



**CUMBERLAND COUNTY**  
**REQUEST FOR QUALIFICATION**  
**FOR**  
**ARCHITECTURAL/ENGINEERING SERVICES**

## **DESCRIPTION**

Due to the impact of Hurricane Matthew in North Carolina, federal funds for disaster relief that were appropriated under the Disaster Relief Appropriation Act of 2016 (Pub. Law 114-113). The Department of Housing and Urban Development (HUD) appropriated Community Development Block Grant Disaster Recovery funding to the State of North Carolina (CDBG-DR). These funds are targeted to the most impacted areas to address unmet needs, long-term recovery and housing and economic revitalization. These projects include activities such as, but not limited to housing rehabilitation, housing repair, multi-family housing new construction, single family construction, acquisition, relocation, demolition and clearance.

Cumberland County Community Development is hereby seeking quotes for design services for the new construction housing project - Robins Meadow Permanent Supportive Housing Project. We are proposing to provide 12 units of permanent affordable housing to serve the population that includes those families who are:

1. displaced due to Hurricane Matthew; and
2. have a disability (mental / physical); and
3. have incomes at or below 50 percent of the AMI (to include those who are homeless or at-risk of being homeless).

## **Project Design**

The units to be constructed will consist of three bedrooms, 1-1/2-bathroom units. Each unit should be designed to include private patios or decks. Each unit should feature open living, dining and kitchen areas for efficiency and to promote family interaction. All units should include washer/dryer connects and central heating and air conditioning system. A portion of the units will need to be designed to meet requirements established under the Fair Housing Act, Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973, and State or local laws. The dwellings will be designed to meet the following:

1. Accessible building entrance on an accessible route;
2. Accessible and usable public and common use areas;
3. Usable doors;
4. Accessible route into and through the covered dwelling units;
5. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

6. Reinforced walls for grab bars; and
7. Usable kitchens and bathrooms.

An onsite community/support services building with a unit for a resident manager should also be included in the plan. This building will include a community room, kitchenette, 2 offices, and a 1 bedroom, 1 bath apartment unit for an onsite resident manager.

## **Project Location – 515 Candleberry Court, Fayetteville, NC 28301**

### **Scope of Work**

Preliminary plans as follows:

1. Scaled Site Plan showing, at a minimum, proposed building footprint, driveways, and parking areas.
2. Elevation of front of building.
3. Elevation of side of building
4. Floor layouts for each type floor or building, as applicable, using a minimum scale of 1/16" = 1'; identifying the location of units, common use areas and other spaces.

All required plans should be on 24"x36" paper and drawings should be to scale, using the minimum scale or 1/16" = 1'.

### **Project Site Control**

The Project site (parcel number 0437-80-2160 consists of a portion of undeveloped (approximately 1.11 acres) of land where the other portion of developed (approximately 1.55 acres) of land consists of two existing apartment buildings. The land and properties are located within the City of Fayetteville and owned by Cumberland County. The Project site is surrounded by other multi-family housing (Sycamore Park and Oak Run apartments) that is owned by the Fayetteville Metropolitan Housing Authority.

### **Site Conditions**

The Project site is zoned as MR5. The proposed Project site is not located within a Special Flood Hazard Area (SFHA). According the Flood Insurance Rate Map (FIRM) 3700243700J (effective 1/5/2007), the proposed Project is within Zone X (.2 percent annual chance flood hazard).

The proposed Project site will be connected to public water and sewer line that currently serves the two buildings adjacent to the site.

### **Deadline for Submission**

Deadline to submit proposals at the time and location described below; must be in writing and may be mailed or delivered to the following:

Time/Date: **Received by 4:30 p.m. December 21, 2018**

Proposals received after this date and time will not be accepted.

Cumberland County Community Development  
707 Executive Place  
Fayetteville, NC 28305  
or  
PO Box 1829  
Fayetteville, NC 28302-1829  
Attn: Sylvia H.- McLean, CDBG-DR Grant Administrator

The Bidding Firm (s) shall submit one (1) original with (2) identical copies of the Response in print and with one PDF copy provided on USB drive. An original signature must be included on the "THE COUNTY OF CUMBERLAND REQUEST FOR QUALIFICATION SUBMISSION FORM" document submitted with original document.

