audio is removed from the headset earpiece and routed to the appropriate speaker(s). The received telephone audio is routed to the headset earpiece. The headset microphone becomes live and its audio is routed to the external telephone set. This allows a dispatch console user to talk and listen on the telephone set in a hands-free full-duplex mode.

The headset jack is mounted either underneath a writing surface or on top of a writing surface. The headset jack is designed with a low profile and rounded edges to minimize “knee banging” when mounted underneath a writing surface.

2.4 MCC7500 ELITE DISPATCH POSITION

2.4.1 Elite Dispatch Main Window



Dispatch Window Elements

- 1 **Title Bar** Shows the name of the configuration currently open.
- 2 **Menu Bar** Displays the menus available in Elite Dispatch. See [Elite Dispatch Menu Options](#) for more information.
- 3 **Toolbar** Toolbars display shortcut buttons for commonly used menu items and features. Toolbar contents are configured by the Administrator. See [Toolbar](#) for more information.
- 4 **Folder Tabs** The resources in a configuration are grouped into folders to simplify desktop organization. Resources in the selected folder appear on the desktop. To select a different folder, choose its folder tab. Only one folder can be selected at a time.

5	Compressed Resource (expanded)	When the operator clicks the drop-down arrow of a compressed resource, a flap is displayed which shows all the features of the resource.
6	Compressed Resource	To conserve screen space, some resources may be compressed. They can be expanded using the drop-down arrow on the compressed resource.
7	Auxiliary I/Os or Auxio Resources	These allow control of an external device (such as a door, light or alarm) monitored by the control center and display its status, usually on/off or open/close.
8	Activity Log	Lists the most recent calls received at the console. This is an optional display which can be disabled by the Elite Administrator. If enabled, the dispatcher can elect to show or hide the Activity Log.
9	Status Line	Displays status and error messages. To see a list of the most recent messages, select the down arrow to the right of the status line. To close the list, select the arrow again.
10	VU-Meter	Appears in the status line and indicates the audio level of incoming or outgoing audio transmissions.
11	System Status Indicator	Appears in the lower right-hand corner of the Elite desktop if there is a change in system status. See System Status Indicator for more information.
12	Event Display Window	Lists events received at the console. This is an optional feature which is configured by the Elite Administrator. If enabled, the dispatcher can elect to show or hide the Event Display window.
13	Expanded Radio Resource	A resource that is set up to always display all features. It is locked so that the set of displayed features cannot be compressed by the dispatch operator.
14	MultiSelect/Patch Group Window	Displays the Multiselect (Msel) and Patch folders associated with the selected configuration, and lists the resources in the currently selected Msel or Patch folder. If the Msel or Patch folder includes a lock icon, the resources included in the group cannot be edited by the Dispatch operator.



VU-Meter

The VU-Meter feature on the Dispatch Console provides a visual indication of audio input/output levels. Using the VU-Meter, a Dispatch user can adjust the volume of the speakers or reposition the microphone for optimal audio levels.

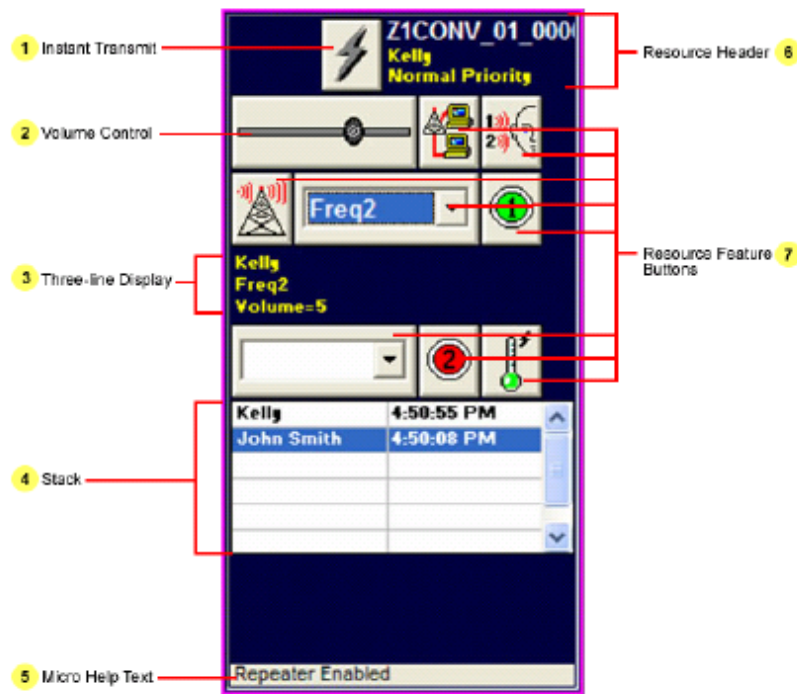
2.4.2 Radio Resource Window

Radio resource windows can be viewed two ways: Expanded View or Compressed View. When a resource is compressed, a small arrow button next to the resource header allows you to expand the window. A resource that has been added to a folder in its *expanded* mode has no arrow button because it always displays all resource feature buttons.

Radio resource windows are configured in the Elite Admin application. The appearance of radio resources in your system may be different, depending upon the features and the arrangement determined by the Administrator.



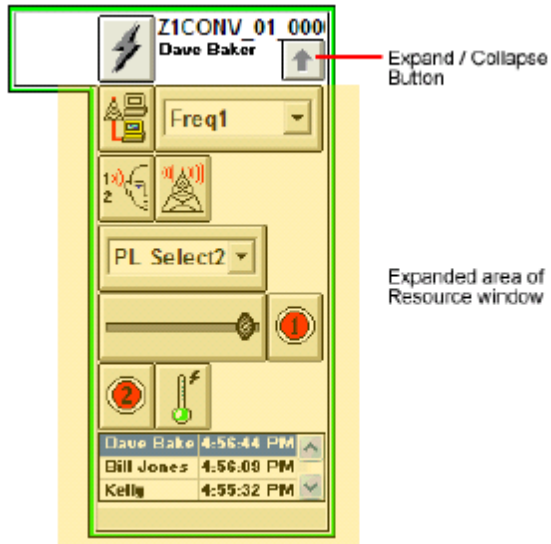
An example of a radio resource window in expanded view



1	Instant Transmit Button	Press and hold this button to send an Instant Transmit to the resource. Changes to red during transmission.
2	Volume Control	Slide control to increase or decrease the volume of the resource's audio. Adjust by dragging the button left or right.
3	Three-line Display	Optional panel on the radio resource and configured by the Administrator. Up to three lines of information specific to this resource can be displayed.
4	Stack	Displays incoming calls to this resource. Calls are listed in chronological order with the newest entry at the top of the list. See the section "Using the Stack" for more information.
5	Micro Help Text	Brief descriptive text displayed as a user moves the mouse over a button or feature on a resource window.
6	Resource Header	Displays up to three lines of information. First line is always the radio name. Lines 2 and 3 are optional and configured by the Administrator.
7	Resource Feature Buttons	Features available for use with a radio resource can be accessed quickly by clicking on the feature buttons included in the window. Features are assigned to resources by the Administrator. To review all the feature buttons, see Radio Resource Features .








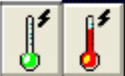

Compressed View

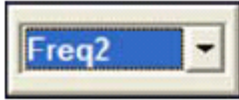







To conserve space on the screen, some resource windows can be displayed in their *compressed* mode. Although compressing resource windows allows the user to fit more on the screen, it also hides some information. Resources that have the ability of showing or hiding more information have an arrow button located in the resource header.

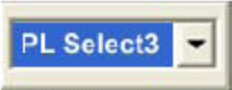

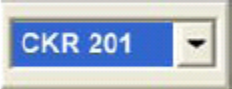








Radio Resource Features

Features available for use with a radio resource can be accessed quickly by clicking the feature buttons included in the Radio Resource window. The features for each resource are configured in the Elite Admin application. The following table describes the feature buttons available in Elite Dispatch console.

Button	Feature Name	Description
	Emergency	Allows the Dispatch operator to quickly respond to an emergency call. When clicked, this button displays the Emergency Quicklist on the operator's console.
	Transmit Mode	Allows the Dispatch operator to select the transmit mode used for outbound transmissions on a specific resource.
	Call Alert	Feature which provides an indication on the console position or radio that a call is requested with a specific unit.
	Private Call	Feature used to establish private communication between a console position and a radio.
	Volume	Volume control on a resource so the Dispatch operator can adjust the audio volume for the radio.
	Stack	A multi-line stack which displays incoming calls on a resource. The left-hand column displays the alias or ID of the initiating radio, the right-hand column is configured by the Administrator.
	Three-line Display	A three-line display on the resource which may be a feature or text. Content on each line is configured by the Administrator.
	Priority Select	Toggle this button to switch between Normal Priority (green) and Tactical Priority (red) for this resource. A dispatch operator may use this feature to assign a higher priority, giving the resource a better chance of gaining communication access during a repeater busy scenario. Only emergency calls have a higher priority than tactical.
	Repeat Enabled/Disabled	Toggle this button to allow the audio received from the base station to be repeated to other subscriber units or whether those received calls will only be heard at console positions.