Late received Responses will be returned to the Respondent unopened. Properly submitted Responses by the Respondents will not be returned. Hard copies of RFQ materials must be enclosed in a sealed envelope addressed as noted above; the package must be clearly identifying the submittal deadline and that the response is for the COUNTY OF CUMBERLAND ARCHITECTURAL/ENGINEERING SERVICES FOR DISASTER RECOVERY PROGRAMS.

### **GENERAL INFORMATION AND REQUIREMENTS**

#### **Effective Period of Qualification**

All proposals are required to remain in effect for at least 90 days from the date submitted to the County for review.

#### **Public Information**

All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure.

#### **MWE/WBE & Utilization of Small Businesses**

Please state and certify whether your firm or any potential sub-contractors participate in the Minority and Women Owned Business Enterprise (MBE/WBE).

It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUB Zone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUB Zone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, HUB Zone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

### **Type of Contract**

The final contract form shall be negotiated between and be mutually acceptable to the parties. Any contract resulting from this effort will be negotiated at the sole discretion of the County of Cumberland (the County).

### **Clarifications and Interpretations**

Any clarifications or interpretations of this RFQ that materially affect or change its requirement will be provided by the County as an addendum. These items must be received by the County 10 days prior to the proposal due date to allow for proper notification. All such addenda issued by the County shall be issued before the proposals are due as part of the RFQ, and all Respondents shall acknowledge receipt of and incorporate each addendum in its Responses. Any additional information or addenda will be posted on the County's website

<http://co.cumberland.nc.us/department/community-development>

### **No Lobbying**

Proposer acknowledges and accepts that from the Date of Issuance of the RFQ until a final decision has been made by the County, it will not take any action, make any effort or support or engage others on its behalf to take actions or efforts with attempt to influence the decision-making process for this RFQ in the favor of the Proposer. This includes direct contact with the County Commissioners, County Manager, County Staff of Cumberland County, and others who may be engaged in the process or grant program. Additionally, the Proposer acknowledges and accepts that it will not attempt to use public communication such as the news media, social media, etc. as a means of attempting to influence the RFQ evaluation or decision-making process. Any Proposer violating any of the aforementioned conditions is subject to immediate disqualification for consideration.

## **Evaluation Procedure and Factors to Be Considered in The Evaluation Process**

### **Qualifications of Proposers**

The Proposer may be required before the award of any contract to show to the complete satisfaction of the County that it has the necessary understanding, staffing, and financial resources to provide the services specified herein in a satisfactory manner. The procurement of services is in accordance to NCGS143-64.31(a).

The Proposer may also be required to give a past history and references in order to satisfy the County in regard to the Proposer's qualifications. The County may make reasonable investigations deemed necessary and proper to determine the ability of the Proposer to perform the work, and the Proposer shall furnish to the County all information for this purpose that may be requested. The County reserves the right to reject any offer if the evidence submitted by, or investigated of, the Proposer fails to satisfy the County that the Proposer is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the Proposer's qualifications shall include:

- A. The knowledge, ability, capacity, skill, financial and other necessary resources to perform the work or provide the service required;
- B. The ability of the Proposers to perform the work or provide the service promptly or within the time specified without delay or interference;
- C. The character, integrity, reputation, judgment, experience and efficiency of the Proposer;
- D. The quality of performance of previous contracts or services; AND
- E. Overall costs of provided services

A selection committee made up of qualified County employees shall review and evaluate all responses. The selection committee will have only the responses to the solicitation to review for selection of finalists. It is therefore important that Proposers emphasize specific information pertinent to the work. The selection committee will make the recommendation to the County Manager. Final authority of the selection ultimately lies with the County of Cumberland County Manager and approval of the Board of Commissioners.

Factors to be considered are as follows:

- A. Company Profile: (15 points) Scoring will emphasize management, organization, availability of key staff, skill, financial and other necessary resources to perform the work or provide the services required in timely manner.

Proposers must provide a listing of the personnel who would be assigned to the project, including an explanation of the project team's organizational structure and each person's area of responsibility. Resumes for each professional assigned to this project are also required. Please include an organizational chart of the local team and any associated decision-makers part of any review or approval process within your firm.

- B. Commencement: (30 points) Scoring will emphasize ability to commence service promptly or within the time specified, without delay or interference.

- C. Experience: (30 points) Scoring will emphasize experience and success and with specific items listed in proposal, character, integrity, reputation, judgment and efficiency of the Proposer.

Proposers must provide three (3) examples of experience including the name, address, and telephone number of a client contact for each project. Examples proving the ability to coordinate multiple projects within the team should be included and will be considered in the scoring. Scoring will also emphasize disaster recovery experience which can include the firm's results of past governmental review and monitoring and/or direct team experience.

- D. References: (15 points) Scoring will emphasize quality of references. Also, the quality of performance of previous contracts or services.

- E. Price-Cost Effectiveness: (10 points) Proposer shall provide hourly rate information by title/function assigned to the project

After the selection process, the Selection Committee shall negotiate on behalf of the County of Cumberland, a contract with the best qualified firm for architectural and engineering services. The County reserves the right to delete elements or expand the scope of the contract based on the negotiated fees at the time of contract letting.

### Evaluation of Qualifications

The evaluation of the Responses shall be based on the requirements described in this RFQ. All properly submitted Responses will be reviewed, evaluated, and ranked by the County and City, with input from the Committee as noted above. The County reserves the right to include an interview with the Proposer if the County deems it necessary to aid in the ranking process. If the County requests an interview from a select number of the proposals, it is required of those Proposers to meet with the selection team at a time to be specified. The County will contact those Proposers with the top ranked proposals that best meet the County's needs. The number of selected proposals will be determined by the selection committee. Each of these will be required to meet with the selection team at a time to be specified. The proposals will be reviewed in depth with the selection team

at that time. The County will contact the Proposer that best meets the County's needs and attempt to negotiate an agreement that is acceptable to both parties.

### **County's Reservation of Rights**

The County may evaluate the Responses based on the anticipated completion of all or any portion of the Project. The County reserves the right to reject any and all Responses and re-solicit for new Responses or to reject any and all proposals and temporarily or permanently abandon the Project. The County makes no representations, written or oral, that it will enter into any form or agreement with any respondent to this RFQ for any project and no such representation is intended or should be construed by the issuance of this RFQ.

### **Acceptance of Evaluation Methodology**

By submitting its Responses to this RFQ, Respondent accepts the evaluation process and acknowledges and accepts that the determination of the most qualified firm(s) will require subjective judgments by the County.

### **No Reimbursement for Costs**

The Proposer acknowledges and accepts that any costs incurred from the Proposer's participation in this RFQ shall be at the sole risk and responsibility of the Proposer.

### **Eligible Respondents**

Only individual firms or lawfully formed business organizations may apply (this does not preclude a Proposer from using consultants). The County will contract only with the individual firm or formal organization that submits its Responses.

### **Reference Checks**

Proposer acknowledges and accepts that through the RFQ evaluation process reference checks and background investigation may be conducted as part of the due-diligence process.

### **Disposition of Proposals**

All submitted proposals become the property of the County.

### **Nonconforming Terms and Conditions**

A proposal that includes terms and conditions that do not conform to the terms and conditions in the RFQ is subject to rejection as non-responsive. The County reserves the right to permit the Proposer to withdraw nonconforming terms and conditions from its proposal prior to a determination by the County of non-responsiveness based on the submission of nonconforming terms and conditions.

### **Debarment and Suspension**

By submitting a proposal, the Proposer certifies that it is not currently debarred nor suspended from submitting proposal for contracts issued by any political subdivision or agency of the State of North Carolina or the Federal government and that it is not a person or entity that is currently debarred or suspended from submitting proposals from contracts issued by any political subdivision or agency of the State of North Carolina or the Federal government. Proposer must be registered at Sam.gov to be eligible.

### **Licensing and Insurance Requirements**

Proposers will be required to provide evidence of any relevant licenses, certifications and other credentials that relate to the services that the Proposer proposes to provide. The Proposer shall maintain in force for the duration of the contract the required license and insurance requirement.

Professional Liability containing errors and omissions coverage in amounts not less than \$1,000,000 (One Million Dollars).

Workers' Compensation and Employees Liability, in accordance with North Carolina state compensation laws. Employer's Liability shall not be less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit.

Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000 (One Million Dollars) per occurrence to protect the County against claims for bodily injury or death and damage, loss, or theft of equipment and property of others. This shall cover the use of all equipment and vehicles not covered by Automobile Liability. This shall include premises and/or operations; independent Proposers; products and completed operations and contractual liability.

Business Auto Liability and if necessary, Commercial Umbrella Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

The County is to be listed as Additional Insured and Certificate Holder on liability policies. The County requires a valid, up to date copy of your policy to be maintained on file during the duration of any service or particular project, if applicable.

#### **OTHER SUPPLEMENTAL CONDITIONS REQUIREMENT**

In accordance with the applicable statutes and regulations governing the CDBG, CDBG-DR, HMGP, federal funds or State funds, I hereby certify that:

**Utilization of Minority/Women & Disadvantaged Contractors** – Projects receiving federal funds must notify and include minority and women contractors in their bidding process. Executive Order 11625 (Utilization of Minority Business Enterprise) and Executive Order 12138 (Utilization of Female Business Enterprise).

**Davis-Bacon Prevailing Wage Rate Labor Standards** – Any construction project receiving \$2,000 or more in federal funds, as applicable, will be required to comply with prevailing wage requirement.

**Section 3** – Projects receiving federal funding that involve building or public facilities improvements must to the greatest extent feasible, utilize area lower income residents for employment and training opportunities (24 CFR Part 135).

**Environmental Regulations** – All funded projects must undergo environmental review to ensure compliance with the National Environmental Protection Act regulations. In accordance with 24 CFR Part 58.22, the applicant agrees to refrain from undertaking any physical activities or choice-limiting actions until the County has issued the agency a written environmental notice to proceed. Choice-limited activities include, but not limited to, acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

**Title VI of the Civil Rights Act of 1964** – No person shall be excluded from participation in, be denied the benefits of or subjected to discrimination under any program or activity

receiving federal financial assistance on the grounds of race, color, or national origin. (Public Law 99-352).

**Title VIII of Civil Rights Act of 1969** – The Fair Housing Act prohibits discrimination in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to a person, because of race, color, religion, sex, national origin, or familial status. (Public Law 90-294).

**American Disabilities Act** – Projects receiving federal funding involving physical activities must include accessibility and comply with the Americans with Disabilities Act guidelines. Any federal funded service must be provided in an accessible location.

**Drug-Free Workplace** – The agency shall make a good faith effort to maintain a drug-free workplace. (24 CFR Part 21).

**Anti-Lobbying** – No federal funds shall be used for the purpose of 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. (UCS Title 31 Section 1352).

**Lead-Based Paint** – Any activities involving the presence of lead-based shall comply with the requirements of 24 CFR Part 35.

Supplemental Conditions shall be included in all contracts utilizing federal funds.

Community Development Block Grant Program funds shall be used exclusively for eligible activities permitted by 24 CFR Part 570.

**COUNTY OF CUMBERLAND  
REQUEST FOR QUALIFICATION SUBMISSION FORM  
ARCHITECTURAL/ENGINEERING SERVICES**

**COMPANY** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**CONTACT PERSON** \_\_\_\_\_

**TELEPHONE NUMBER** \_\_\_\_\_

**EMAIL** \_\_\_\_\_

NOTE TO PROPOSER: SUBMIT ENTIRE SECTION WITH RESPONSE. THIS EXECUTION OF OFFER SUBMITTED MUST BE COMPLETED, SIGNED, AND RETURNED WITH THE RESPONDENT'S QUALIFICATIONS. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE QUALIFICATION MAY RESULT IN REJECTION OF THE QUALIFICATIONS.

SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED QUALIFICATIONS OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENT, WHICH MAY RESULT FROM THE SUBMISSION OF PROPOSER'S QUALIFICATIONS, AND THE PROPOSER MAY BE REMOVED FROM ALL PROPOSES LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND AT THE COUNTY'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT.

By signature hereon, Proposer acknowledges and agrees that (1) this RFQ is a solicitation for Interest and is not a contract or an offer to contract; (2) the submission of Responses by Proposer in response to this RFQ will not create a contract between the County and Proposer; (3) Neither the County or the Committee, or any of their representatives, have made a representation or warranty, written or oral, that one or more contracts with the County will be awarded under this RFQ; and (4) Proposer shall bear, a its sole risk and responsibility, any cost which arises from Proposer's preparation of a response to this RFQ.