	Frequency Select	If a resource is equipped with multiple frequencies, the desired frequency can be selected from the frequency select drop-down list.
	Secondary Receiver Muted/Unmuted	<p>Some radios are equipped with a talkaround switch that allows them to transmit to each other without going through the system repeaters. Consoles may have a secondary receiver tuned to the talkaround frequency, allowing the operator to hear talkaround conversations at the console.</p> <p>The Mute Secondary Receiver feature allows the operator to mute the receiver tuned to the talkaround frequency so talkaround conversations cannot be heard at the console.</p>
	Remote Monitor	Remotely command a radio to key-up its microphone and transmit for a short period of time. It is a listen-only mode and the radio shows no indication that it is transmitting. The feature is used if a radio is stolen or if the user is not responding to calls.
	Radio Check	Check if the subscriber unit is functioning on a resource, without causing interruption to the specific unit. It can be used as a routine preventive maintenance check or as a specific action, when the operator has some reason to doubt the availability of the unit.
	Radio Enable/Disable	Enable or disable the subscriber unit remotely. It can be used to disable a stolen or lost unit or to enable a previously disabled unit.
	Status Request	Remotely interrogate a subscriber unit and obtain its current status.
	Voice Sel Call	Communicate with a single console or radio unit without having other units on the same channel listening to the conversation. It eliminates the annoyance of users having to listen to traffic that has nothing to do with them.
	Channel Marker Available/Activated	<p>Activate a channel marker button on a resource to identify a channel as priority and to warn non-critical radio users not to transmit. All parallel Dispatch consoles will see an activated channel marker and any operator position can deactivate it.</p> <p>A single operator position is permitted to activate up to 20 channel markers.</p>

	Private Line Select	If a resource is equipped with Private Line capability, the desired Private Line can be selected from the drop-down list.
	External Controller Enabled/Disabled	Known as "Takeover", this feature allows an operator to take over or cease the communications being initiated from a remote console. The Takeover Switch inhibits or permits the circuit used by these remote positions to communicate with the system. By default, the circuit allowing the remote console to operate is enabled.
	Outbound Secure Key	Available for digital conventional resources only. Allows a Dispatcher to select from a list of encryption keys for secure transmission.
	Wildcards I and II	Similar to the Auxiliary I/O controls, Wildcards can be used to toggle the state of an external control at a base station.
	Main/Alternate Channel control	Allows a Dispatcher to choose which channel is active for a conventional site. The Main/Alternate button may appear on the resource in one of three states: Main channel active, Alternate channel active, Main/Alt state Unknown. (The default button states are shown here.)
	Channel-associated Public Auxiliary I/O	An Auxiliary I/O button may appear on the resource in one of three states: Inactive, Active, or Unknown. (The default button states are shown here.) If the Aux I/O is safety-protected, a  icon appears at the top left side of the Inactive state button.
	Resource not available indicator	The resource status feature is used to inform the operator of the availability of a resource. When the resource becomes fully functional, the indicator is removed.
	Resource partially available indicator	
		For channels capable of analog or digital operation, the partially available indicator means that analog communication on the channel is unavailable; only digital mode communications are available while the resource is in this state.

SECTION 3

EQUIPMENT LIST

This section lists the equipment necessary for the proposed solution.

Consoles

QTY	NOMENCLATURE	DESCRIPTION
1	B1905	MCC 7500 ASTRO 25 SOFTWARE
11	B1933	MOTOROLA VOICE PROCESSOR MODULE
11	CA01642AA	ADD: MCC 7500 BASIC CONSOLE FUNCTIONALITY SOFTWARE LICENSE
11	CA01644AA	ADD: MCC 7500 /MCC 7100 ADV CONVL OPERATION
11	CA01643AA	ADD: MCC 7500 / MCC 7100 TRUNKING OPERATION
11	CA00147AF	ADD: MCC 7500 SECURE OPERATION
11	CA00182AB	ADD: AES ALGORITHM
11	CA00245AA	ADD: ADP ALGORITHM
11	CA00140AA	ADD: AC LINE CORD, NORTH AMERICAN
11	DSEV221B	TECH GLOBAL EVOLUTION SERIES 22INCH WITH TOUCH
11	TT3492	Z2 G4 MINI WORKSTATION NON RETURNABLE
22	B1912	MCC SERIES DESKTOP SPEAKER
11	B1914	MCC SERIES DESKTOP GOOSENECK MICROPHONE
22	B1913	MCC SERIES HEADSET JACK
11	DSTWIN6328A	PROVIDES ONE DUAL PEDAL FOOTSWITCH FOR USE WITH MOTOROLA MCC 7500 DISP
11	DDN2722	DUAL IRR SW USB HASP WITH LICENSE (V51)
11	DSICUSBAUDIO7D	STARTECH 7.1 USB AUDIO ADAPTER SOUND CARD
11	DDN9649	INSTANT RECALL RECORDER CABLE FOR MCC 7500
11	DSLOGITECHZ130	LOGITECH Z130 SPEAKERS
1	T7449	WINDOWS SUPPLEMENTAL TRANS CONFIG
11	T7885	MCAFFEE WINDOWS AV CLIENT
3	CLN1868	2930F 24-PORT SWITCH
3	CLN1866	FRU: 1M DAC CABLE
1	T8492	SITE ROUTER & FIREWALL- AC
1	CA03445AA	ADD: MISSION CRITICAL HARDENING
1	CA03448AA	ADD: STATEFUL FIREWALL
1	F4543	SITE MANAGER BASIC
1	VA00874	ADD: AUX I-O SERV FW CURR ASTRO REL
1	V266	ADD: 90VAC TO 260VAC PS TO SM
3	V592	AAD TERM BLCK & CONN WI
1	T7038	GCP 8000 SITE CONTROLLER
1	CA00717AA	ADD: ASTRO SYSTEM RELEASE 7.17



1	CA00303AA	ADD: QTY (1) SITE CONTROLLER
1	CA01136AA	MCC 7500 CONVEN SITE OPER
1	X153AW	ADD: RACK MOUNT HARDWARE
5	SQM01SUM0205	GGM 8000 GATEWAY
5	CA01616AA	ADD: AC POWER
5	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
2	B1905	MCC 7500 ASTRO 25 SOFTWARE
2	B1933	MOTOROLA VOICE PROCESSOR MODULE
2	CA00288AB	ADD: MCC 7500 ARCHIVING INTERFACE SERVER SOFTWARE LICENSE
2	CA00147AF	ADD: MCC 7500 SECURE OPERATION
2	CA00182AB	ADD: AES ALGORITHM
2	CA00245AA	ADD: ADP ALGORITHM
2	CA00140AA	ADD: AC LINE CORD, NORTH AMERICAN
2	T7885	MCAFEES WINDOWS AV CLIENT
2	T7885	MCAFEES WINDOWS AV CLIENT
2	TT3492	Z2 G4 MINI WORKSTATION NON RETURNABLE
1	DSTG221B	TECH GLOBAL EVOLUTION SERIES 22INCH NON TOUCH
1	T8126	FORTINET FIREWALL APPLIANCE
2	TRN7343	SEVEN AND A HALF FOOT RACK
1	TT2668	10 SIMUL CALL MCC 7500 IP RECORDER
2	TT05784AA	ADD: 10 SIMULTANEOUS CALL CAPACITY
1	TT05782AB	ADD: 10 SIMULTANEOUS CALL REDUNDANT MCC 7500 IP LOGGING RECORDER
2	TT05785AA	ADD: 10 SIMULTANEOUS CALL CAPACITY FOR REDUNDANT RECORDER
2	T7885	MCAFEES WINDOWS AV CLIENT
2	T7885	MCAFEES WINDOWS AV CLIENT
3	TRN7343	SEVEN AND A HALF FOOT RACK
1	DDN9748	19 INCH BLACK SHELF
1	TT3289	PARALLEL TELEPHONY RECORDERS BASE BUNDLE
20	TT06303AA	ADD: PROFESSIONAL RECORDING CHANNEL
1	DDN2110	6TB LFF DRIVE FOR NRX SERVER BUNDLE OR EXPAN
1	B1912	MCC SERIES DESKTOP SPEAKER
1	B1914	MCC SERIES DESKTOP GOOSENECK MICROPHONE
1	B1913	MCC SERIES HEADSET JACK
12	DSST7300U3M	STARTECH 7 PORT USB 3.0 HUB
5	DSF2B56AA	USB EXTERNAL DVD DRIVE
1	B1934	MCC 7500 VOICE PROCESSOR MODULE FRU
1	CA00147AF	ADD: MCC 7500 SECURE OPERATION
1	CA00182AB	ADD: AES ALGORITHM
1	CA00245AA	ADD: ADP ALGORITHM
1	TT3492	Z2 G4 MINI WORKSTATION NON RETURNAB
1	CLN1868	2930F 24-PORT SWITCH
1	CLN1866	FRU: 1M DAC CABLE

1	SQM01SUM0205	GGM 8000 GATEWAY
1	CA01616AA	ADD: AC POWER
1	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
1	T8492	SITE ROUTER & FIREWALL- AC
1	CA03445AA	ADD: MISSION CRITICAL HARDENING
1	CA03448AA	ADD: STATEFUL FIREWALL
1	DLN6966	FRU: GCP 8000/GCM 8000/GPB 8000
1	DLN6781	FRU: POWER SUPPLY
1	SQM01SUM0273	MASTER SITE CONFIGURATION
1	CA02629AC	ADD: EXPAND 7.17 M CORE
3	UA00156AA	ADD: MCC7500 CONSOLE LICENSES (QTY 5)
20	L37TSS9PW1 N	ALL BAND CONSOLETTTE
20	G90	ADD: NO MICROPHONE NEEDED
20	CA01598	ADD: AC LINE CORD US
20	G361	ENH: P25 TRUNKING SOFTWARE APX
20	G51	ENH: SMARTZONE OPERATION APX
20	G806	ENH: ASTRO DIGITAL CAI OP APX
20	L999	ADD: FULL FP W/05/KEYPAD/CLOCK/VU
20	G78	ADD: 3Y ESSENTIAL SERVICE
20	GA00580	ADD: TDMA OPERATION APX
20	GA09001	ADD: WI-FI CAPABILITY CONSOLETTTE
20	GA09007	ADD: OUT OF THE BOX WI-FI PROVISIONING
20	G843	ADD: AES ENCRYPTION APX AND ADP
20	W969	ADD: MULTIPLE KEY ENCRYPTION OPERATION
20	HKN6233C	APX CONSOLETTTE RACK MOUNT KIT
2	DS4383G01A12	CONTROL STATION COMBINER, STANDARD, 746-869 MHZ, 12 CHANNEL
3	TRN7343	SEVEN AND A HALF FOOT RACK
2	DS6640330000	MEGAPLEX-4104 RED 90-260 VAC AND 95-300 VDC,RED CL.2, UTP GE PORT
4	DS7646750000	MEGAPLEX 16 PORT E&M CARD
2	DS4640510000	MEGAPLEX PSEUDOWIRE MODULE, 8 E1/T1 PORTS FOR MP-4100, 3 UTP PORTS
4	DS000DAT0002	MEGAPLEX CBL CONVERT E&M INTRFACE 68-PIN SCSI CONN TO 8XRJ-45

SECTION 4

PRICING

Motorola is pleased to provide the following equipment and services to Cumberland County:

Customer Name
MCC7500 Consoles

09 September 2020
Use or disclosure of this proposal is subject
to the restrictions on the cover page.



Equipment:

MCC7500 IP Consoles and APX Control Stations

\$ 1,159,059.00

Services:

Installation/System Integration Services

\$ 434,547 .00

Equipment and Services Total

\$ 1,593,607 .00

Q4 Discounted Price (Expires 12/28/2020) \$1,150,000.00



COMMUNICATIONS EQUIPMENT AND SERVICES AGREEMENT

Motorola Solutions, Inc. ("Motorola") and Cumberland County, North Carolina ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the Equipment and Services, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

Section 1 ATTACHMENTS

1.1. EXHIBITS. The Exhibits listed below are exhibits related to the Equipment sale and implementation. These Exhibits are incorporated into and made a part of this Agreement.

Exhibit A	"Motorola Software License Agreement"
Exhibit B	"Payment"
Exhibit C	Motorola Proposal dated November 12, 2020
Exhibit D	"Equipment Acceptance Certificate"

1.2. ADDENDUM (ADDENDA). Customer may elect to purchase professional or subscription services in addition to the Equipment and related services. Any such services will be governed by the terms in the main body of the Agreement and an applicable Addendum containing terms specific to such service. Such Addenda will be labeled with the name of the service being purchased.

1.3 ORDER OF PRECEDENCE. In interpreting this Agreement and resolving any ambiguities: 1) the main body of this Agreement takes precedence over the exhibits (unless otherwise specified in an exhibit), and any inconsistency between Exhibits A through D will be resolved in their listed order, and 2) The applicable service Addendum will take precedence over the main body of the Agreement and the Exhibits.

Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

"Acceptance" means the acceptance or verification tests have been successfully completed.

"Acceptance Tests" means those tests described in the Acceptance Test Plan.

"Addendum (Addenda)" is the title of the document(s) containing a specific set of terms and conditions applicable to a particular service or other offering beyond the Communication Equipment and Equipment implementation services. The terms in the Addendum are applicable only to the specific service or offering described therein.

"Administrative User Credentials" means an account that has total access over the operating system, files, end user accounts and passwords at either the system level or box level. Customer's personnel with access to the Administrative User Credentials may be referred to as the Administrative User.

"Beneficial Use" means when Customer first uses the Equipment for operational purposes (excluding training or testing).

"Confidential Information" means all information consistent with the fulfillment of this Agreement that is (i) disclosed under this Agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this Agreement are considered Confidential Information. Confidential Information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked



as confidential or its equivalent.

“Contract Price” means the price for the Equipment and implementation Services, excluding applicable sales or similar taxes and freight charges. Further, unless otherwise stated in Exhibit B, “Payment” or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

“Deliverables” means all written information (such as reports, specifications, designs, plans, drawings, analytics, Solution Data, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under this Agreement. The Deliverables, if any, are more fully described in the Statement of Work.

“Derivative Proprietary Materials” means derivatives of the Proprietary Materials that Motorola may from time to time, including during the course of providing the Services, develop and/or use and/or to which Motorola provides Customer access.

“Effective Date” means that date upon which the last Party executes this Agreement.

“Equipment” means the hardware components of the Solution that Customer purchases from Motorola under this Agreement. Equipment described in Exhibit C.

“Feedback” means comments or information, in oral or written form, given to Motorola by Customer in connection with or relating to Equipment or Services, during the term of this Agreement.

“Force Majeure” means an event, circumstance, or act that is beyond a Party’s reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause.

“Motorola Software” means software that Motorola or its affiliated companies owns.

“Non-Motorola Software” means software that a party other than Motorola or its affiliated companies owns.

“Open Source Software” (also called “freeware” or “shareware”) means software with either freely obtainable source code, license for modification, or permission for free distribution.

“Proprietary Materials” means certain software tools and/or other technical materials, including, but not limited to, data, modules, components, designs, utilities, subsets, objects, program listings, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications which Motorola has developed prior to, or independently from, the provision of the Services and/or which Motorola licenses from third parties.

“Proprietary Rights” means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

“Services” mean system implementation, maintenance, support, subscription, or other professional services provided under this Agreement, which may be further described in the applicable Addendum and/or SOW.

“Software” (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term “Software” does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

“Software License Agreement” means the Motorola Software License Agreement (Exhibit A).

“Software Support Policy” (“SwSP”) means the policy set forth at <http://www.motorolasolutions.com/softwarepolicy>



describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. This policy may be modified from time to time at Motorola's discretion.

"Solution" means the combination of the Equipment(s) and Services provided by Motorola under this Agreement.

"Solution Data" means Customer data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution and Services.

"Specifications" means the functionality and performance requirements that are described in the Technical and Implementation Documents.

"SUA" or "SUA II" means Motorola's Software Upgrade Agreement program.

"Equipment Data" means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

"Warranty Period" for Equipment, Software, or services related to implementation means one (1) year from the date of Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addendum, Warranty Period for other Services means ninety (90) days from performance of the Service.

Section 3 SCOPE OF AGREEMENT AND TERM

3.1. **SCOPE OF WORK.** Motorola will provide, install and test the Equipment, and perform its other contractual responsibilities to provide the Solution, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. **CHANGE ORDERS.** Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price or applicable subscription fees, Performance Schedule, or both, and will reflect the adjustment in a change order or Addendum. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. **TERM.** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the date of Final Project Acceptance or expiration of the Warranty Period, or completion of the Services, whichever occurs last. The term and the effective date of recurring Services will be set forth in the applicable Addendum.

3.4. **ADDITIONAL EQUIPMENT OR SOFTWARE.** For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Agreement, the expiration date of the Agreement, and must specify the pricing and delivery terms. The Parties agree that, notwithstanding expiration of the Agreement, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online ("MOL"), and this Agreement will be the "Underlying Agreement" for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at <https://businessonline.motorolasolutions.com> and the MOL telephone number is (800) 814-0601.

3.5. **MOTOROLA SOFTWARE.** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.



3.6. **NON-MOTOROLA SOFTWARE.** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software.

3.7. **SUBSTITUTIONS.** At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.