By signature hereon, Proposer offers and agrees to furnish to the County all the products and/or services more particularly described in its Responses, and to comply with all terms, conditions and requirements set forth in the RFQ document and contained herein.

By signature hereon, Proposer affirms that they have not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant, elected officials, leadership or staff of the County, or partner organizations in connection with the submitted Responses.

By signature hereon, the Proposer hereby certifies that neither the Proposer nor the firm, corporation, partnership or Developer represented by the Proposer, or anyone acting for such firm corporation, or institution has violated the antitrust laws of this state or the Federal antitrust laws, nor communicated directly or indirectly the Responses mad to any competitor or any other person engaged in such line of business.

By signature hereon, Proposer represents and warrants that:

Proposer is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFQ;

Proposer has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFQ;

By signature hereon, Proposer certifies that the individual signing this document and the documents made part of the RFQ is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements, which may result from the submission of the Response.

By signature hereon, Proposer affirms that no compensation has been received for participation in the preparation of the specifications for this RFQ.

By signature hereon, Proposer affirms that it has not violated any of the noted No-Lobbying provisions or specifications contained in this RFQ.

By signature hereon, Proposer agrees to defend, indemnify, and hold harmless the County and the Committee, all of their officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connecting with, or resulting from any acts or omissions of Proposer or any agent, employee, subcontractor or supplier or Proposer in the execution or performance of any agreements or other contractual arrangements which may result from the submission of these Responses.

By signature hereon, Proposer acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

The Proposer shall confirm that a subcontractor representing itself as a HUB Zone small business concern is certified by SBA as a HUB Zone small business concern by accessing the System for Award Management database or by contacting the SBA. Options for contacting the SBA include

—

HUB Zone small business database search application Web page at  
[http://dsbs.sba.gov/dsbs/search/dsp\\_searchhubzone.cfm](http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm); or <http://www.sba.gov/hubzone>;

In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street,  
SW., Washington DC 20416; or

The SBA HUB Zone Help Desk at [hubzone@sba.gov](mailto:hubzone@sba.gov)

Submitted and certified this \_\_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_

Signature Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

## **FEDERALLY REQUIRED PROVISIONS SUPPLEMENTAL GENERAL CONDITIONS**

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

Conflict of Interest Provisions, including but not limited to those found at NC Gen. Stat. 14-234, 04 NCAC 19L. 0414, 2 CFR 200.112, and 24 CFR 270.611. Certain limited exceptions to the conflict of interest rules listed in 24 CFR 570.489 may be granted in writing by Department of Housing and Urban Development (HUD) and/or Commerce and NCEM upon written request and the provision of information specified in 24 CFR 570.489(h)(ii)(4).

### **LEGAL REMEDIES PROVISION:**

Contracts other than small purchases shall contain provisions or conditions which allow for administrative, contractual, or legal remedies in instances where borrowers violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

Examples of legal remedies could be liquidated damages, consequential damages, arbitration and others not listed.

### **TERMINATION PROVISION:**

All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the borrower/sub recipient/contractor.

### **NONDISCRIMINATION CLAUSE – SECTION 109, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974:**

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

### **AGE DISCRIMINATION ACT OF 1975, AS AMENDED NONDISCRIMINATION ON THE BASIS OF AGE:**

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

### **SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED**

**NONDISCRIMINATION ON THE BASIS OF HANDICAP:** No qualified handicapped person shall on the basis of handicap be excluded from participation in; be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

**EXECUTIVE ORDER 11246 CLAUSE:** During the performance of this contract, the sub recipient agrees as follows:

- 1) The sub recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The borrower 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 borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 2) The sub recipient will, in all solicitations or advertisements for employees placed by or on behalf of the borrower, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 3) The sub recipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the borrower's commitments under Section 202 of The provisions of Executive Order 11246 of Sept. 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) The sub recipient will comply with all provision of Executive Order No. 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5) The sub recipient will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and order of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 6) In the event of the sub recipient's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contract may be declared ineligible for further Government contracts in accordance with the procedures authorized 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 sub recipient will include 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 Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The borrower will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means

of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the even the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the borrower may request the United States to enter into such litigation to protect the interests of the United States.