3.8. **OPTIONAL EQUIPMENT OR SOFTWARE.** This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

Section 4 SERVICES

4.1. If Customer desires and Motorola agrees to continue Services beyond the Term, Customer's issuance and Motorola's acceptance of a purchase order for Services will serve as an automatic extension of the Agreement for purposes of the continuing Services. Only the terms and conditions applicable to the performance of Services will apply to the extended Agreement.

4.2. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the applicable maintenance and support Statements of Work. Support for the Motorola Software will be in accordance with Motorola's established Software Support Policy. Copies of the SwSP can be found at <http://www.motorolasolutions.com/softwarepolicy> and will be sent by mail, email or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. Unless already included in the Contract Price, if Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed by the parties in writing, the terms and conditions in this Agreement applicable to maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum, SUA Addendum, the applicable Statements of Work, and the proposal, (if applicable). These collective terms will govern the provision of such Services.

To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer's purchase order will not affect the applicability of this Agreement. Motorola's proposal may include a cover page entitled "Service Agreement" or "Installation Agreement", as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference

4.3. **PROFESSIONAL AND SUBSCRIPTION SERVICES.** If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement and Motorola's proposal for such additional services.



4.4. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed, accessed, will remain Motorola's property, will be deemed proprietary, Confidential Information. This Confidential Information will be promptly returned at Motorola's request.

4.5. **TOOLS.** All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Upon termination of the contract for any reason, Customer shall return to Motorola all equipment delivered to Customer.

4.6. **COVENANT NOT TO EMPLOY.** During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering Services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

4.7. **CUSTOMER OBLIGATIONS.** If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph.

4.8. **ASSUMPTIONS.** If any assumptions or conditions contained in this Agreement, applicable Addenda or Statements of Work prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.

4.9. **NON-PRECLUSION.** If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

4.10. **PROPRIETARY MATERIALS.** Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.

4.11. **ADDITIONAL SERVICES.** Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.

Section 5 PERFORMANCE SCHEDULE

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

Section 6 CONTRACT PRICE, PAYMENT AND INVOICING



6.1. Customer affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service, if any, and that sufficient funds have been appropriated in accordance with applicable law. The Customer will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Agreement. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

6.2. **CONTRACT PRICE.** The Contract Price in U.S. dollars is \$1,150,000.00. If applicable, a pricing summary is included with the Payment schedule in Exhibit B. A change in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Fees for professional, System Upgrade Assurance (SUA), and/or subscription services which are not included in the Contract Price may be listed in Exhibit B, the pricing pages of the proposal, or the applicable Addendum.

6.3. **INVOICING AND PAYMENT.** Motorola will submit invoices to Customer according to the Payment schedule in Exhibit B. Invoices will be mailed or emailed to Customer pursuant to Section 6.5, Invoicing and Shipping Addresses. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For reference, the Federal Tax Identification Number for Motorola is 36-1115800.

6.4. **FREIGHT, TITLE, AND RISK OF LOSS.** Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

6.5. **INVOICING AND SHIPPING ADDRESSES.** Invoices will be sent to the Customer at the following address:

Name: _____
Address: _____
Phone: _____

E-INVOICE. To receive invoices via email:

Customer Account Number: _____
Customer Accounts Payable Email: _____
Customer CC(optional) Email: _____

The address which is the ultimate destination where the Equipment will be delivered to Customer is:

Name: _____
Address: _____

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

Name: _____
Address: _____
Phone: _____

Customer may change this information by giving written notice to Motorola.



Section 7 SITES AND SITE CONDITIONS

7.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the worksites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. If the Statement of Work so indicates, Motorola may assist Customer in the local building permit process.

7.2. SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the Equipment. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

7.3. SITE ISSUES. If a Party determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.

Section 8 TRAINING

Any training to be provided by Motorola to Customer will be described in the applicable Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

Section 9 ACCEPTANCE

9.1. COMMENCEMENT OF ACCEPTANCE TESTING. Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. Testing will occur only in accordance with the Acceptance Test Plan.

9.2. ACCEPTANCE. Acceptance will occur upon successful completion of the acceptance or verification tests. Upon Acceptance, the Parties will memorialize this event by promptly executing an Acceptance Certificate. If Customer believes the Equipment has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

9.3. BENEFICIAL USE. Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System. When Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.



Section 10 REPRESENTATIONS AND WARRANTIES

10.1. **EQUIPMENT WARRANTY.** During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Equipment.

10.2. **SOFTWARE WARRANTY.** Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. If Acceptance is delayed beyond six (6) months after shipment of the Motorola Software by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Motorola Software. Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.

10.3. **EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES.** These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

10.4. **SERVICE WARRANTY.** During the Warranty Period, Motorola warrants that the Services will be provided in a good and workmanlike manner and will conform in all material respects to the applicable Statement of Work. Services will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. Customer acknowledges that the Deliverables may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "recommendations"). Motorola makes no warranties concerning those recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the recommendations and the results to be realized from implementing them.

10.5. **WARRANTY CLAIMS.** To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid Equipment or Software warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. These actions will be the full extent of Motorola's liability for the warranty claim. In the event of a valid Services warranty claim, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

10.6. **ORIGINAL END USER IS COVERED.** These express limited warranties are extended by Motorola to the original user purchasing the Equipment or Services for commercial, industrial, or governmental use only, and are not assignable or transferable.

10.7. **DISCLAIMER OF OTHER WARRANTIES.** THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

Section 11 DELAYS



11.1. **FORCE MAJEURE.** Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.

11.2. **PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER.** If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment schedule as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

Section 12 DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

12.1. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of the State of North Carolina.

12.2. **NEGOTIATION.** Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

12.3. **MEDIATION.** The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

12.4. **LITIGATION, VENUE and JURISDICTION.** If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the State of North Carolina. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

12.5. **CONFIDENTIALITY.** All communications pursuant to subsections 12.2 and 12.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 13 DEFAULT AND TERMINATION

13.1. **DEFAULT BY A PARTY.** If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan.



13.2. **FAILURE TO CURE.** If a defaulting Party fails to cure the default as provided above in Section 13.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes performance through a third Party, Customer may, as its exclusive remedy, recover from Motorola reasonable costs incurred to complete performance to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges. In the event Customer elects to terminate this Agreement for any reason other than default, Customer shall pay Motorola for the conforming Equipment and/or Software delivered and all services performed.

Section 14 INDEMNIFICATION

14.1. **GENERAL INDEMNITY BY Motorola.** Motorola will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, if Customer gives Motorola prompt, written notice of any claim or suit. Customer will cooperate with Motorola in its defense or settlement of the claim or suit. This Section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

14.2. PATENT AND COPYRIGHT INFRINGEMENT.

14.2.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

14.2.2 If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

14.2.3 Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

14.2.4. This Section 14 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 14 are subject



to and limited by the restrictions set forth in Section 15.

Section 15 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or implementation and other one-time Services with respect to which losses or damages are claimed. With respect to all subscription or other ongoing Services and unless as otherwise provided under the applicable Addenda, Motorola's total liability will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services preceding the incident giving rise to the claim. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, LOSS TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

Section 16 CONFIDENTIALITY AND PROPRIETARY RIGHTS

16.1. CONFIDENTIAL INFORMATION.

16.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this Agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this Agreement and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose in subsection (vi) below, and who are bound by confidentiality terms substantially similar to those in this Agreement; (iii) not copy, reproduce, reverse engineer, decompile, or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) only use the Confidential Information as needed to fulfill this Agreement.

16.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or 09 September 2020 Customer Name Use or disclosure of this proposal is subject to the restrictions on the cover page. 5-12 Communications Equipment and Services Agreement Motorola Solutions Confidential Restricted (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this Agreement.

16.1.3. All Confidential Information remains the property of the Discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.



16.2. PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS. Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

16.3 VOLUNTARY DISCLOSURE. Except as required to fulfill its obligations under this Agreement, Motorola will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Motorola be required to provide any data related to cost and pricing.

16.4 DATA AND FEEDBACK.

16.4.1 To the extent permitted by law, Customer owns all right, title and interest in Data created solely by it or its agents (hereafter, "Customer Data"), and grants to Motorola the right to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data.

16.4.2 Motorola owns all right, title and interest in data resulting from Data that is or has been transformed, altered, processed, aggregated, correlated or operated on (hereafter, "Derivative Data").

16.4.3 Any Feedback given by Customer is and will be entirely voluntary and, even if designated as confidential, will not create any confidentiality obligation for Motorola. Motorola will be free to use, reproduce, license or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Motorola's receipt of the Feedback does not imply or create recognition by Motorola of either the novelty or originality of any idea. The parties further agree that all fixes, modifications and improvements made to Motorola products or services conceived of or made by Motorola that are based, either in whole or in part, on the Feedback are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements to the Motorola product or service will vest solely in Motorola.

Section 17 GENERAL

17.1. TAXES. The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within thirty (30) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

17.2. ASSIGNABILITY AND SUBCONTRACTING. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.



17.3. **WAIVER.** Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

17.4. **SEVERABILITY.** If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

17.5. **INDEPENDENT CONTRACTORS.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

17.6. **HEADINGS AND SECTION REFERENCES.** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

17.7. **NOTICES.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt.

17.8. **COMPLIANCE WITH APPLICABLE LAWS.** Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the Equipment. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the Equipment before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

17.9 **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

17.10. **AUTHORITY TO EXECUTE AGREEMENT.** Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

17.11. **ADMINISTRATOR LEVEL ACCOUNT ACCESS.** If applicable to the type of Equipment purchased by Customer, Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant access to the Administrative User Credentials to those personnel with the training and experience to correctly use them. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola Equipment support personnel. Customer understands that changes made as the Administrative User can significantly impact the performance of the Equipment. Customer agrees that it will be solely responsible for any negative impact on the Equipment or its users by any such changes. Equipment issues occurring as a result of changes made using the Administrative User Credentials may impact Motorola's ability to perform Services or other obligations under the Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will



pay Motorola on a time and materials basis for resolving the issue.

17.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 (Motorola Software); Section 3.6 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection 10.8 (Disclaimer of Implied Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); and Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17.

17.13. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.

Cumberland County

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Exhibit A

MOTOROLA SOFTWARE LICENSE AGREEMENT

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc. ("Motorola") and Cumberland County, North Carolina ("Licensee"). For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the equipment damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary software or products containing embedded or pre-loaded proprietary software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the proprietary software and affiliated documentation.

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; and (ii) identify the Open Source Software (or specify where that license may be found).



3.3 TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERSEDES THE SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4 Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and



Licensee will not have any shared development or other intellectual property rights.

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

Section 7 TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than CPS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.



8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 COMMERCIAL COMPUTER SOFTWARE

9.1 *This Section 9 only applies to U.S. Government end users.* The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.

9.2 If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

13.1. **COPYRIGHT NOTICES.** The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. **COMPLIANCE WITH LAWS.** Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.



13.3 FUTURE REGULATORY REQUIREMENTS. The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

13.4. ASSIGNMENTS AND SUBCONTRACTING. Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.5. GOVERNING LAW. This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State of North Carolina. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.6. THIRD PARTY BENEFICIARIES. This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.7. SURVIVAL. Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.8. ORDER OF PRECEDENCE. In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.9. SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.



Exhibit B PAYMENT

Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution. If Customer has purchased additional Professional or Subscription services, payment will be in accordance with the applicable addenda. Payment for the Equipment purchase will be in accordance with the following milestones.

Equipment Purchase (excluding Subscribers, if applicable)

1. 25% of the Contract Price due upon contract execution (due upon effective date);
2. 60% of the Contract Price due upon shipment of equipment from Staging;
3. 10% of the Contract Price due upon installation of equipment; and
4. 5% of the Contract Price due upon Final Acceptance.

If Subscribers are purchased, 100% of the Subscriber Contract Price will be invoiced upon shipment (as shipped).

Motorola shall make partial shipments of equipment and will request payment upon shipment of such equipment. In addition, Motorola shall invoice for installations completed on a site-by-site basis or when professional services are completed, when applicable. The value of the equipment shipped/services performed will be determined by the value shipped/services performed as a percentage of the total milestone value. Unless otherwise specified, contract discounts are based upon all items proposed and overall equipment package. For invoicing purposes only, discounts will be applied proportionately to the FNE and Subscriber equipment values to total contract price. Overdue invoices will bear simple interest at the maximum allowable rate by state law.

For Lifecycle Support Plan and Subscription Based Services:

Motorola will invoice Customer annually in advance of each year of the plan.

The chart below outlines the hourly labor rates for Motorola Equipment Integration resources to be used. The staffing requirements shall be multiplied by the appropriate rate per resource in the table below. The hourly labor rates are fully burdened. The hourly rates per resource type and level are listed in Table 1.

Levels	Resource Types			
	Project Management	System Engineering	System Technologist	Project Administration
4	\$ 290.00	\$ 300.00	\$ 280.00	\$ 200.00
3	\$ 240.00	\$ 250.00	\$ 240.00	\$ 180.00
2	\$ 220.00	\$ 220.00	\$ 220.00	\$ 170.00
1	\$ 190.00	\$ 210.00	\$ 210.00	\$ 160.00

Table 1 - Hourly Rates

These rates apply to ordinary days and times (Monday to Friday during the hours 8am to 5pm). Additional surcharges may apply to work done outside these timeframes. The minimum charge for any resource will be 4 hours. Travel expenses are not included in these rates and may be charged separately. The qualifications of each type and level of resource are defined in the tables found at <https://www.motorolasolutions.com/content/dam/msi/secure/services/labor-rates-exhibit-160408.pdf>. All Motorola Equipment Integration personnel assigned to this project will be classified according these levels. Project Administrative roles are varied and their specific duties and qualifications will be determined by the complexity and requirements of each project.



EXHIBIT C

Motorola's Proposal dated November 12, 2020



EXHIBIT D

Acceptance Certificate

Customer Name: _____

Project Name: _____

This System Acceptance Certificate memorializes the occurrence of Acceptance. Motorola and Customer acknowledge that:

1. The Acceptance Tests set forth in the Acceptance Test Plan have been successfully completed.
2. The Equipment is accepted.

Customer Representative:

Motorola Representative:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

FINAL PROJECT ACCEPTANCE:

Motorola has provided and Customer has received all deliverables, and Motorola has performed all other work required for Final Project Acceptance.

Customer Representative:

Motorola Representative:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____





ASSISTANT COUNTY MANAGER - ENVIRONMENTAL/ COMMUNITY SAFETY

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

DATE: 12/2/2020

**SUBJECT: ADDITIONAL QUALIFICATION-BASED SELECTION LISTS FOR
PROFESSIONAL ENGINEERING AND DESIGN SERVICES**

Requested by: AMY H. CANNON, COUNTY MANAGER

**Presenter(s): TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

BACKGROUND

The attached rankings were compiled separately from the prior Qualification Based Selection List due to the specialty areas involved and are being presented for consideration at this time. North Carolina General Statute 143-64.31 requires local governments to select firms to provide architectural, engineering and surveying services on the basis of demonstrated competence and qualifications for the type of professional services required without regard to fee other than unit price information. Based on the number of Capital Improvement Plan (CIP) projects Engineering & Infrastructure undertake each year that necessitate professional services, the most efficient way to obtain professional services is to establish a list of qualified firms that can provide specialized consulting based upon the discipline needed to successfully initiate and complete any given project. The primary benefit of this approach is that it can reduce the amount of time required to issue a Request for Qualifications (RFQ) and review multiple vendor submissions for each project. The County can still reserve the right to issue a separate RFQ for a specific project when it is determined to be in the County's best interest.

The Engineering & Infrastructure Department issued a RFQ for Professional Services and reviewed/scored the responses. The RFQ was for architectural services and various disciplines of engineering and surveying. Attached you will find a list of qualified firms sorted into areas of expertise and competency. The list shall be

effective for a period of three years with an option to extend for two additional one-year periods not to exceed five total years.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the addition of the attached firms, under the specified categories, to the Qualification Based Selection List for use by the Engineering and Infrastructure Department and also requests this be forwarded for consideration by the full Board of Commissioners' as a Consent Agenda item at their December 21, 2020 regular meeting.

ATTACHMENTS:

Description

Round 2 - QBSL

Type

Backup Material

**Cumberland County Fiscal Year 2021 Qualification-Based Selection Results
for Professional Services
December 10, 2020**

Vendor	Architectural - Design
1-The Wooten Company	79.75
2-Raymond	76.19
3-Cromwell	75.75
4-SFL&A	74.33
5-Clearscapes	70.78

Vendor	Structural Design - Building Envelope Repairs
1-Fleming and Associates	91.11
2-Atlas	87.57
3-Raymond	71.40
4-Bennett & Pless	67.32
5-Terracon	66.58

Vendor	Structural Design - Roofs
1-Fleming and Associates	89.86
2-Atlas	87.62
3-Raymond	73.77
4-Cromwell	71.57
5-REI Engineering	66.02

Vendor	Architectural - Renovations
1-The Wooten Company	79.75
2-Raymond	76.19
3-Cromwell	76.15
4-SFL&A	74.33
5-Clearscapes	71.20

Vendor	Structural Design - Special Inspections
1-Fleming and Associates	90.22
2-Raymond	71.20
3-Atlas	67.77
4-Bennett & Pless	67.55
5-Terracon	66.95

Vendor	Civil Design - Parking Lot Design Repairs
1- MK&R	82.48
2-Gradient	79.22
3-Anderson Engineering	78.70
4-The Wooten Company	77.92
5-Withers Ravenel	76.23

Vendor	Civil Design - Grading Storm Drainage
1-MK&R	81.07
2-Anderson Engineering	79.33
3-The Wooten Company	77.04
4-4D	76.08
5-Withers Ravenel	74.89

Vendor	Civil Design - Sidewalks
1-MK&R	82.38
2-4D	80.19
3-The Wooten Company	79.22
4-Draper Aden	78.89
5-Anderson Engineering	78.70

Vendor	Civil Design - Site Design
1-MK&R	82.79
2-4D	80.19
3-Draper Aden	78.89
4-The Wooten Company	78.72
5-Anderson Engineering	78.7

Vendor	Civil Design - Water and Sewer Utilities
1-MK&R	82.79
2-The Wooten Company	79.22
3-Anderson Engineering	78.7
4-Withers Ravenel	76.23
5-4D	75.76



OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: COUNTY ATTORNEY AND COUNTY MANAGER

DATE: 12/3/2020

**SUBJECT: CONSIDERATION OF DISCONTINUING THE BRAGG ESTATES
SEWER PROJECT**

Requested by: COUNTY MANAGER

Presenter(s): COUNTY ATTORNEY

BACKGROUND

The Board approved the Bragg Estates Sewer Project in 2014. Engineering work has been ongoing. The USDA-RD approved partial funding for the project in the form of a grant and a loan. The Lumberton Office for USDA-RD has worked diligently with the County for these six years to keep the funding available; however, the Lumberton Office has advised staff that it is critical to get construction started in 2021 to use these funds.