**SECTION 3 CLAUSE: "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities:**

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with the requirements.
- c. The sub recipient will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment and training.
- d. The contract will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The borrower will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its borrowers and subcontractors, its successors or assigns to those sanctions specified by the grant or loan agreement of contract through which federal assistance is provided, and to such sanctions as specified by 24 CFR 135.

**AFFIRMATIVE ACTION – MBE/WBE PROVISION:**

Sub recipients and their contractors must fully comply with the requirements, terms and conditions of the Federal and State policy to award a fair share of the sub contract to minority and women's businesses. The contractor commits itself to taking affirmative action prior to submission of bids or proposals. The Sub recipient and its contractors will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

**COPELAND "ANTI-KICKBACK" ACT PROVISION:**

As stated in Attachment O – Circular No. A-102. 14.d.: All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 US 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor or borrower shall be prohibited from inducing, by any means any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which is otherwise entitled. The Grantee shall report all suspected or reported violations to the grantor agency. This material is presented in the Labor Standard Handbook 6500.3, Exhibit 14. These provisions should be contained in each bid document and referenced in each contract.

**Davis-Bacon Act-** (40 U.S.C.A. 276a) Among other provisions, this act requires that prevailing local wage levels be paid to laborers and mechanics employed on certain construction work assisted with CDBG-DR funds.

**DAVIS-BACON ACT PROVISION:**

The sub recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, and as further outlined in form HUD-4010; the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and 40 U.S.C. 276c); and all other applicable Federal, State and Local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Borrower shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County for review upon request.

The sub recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the County pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journeyman workers and ensure that all workers associated with the contract are paid the prevailing wage in accordance with the Department of Labor Wage Determination Number **NC (or most recent)**. If wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the borrower of its obligation, if any, to required payment of the higher wage. The borrower shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph."

**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT PROVISION:** As stated in 24 CFR 85.36:

Where applicable, all contracts awarded by grantees and borrowers in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplanted by Department of Labor regulations (29 CFR Part 5). Under Section 103 of the Act each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1 – 1 / 2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

This material is presented in the Labor Standards Handbook 6500.3, Exhibit 14. These provisions should be contained in each bid document and referenced in each contract.

**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:**

The sub recipient, if the contract is in excess of \$2,000, and any of his subcontractors, shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations contained in 29 CFR Parts 3, 5, and 5a.

Under Section 103 of the Act, the borrower and any of subcontractors shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of eight hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in any work week. Section 5 of the Federal Labor Standards Provision, HUD Form 4010 and 4010.1 attached and incorporated herein, sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that no labor or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market.

**Contract Work Hours and Safety Standards Act-** (40 U.S.C.A 327 through 333) Under this act, among other provisions, laborers and mechanics employed by contractors and subcontractors on construction work assisted with CDBG-DR funds must receive overtime compensation at a rate not less than one and one-half the basic rate of pay for all hours worked in excess of forty in any workweek. Violators shall be liable for the unpaid wages and in addition for liquidated damages computed in respect to each laborer of mechanic employed in violation of the act.

**Labor Standards,** including but not limited to the rules set forth in 04 NCAC 19L.1006, 24 CR 570.603 and the following (as may be applicable to CDBG-DR projects):

**Fair Labor Standards Act-** (29 U.S.C. 201 et seq.) requiring among other things that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed workweek.

Federal anti-kickback laws- (18 U.S.C. 874 and 40 U.S.C. 276) which, among other things, outlaws and prescribes criminal penalties for “kickbacks” of wages in federally financed or assisted construction activities. Weekly statements of compliance and weekly payrolls must be provided by all contractors and subcontractors.

**ACCESS TO RECORDS AND RECORD RETAINAGE CLAUSE:**

In general, all official project records and document must be maintained during the operation of this project and for a period of four years following close-out in compliance with 24 CFR 570.502(a) (16).

The North Carolina Department of Commerce – Division of Community Assistance, the North Carolina Department of Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above Rule.