The primary reason for the time it has taken to get this project ready to proceed has been the location of a trunk line in an abandoned railroad right-of-way on Fort Bragg which runs with the eastern boundary of the subdivision. It took nearly two years to get an easement from the Secretary of the Army for this easement. The Secretary granted a 50-year easement which allows the Secretary to terminate the easement upon thirty days' notice if the Secretary determines that it interferes with the use or disposal of the land by the United States. The Office of General Counsel for USDA-RD has indicated that the easement with this limitation is acceptable for USDA's purposes; however, that notice of acceptance also stated. "It's up to the District to demonstrate that it has 'all the property rights necessary for the project,'" citing the relevant Section of the U.S. Code.

It has also now been discovered that it will be necessary to get an additional easement from the Secretary of the Army for a force main to be installed in NC Hwy 690 (Vass Road). The engineer reports that Vass Road is under exclusive federal jurisdiction from the point it intersects with Bragg Estates back almost to N.C. Hwy

87. The County Attorney believes if the request is made to add this additional easement to the existing easement, it might be processed by the Secretary of the Army more quickly, but this additional easement extends for more than a mile and may create significantly more impacts than the existing easement along the boundary. It will also be subject to the termination provision.

As Counsel for the District, the County Attorney must give an opinion that the easements give the District a continuous and adequate right-of-way to permit the construction, operation, and maintenance of the District's facilities. The County Attorney must qualify this opinion to except the Secretary's termination right upon thirty days' notice. The County Attorney advises the Board that even though this is acceptable to USDA-RD, it still creates a risk for the District because the decision to terminate is totally within the discretion of the Secretary of the Army. Bragg Estates is surrounded by Fort Bragg, so any option to move the trunk line and force main will still result in having to cross Fort Bragg somewhere, even if it is for a substantially shorter distance. For these reasons, the County Attorney advises to discontinue this project. The County Attorney and the County Manager have discussed this issue fully and the County Manager concurs with the County Attorney's recommendation.

RECOMMENDATION / PROPOSED ACTION

County Attorney and County Manager recommend the Board take action to discontinue the Bragg Estates Sewer Project and to give notice to USDA-RD to de-obligate the funds.



FINANCE OFFICE

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: VICKI EVANS, FINANCE DIRECTOR

DATE: 12/2/2020

**SUBJECT: SOUTHERN HEALTH PARTNERS, INC. QUARTERLY STATISTICS
REPORT ON INMATE HEALTH CARE**

Requested by: BOARD OF COUNTY COMMISSIONERS

Presenter(s): NA

BACKGROUND

During the October 2020 Agenda Session meeting, there was a request for information to be added to the quarterly report that was presented at that time. That quarterly report has now been updated to include COVID19 statistics of inmates within the Detention Center. Staff also requested that information regarding deaths be more specific to natural or unnatural causes. SHP's attorney advised that HIPAA laws do not allow that type of information to be shared within the quarterly reports.

RECOMMENDATION / PROPOSED ACTION

No action needed. For information purposes only.

ATTACHMENTS:

Description	Type
SHP FY2021 1st Qtr Statistics - UPDATED	Backup Material

Southern Health Partners, Inc. Quarterly Statistics Report on Inmate Health Care
July 1, 2017 - September 30, 2020

Provided for the Cumberland County Board of Commissioners

Data Set	Description	Fiscal Year 2018				Fiscal Year 2019				Fiscal Year 2020				Fiscal Year 2021				Average over all Quarters
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	
1	# of Hospital Admissions	7	5	6	9	6	4	4	3	3	4	2	3	2				4
2	# Sent to Emergency Room	20	16	20	29	18	16	11	8	10	16	6	9	6				14
3	# Outside Medical Visits (includes any specialty)	27	32	42	27	44	27	28	40	41	19	24	12	15				29
4	# of In-House X-Ray Services	38	50	82	88	78	54	69	95	75	78	105	45	195				81
5	# Seen On-Site By Mental Health	792	1188	461	461	1220	1403	1324	963	1043	859	1034	691	528				921
6	# Seen by Physician and/or Physician Providers	132	154	222	291	354	288	299	319	256	300	267	196	251				256
7	# Seen by Dentist (includes on-site & off-site)	56	77	66	63	53	42	56	69	63	51	48	54	54				58
8	# of Receiving Screens done by Medical Staff	340	0	0	0	0	2021	3500	2946	2924	2923	2836	1479	1959				1610
9	# Seen by Medical Staff for Sick Call	2029	2986	3612	3298	3512	3672	3739	3598	3507	4304	3513	3045	3553				3413
10	# of History and Physicals Performed	377	858	1163	1487	1365	1353	1296	1243	1721	1476	1418	925	1011				1207
11	# of Rapid Plasma Reagin's performed (STD testing/syphilis)	331	399	549	513	538	489	486	440	342	415	312	0	0				370
12	# of Other Sexually Transmitted Diseases	6	13	13	16	12	6	18	14	7	13	6	8	5				11
13	# of Medical Refusals by Inmate	77	345	803	451	504	358	409	502	602	774	603	385	564				491
14	# of Inmate Blood Sugar Checks	2239	2145	1728	1554	2508	2100	4265	3455	3362	3993	4105	2651	1818				2763
15	# of Inmate Blood Pressure Checks	625	763	741	962	1193	1508	1705	2105	2510	2006	1776	1012	1036				1380
16	# of TB Screens and/or PPD Tests	274	858	1163	1487	1365	1353	1296	1250	1305	1476	1418	925	1011				1168
17	# of Staph/MRSA Patients In-house	48	14	7	0	0	1	0	15	7	1	2	1	0				7
18	# of Pregnant Females	9	11	16	18	22	19	18	12	9	14	15	5	9				14
19	# of HIV Patients In-House	19	38	33	20	16	11	25	26	25	14	17	12	17				21
20	# of Inmates Placed on Suicide Watch	95	113	115	109	94	141	133	305	861	169	260	504	765				282
21	# of Inmate Deaths	1	0	0	3	0	0	0	0	2	1	0	0	1				1
22	# of Inmates on Detox Protocols	94	81	65	145	80	200	175	208	214	177	150	49	111				135
23	# of Diabetic Patients	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	41	19	30				30
24	# of Asthma Patients	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	33	12	21				22
25	# of Meds Administered	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data				na
26	# of Medication Aversion Therapy Patients (Suboxone)	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	0	0	0				0
27	# of patients tested for COVID19	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	121	423				272
28	# of patients testing positive for COVID19	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data	20	9				15
Average Daily Population per Quarter:		775	740	763	746	751	725	697	649	680	714	674	537	501				689

ADDITIONAL INFORMATION ON OUTLIERS AS COMPARED TO AVERAGES:

Gray highlighted cells show outliers as compared to quarterly averages. Per contact at SHP, those quarters' data were inaccurately counted and reported.

Please note: HIPAA laws do not allow cause of death information to be released within the quarterly reports.

Line 27 Per Dr. Jennifer Green, Cumberland County Public Health Director: All new inmates are being tested upon intake (~day 5 or 6 after arrival) and quarantined.

Line 28 Per Dr. Jennifer Green, Cumberland County Public Health Director: Some of the positive tests were among those that were tested upon intake and already in quarantine. There was one outbreak which was concluded in June 2020. No new outbreaks have been identified since then.



COMMUNITY DEVELOPMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEE TAYLOR, DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: 11/30/2020

**SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER
RECOVERY (CDBG-DR) UPDATE**

Requested by: AMY H. CANNON, COUNTY MANAGER

Presenter(s): COMMUNITY DEVELOPMENT STAFF

BACKGROUND

Cumberland County, in partnership with the North Carolina Office of Recovery & Resiliency (N CORR), is implementing a Community Recovery Infrastructure activity funded through the Community Development Block Grant Disaster Recovery Program. The attached report is an update on the status of the activity (Robin's Meadow Permanent Supportive Housing) undertaken by Cumberland County.

RECOMMENDATION / PROPOSED ACTION

No action is needed. This item is provided for informational purposes only.

ATTACHMENTS:

Description	Type
Cumberland County Disaster Recovery Programs Update	Backup Material

CUMBERLAND COUNTY DISASTER RECOVERY PROGRAMS UPDATE
FOR THE DECEMBER 10, 2020
BOARD OF COMMISSIONERS' AGENDA SESSION

Status as of November 30, 2020:

Milestones/Activities:

- NCORR executed SRA with County December 17, 2019;
- Robins Meadow Permanent Supportive Housing Project/Community Recovery Infrastructure – received project specific award letter January 23, 2020;
- DRA-17 & HMGP Projects – County completed acquisition and demolition of 10 properties;
- Robins Meadow Permanent Supportive Housing Project/Community Recovery Infrastructure - A/E Services – The Wooten Company is providing construction administration services and completing the construction document phase. The firm had submitted documents to City of Fayetteville Technical Review Committee and Engineering Review Committee to complete the final review process;
- A letter (dated July 28, 2020) was sent to NCORR requesting additional CDBG-DR funds in the amount of \$1,000,000 to cover construction and supportive services. A follow-up was made with NCORR regarding the status of the request and Community Development had to submit a revised letter (dated October 21, 2020) to clarify the amount requested. Invitation to Bids for the construction of the project are expected to be posted in December 2020; and
- The Wooten Company submitted a revised project schedule. Therefore, Community Development submitted a request to NCORR to extend the deadline to obligate funds to March 9, 2021.

Current Staffing:

- State POC: John Ebbighausen – Director of Disaster Recovery Programs, NC Office of Recovery & Resiliency (NCORR); Mary Glasscock; Infrastructure Manager (NCORR)
- Cumberland County:
 - Sylvia McLean, P.T. Community Development (CD) Consultant



FINANCE OFFICE

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

FROM: VICKI EVANS, FINANCE DIRECTOR

DATE: 12/2/2020

SUBJECT: FINANCIAL REPORT

Requested by: AMY CANNON, COUNTY MANAGER

Presenter(s): NA

BACKGROUND

The financial report is included which shows results of the general fund for fiscal year 2021, October year-to-date. Results of fiscal year 2020 will be added upon approval of the audit. Additional detail has been provided on a separate page explaining any percentages that may appear inconsistent with year-to-date budget expectations.

RECOMMENDATION / PROPOSED ACTION

For information and discussion purposes only.

ATTACHMENTS:

Description

Monthly Financial Report

Type

Backup Material

**County of Cumberland
General Fund Revenues**

REVENUES	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF October 31, 2020	PERCENT OF BUDGET TO DATE	*
Ad Valorem Taxes					
Current Year	\$ 165,908,675	\$ 165,908,675	\$ 19,131,336	11.5% (1)	
Prior Years	897,000	897,000	784,804	87.5%	
Motor Vehicles	19,955,512	19,955,512	5,766,517	28.9% (2)	
Penalties and Interest	712,000	712,000	89,501	12.6%	
Other	1,025,000	1,025,000	354,517	34.6%	
Total Ad Valorem Taxes	188,498,187	188,498,187	26,126,675	13.9%	
Other Taxes					
Sales	41,542,711	41,542,711	4,420,698	10.6% (3)	
Real Estate Transfer	1,450,000	1,450,000	591,938	40.8%	
Other	959,000	959,000	118,033	12.3%	
Total Other Taxes	43,951,711	43,951,711	5,130,669	11.7%	
Unrestricted & Restricted Intergovernmental Revenues	68,389,413	72,004,964	16,997,095	23.6% (4)	
Charges for Services	13,072,456	13,072,456	3,107,574	23.8% (5)	
Other Sources (includes Transfers In)	1,710,608	1,802,837	352,492	19.6%	
Lease Land CFVMC	4,012,056	4,012,056	3,912,050	97.5%	
Total Other	5,722,664	5,814,893	4,264,542	73.3%	
Total Revenue	\$ 319,634,431	\$ 323,342,211	\$ 55,626,555	17.2%	
Fund Balance Appropriation	8,663,701	18,151,374	-	0.0%	
Total Funding Sources	\$ 328,298,132	\$ 341,493,585	\$ 55,626,555	16.3%	

County of Cumberland
General Fund Expenditures

DEPARTMENTS	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF October 31, 2020	PERCENT OF BUDGET TO DATE	**
Governing Body	\$ 674,975	\$ 693,619	\$ 257,468	37.1%	
Administration	1,814,947	1,835,664	491,769	26.8%	
Public Affairs/Education	885,902	898,331	188,829	21.0%	(1)
Human Resources	1,009,875	1,028,519	296,133	28.8%	
Print, Mail, and Design	756,378	764,664	365,046	47.7%	
Court Facilities	156,220	156,220	20,641	13.2%	(2)
Facilities Maintenance	1,202,491	1,419,688	441,794	31.1%	
Landscaping & Grounds	702,394	727,182	240,382	33.1%	
Carpentry	228,058	234,273	69,253	29.6%	
Facilities Management	1,523,436	1,536,480	458,354	29.8%	
Public Buildings Janitorial	870,951	1,040,844	307,406	29.5%	
Central Maintenance	672,722	711,468	205,391	28.9%	
Information Services	5,323,420	6,073,408	1,896,812	31.2%	
Board of Elections	1,673,589	1,790,162	797,767	44.6%	
Finance	1,418,140	1,449,215	447,022	30.8%	
Legal	807,290	936,155	155,839	16.6%	(3)
Register of Deeds	2,526,950	3,015,363	707,927	23.5%	
Tax	6,271,825	6,466,523	1,723,376	26.7%	
General Government Other	7,003,558	10,287,924	808,905	7.9%	(4)
Sheriff	53,395,158	54,638,886	15,457,149	28.3%	
Emergency Services	4,310,596	4,501,597	1,391,933	30.9%	
Criminal Justice Pretrial	588,662	603,163	189,526	31.4%	
Youth Diversion	35,671	35,671	9,529	26.7%	
Animal Services	3,484,642	3,786,204	1,039,098	27.4%	
Public Safety Other (Medical Examiners, NC Detention Subsidy)	1,213,209	1,213,209	277,009	22.8%	(5)
Health	24,301,667	26,066,574	7,132,882	27.4%	
Mental Health	5,519,255	5,524,489	1,353,412	24.5%	

County of Cumberland
General Fund Expenditures

DEPARTMENTS	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF October 31, 2020	PERCENT OF BUDGET TO DATE	**
Social Services	63,278,940	63,894,542	16,466,118	25.8%	
Veteran Services	452,713	465,142	142,848	30.7%	
Child Support	5,595,639	5,593,567	1,648,408	29.5%	
Spring Lake Resource Administration	34,542	34,542	6,751	19.5%	(6)
Library	10,036,208	10,503,260	3,082,751	29.4%	
Culture Recreation Other (Some of the Community Funding)	260,569	260,569	48,875	18.8%	(7)
Planning	3,271,297	3,335,814	932,920	28.0%	
Engineering	585,162	592,711	125,354	21.1%	(8)
Cooperative Extension	799,384	809,742	192,903	23.8%	
Location Services	257,796	269,929	67,872	25.1%	
Soil Conservation	151,537	1,656,512	50,243	3.0%	(9)
Public Utilities	87,602	94,554	29,625	31.3%	
Economic Physical Development Other	20,000	20,000	20,000	100.0%	
Industrial Park	2,212	3,408	546	16.0%	(10)
Economic Incentive	461,947	709,947	28,749	4.0%	(11)
Water and Sewer	250,000	400,189	28,840	7.2%	(12)
Education	94,411,029	94,411,029	30,944,543	32.8%	
Other Uses:					
Transfers Out	19,969,574	21,002,633	20,066	0.1%	(13)
TOTAL	\$ 328,298,132	\$ 341,493,585	\$ 90,568,064	26.5%	

Expenditures by Category	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF October 31, 2020	PERCENT OF BUDGET TO DATE	
Personnel Expenditures	\$ 149,112,328	\$ 149,271,778	\$ 43,491,022	29.1%	
Operating Expenditures	158,589,325	170,441,725	46,899,599	27.5%	
Capital Outlay	626,905	777,449	157,378	20.2%	(14)
Transfers To Other Funds	19,969,574	21,002,633	20,066	0.1%	(13)
TOTAL	\$ 328,298,132	\$ 341,493,585	\$ 90,568,064	26.5%	

COUNTY OF CUMBERLAND

Fiscal Year 2021 - October Year-to-Date Actuals (Report Run Date: December 1, 2020)

Additional Detail

General Fund Revenues

*

- (1) **Current Year Ad Valorem 11.5%** - The bulk of revenues are typically recorded between November - January.
- (2) **Motor Vehicles 28.9%** - YTD Actual reflects 3 months of collections.
- (3) **Sales Tax 10.6%** - There is a three month lag. YTD Actual reflects 1 month of collections.
- (4) **Unrestricted/Restricted Intergovernmental 23.6%** - There is typically a one to two month lag in receipt of this funding.
- (5) **Charges for Services 23.8%** - The largest component of charges for services is revenue from the Board of Ed for security at 19% of budget. Only 6% of that revenue has been billed/collected to date.