**CLEAN WATER, CLEAN AIR, E.O. 11738 AND EPA REGULATIONS PROVISIONS:**

Compliance with Air and Water Acts. This agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

The borrower/sub recipient and any of its subcontractors for work funded under this Agreement which is in excess of \$100,000 agree to the following requirements:

1. A stipulation by the borrower or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the borrower to comply with the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the contact prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, including that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the borrower that he will include or cause to be included the criteria and requirements in paragraph 1 through 4 of this section in every nonexempt subcontract and requiring that the borrower will take such action as the Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

**LEAD-BASED PAINT CLAUSE:**

The sub recipient is hereby specifically made aware of the HUD Lead Based Paint regulations at 24 CFR 570.608 and 24 CFR Part 35, which are applicable to the construction or rehabilitation of residential structures. To the extent that the subject matter of this contract involves residential structures, the borrower will comply with the lead-based paint regulations.

**LOBBY CLAUSES: Required by Section 1352, Title 31, U.S. Code**

No Federal appropriated funds have been paid or shall 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;

If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

This certification is a material representative of fact upon which reliance was placed with 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 shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**PROGRAM INCOME:**

The use of program income by sub recipient shall comply with the requirements set forth as 24 CFR 570.504. By way of further limitations, sub recipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. The County may require remittance of unused program income at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be identified and shall be remitted promptly to the Grantee.

**REVERSION OF ASSETS:** Sub recipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in accordance with 24 CFR Parts 570.503(b) (7).

**RECORDS AND REPORTS:** Sub recipient shall submit regular Progress Reports to the County in the form, content, and frequency as required by the County.

**Title VI OF THE CIVIL RIGHTS ACT 1964 (24 CFR PART 1)**

General Compliance:

The Sub recipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended [if the Grantee is subject to 24 CFR part 570, sub part K, insert: "and 24 CFR 570.601 and 570.602". No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The Sub recipient shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 CFR part 1. The

identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

### **Architectural Barriers**

Per 04NCAC 19L.1007, 24 CFR 570.487 and 57.614 and other applicable law, all applicable buildings or facilities designed, constructed or altered with CDBG-DR Grant funds shall be made accessible and useable to the physically handicapped as may be required by applicable laws, rules, regulations or requirements. Additionally, Recipient must comply with the following (as may be applicable to CDBG projects) – Architectural Barriers Act of 1968 (P.L. 90 480) this act requires recipient to ensure that certain buildings constructed or altered with CDBG-DR funds are readily accessible to the physically handicapped.

Minimum Guidelines and Requirements for Accessible Design 36 CFR Part 1190

Americans with Disabilities Act (ADA) and the ADA Accessibility Guidelines for Buildings and Facilities or the Uniform Federal Accessibility Standards.

North Carolina Building Code, Vol. I, Chapter II-X. These provisions describe minimum standards recipient must meet in constructing or altering building and facilities, to make them accessible to and useable by the physically handicapped.

### **Environmental Review**

CDBG-DR funds are required to comply with the requirement of the National Environmental Policy Act of 1969 (NEPA) found at 24 CFR Part 38 and complete an Environmental Review Record (ERR). Commerce and NCEM may also require additional environmental review for project that receive these funds. Environmental Review procedures for the CDBG Program and the CDBG regulations contained in 24 CFR 58 and as further outlined.

### **Flood Plain – Flood Hazard & Flood Insurance**

The project shall follow flood coverage requirements 24 CFR 570.202(b)(7)(iii), 24 CFR 570.509(c)(4)(iv), 24CFR 570.605 and 42 U.S.C 4106, Section 202. In addition, if the project occurs in the following floodplain zones:

If the project occurs in a 100-year floodplain (A zone), an 8-step process is required as provided for in 40 CFR 55.20 or as reduced to the 5-step process pursuant to 40 CFR 55.12(a), unless an exception is applicable pursuant to 40 CFR 55.12(b).

If the project occurs in a 500-year floodplain (B zone or shaded X zone), the 8-step process is required for critical actions as provided for in 40 CFR 55.20 or a reduced to the 5-step process pursuant to 40 CFR 55.12(a), unless an exception is applicable pursuant to 40 CFR 55.12(b).

The Sub recipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 U.S.C. § 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. § 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about

mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award.

**Green Building**

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