General Fund Expenditures

**

- (1) **Public Affairs/Education 21.0%** - Personnel costs are low as a result of vacancies in the department.
- (2) **Court Facilities 13.2%** - Expenditures are in line with past fiscal year trends at this point in the fiscal year.
- (3) **Legal - 16.6%** - Personnel costs are low as a result of multiple vacancies in the department.
- (4) **General Government Other 7.9%** - The revised budget includes expenditures allocating an additional \$4.7k of CARES Act funding/freed up capacity to be utilized in this fiscal year.
- (5) **Public Safety Other 22.8%** - Outside agency invoices are typically paid at the beginning of the second quarter.
- (6) **Spring Lake Resource Administration 19.5%** - Expenditures are in line with past fiscal year trends at this point in the fiscal year.
- (7) **Culture Recreation Other 18.8%** - Expenditures are in line with past fiscal year trends at this point in the fiscal year.
- (8) **Engineering 21.1%** - Personnel costs are low as a result of vacancies in the department.
- (9) **Soil Conservation 3.0%** - Approximately \$1.5M in USDA Grant funds were budgeted recently and are unexpended.
- (10) **Industrial Park 16.0%** - A re-appropriation in the amount of \$1,196 was approved by the BOCC on 9/8/20 but not yet utilized.
- (11) **Economic Incentive 4.0%** - Economic incentives are paid when the company complies.
- (12) **Water and Sewer 7.2%** - A re-appropriation in the amount of \$150,189 was approved by the BOCC on 9/8/20 but not yet utilized.
- (13) **Transfers Out 0.1%** - Transfers are often prepared toward the end of the fiscal year.
- (14) **Capital Outlay 20.2%** - Most of these capital items are typically purchased in the second and third quarters of the fiscal year.



ASSISTANT COUNTY MANAGER - ENVIRONMENTAL/ COMMUNITY SAFETY

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020
AGENDA SESSION

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

DATE: 12/3/2020

SUBJECT: PROJECT UPDATES

Requested by: AMY H. CANNON, COUNTY MANAGER

**Presenter(s): TRACY JACKSON, ASSISTANT COUNTY
MANAGER/ENVIRONMENTAL & COMMUNITY SAFETY**

BACKGROUND

Please find attached the monthly project update report for your review.

RECOMMENDATION / PROPOSED ACTION

No action is requested. This is for information only.

ATTACHMENTS:

Description

121020 Project Updates

Type

Backup Material

MONTHLY PROGRESS REPORT				
Project Location	Contract Amount	Project Status	Contract Start Date	Contract Duration
Department of Social Services Chiller and Cooling Tower Replacement Project	\$820,655.00	Project complete.	4/4/2020	120 days
Judge E. Maurice Braswell Courthouse Generator	\$3,076,097.00	Project complete.	10/23/2019	179 days
LEC Elevator Modernization Project	\$1,362,557.00	Work on all 3 elevators is complete. Wiring between Automatic Transfer Switch and Fire Panel still outstanding. A change order is being processed to add security cameras and key-card access to the elevators.	4/6/2020	179 days
Department of Social Services Elevator Modernization Project (Phase 1)	\$95,000.00	Project complete.	5/20/2020	60 days
Crown Coliseum Cooling Tower Replacement	\$649,000.00	Cooling Towers operational, project substantially complete. Change order work pending for drain piping.	5/18/2020	93 days
Crown Coliseum Parking Lot Improvement Project (Areas 1, 2, & 3)	\$714,979.70	Asphalt paving and sidewalk replacement complete. Pavement striping, fencing still outstanding.	3/16/2020	120 days
Crown Coliseum ADA Bathroom and Ticket Booth Renovations	\$541,217.00	Overall construction approximately 50% complete. Plumbing in all restrooms and millwork 95% completed. Toilet partitions and ticket booth work outstanding.	9/14/2020	180 days



RISK MANAGEMENT

MEMORANDUM FOR THE AGENDA OF THE DECEMBER 10, 2020 **AGENDA SESSION**

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JULIE A. CRAWFORD, BENEFITS COORDINATOR

DATE: 11/25/2020

SUBJECT: HEALTH INSURANCE UPDATE

Requested by: AMY H. CANNON

Presenter(s): N/A

BACKGROUND

As of July 1, 2019, retirees who are 65 and older became covered by a County funded fully insured plan through AmWINS. All other covered members remained insured by the County's self-funded plan through BCBS. The information provided below and within the graphs has been updated to include the monthly premium amount paid to fund the fully insured plan and the actual monthly claims amounts for all other covered members. Combining these amounts for FY20 and beyond is necessary to ensure a complete picture when comparing the claims results to prior years.

Total health insurance claims plus the fully insured premium amount for FY21 are down 5.69% for the month of October as compared to the same month in FY20. To provide some perspective, below is the four-month average for the past five fiscal years. This average represents the average monthly year-to-date claims for each fiscal year and includes the fully insured premium for fiscal years 2020 and 2021. Additionally, graphs are provided in the attachment to aid in the analysis.

Year to date claims and premium payment through October	\$6,169,579
Less year to date stop loss credits	<u>(\$0.00)</u>
Net year to date claims and premium payment through October	\$6,169,579

Average monthly claims and fully insured premium (before stop loss) per fiscal year through October:

FY17 \$1,410,663
FY18 \$1,391,318
FY19 \$1,480,898
FY20 \$1,486,066
FY21 \$1,542,395

RECOMMENDATION / PROPOSED ACTION

For information only - no action needed.

ATTACHMENTS:

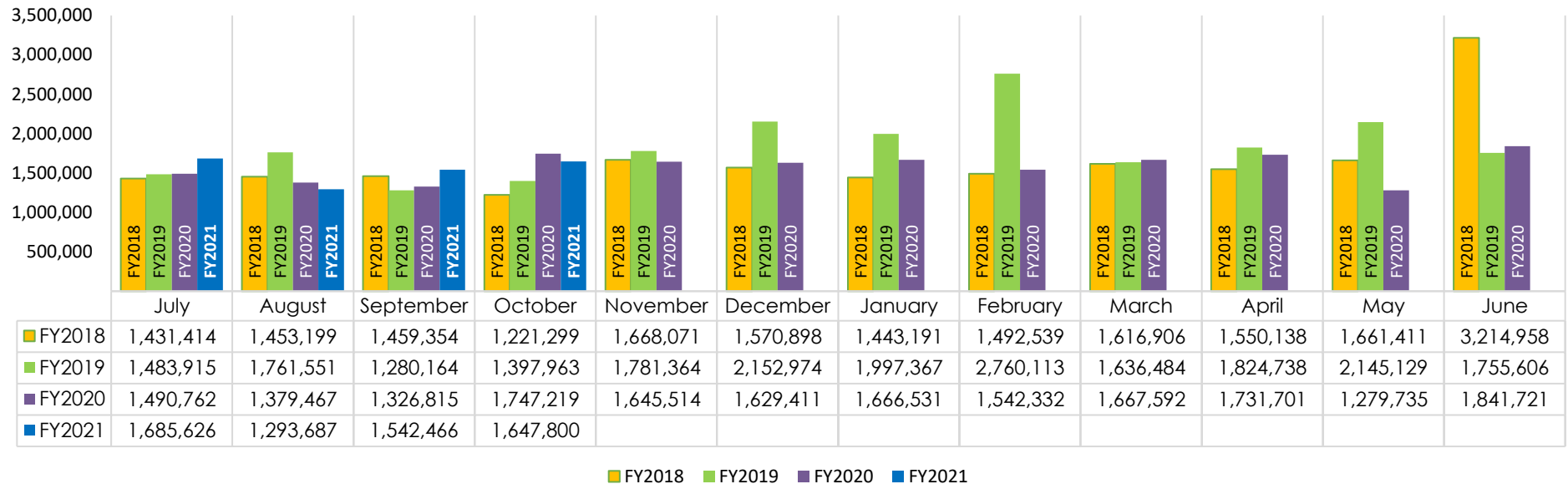
Description

Health Insurance Graphs

Type

Backup Material

Monthly Insurance Claims FY18-FY19
Claims & Fully Insured Premium FY20-FY21



Monthly Insurance Claims FY18 - FY19
Claims & Fully Insured Premium FY20-FY21

