

STATE OF NORTH CAROLINA
North Carolina Office of Recovery and Resiliency (NCORR)

Assignment of Residential Rehabilitation, Demolition, and Elevation/Mitigation Services

ASSIGNMENT REHAB #102

ASSIGNMENT ISSUE DATE: 2/16/2023

VENDOR RESPONSE DUE DATE/TIME: 2/20/23 BY 5:00 PM

TOTAL PROJECT COST: \$24,062.78

*** VENDOR MUST SUBMIT SIGNED CONTRACT, SECTION 3, HUB UTILIZATION, AND INSURANCE DOCUMENTATION WITHIN 48 HOURS OF BEING ISSUED THIS ASSIGNMENT CONTRACT (e.g. INTENT TO AWARD). OTHERWISE, NCORR MAY CONTACT THE NEXT VENDOR ON THE PRE-QUALIFIED CONTRACTOR LIST.***

This Assignment is per the Program Delivery Office (PDO) and the PDO policies for determining assignment. By executing this Contract, the Vendor agrees to perform the functions set forth herein at the prices indicated.

COMPLETE/FORMAL NAME OF VENDOR: Shepherd Response LLC	SAM UNIQUE ENTITY IDENTIFIER: [REDACTED]
STREET ADDRESS: 1332 Baez St	CITY & STATE & ZIP CODE: Raleigh, NC 27608
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR: Christian Baumgardner	EMAIL: christian@shepherd-response.com
VENDOR'S AUTHORIZED SIGNATURE: <i>Christian Baumgardner</i>	DATE: 2/16/23

Return the executed document to Construction@ReBuild.nc.gov.

FOR STATE USE ONLY: Assignment awarded this <u>20th</u> day of <u>February</u> , 2023	
by <u><i>Angie Penaway</i></u>	(Authorized Representative of NCORR)

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1.0 PURPOSE

NCORR is seeking highly skilled prime construction contractors to perform, or cause to be performed: rehabilitation, demolition, elevation and/or mitigation services of eligible structures through NCORR recovery programs. See rebuild.nc.gov for the State's Action Plan(s) and Program Manual(s) defining these construction activities.

2.0 GENERAL INFORMATION

2.1 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **APPLICATION:** The Request for Prequalification ("RFPQ") and Contractor's Application.
- b) **AUDIT:** The contract(s) awarded pursuant to the Assignment Contract are subject to audits by state and federal agencies and/or their authorized independent auditors. The auditors may conduct contract performance, financial and/or forensic/fraud audits.
- c) **ASSIGNMENT PRICING BOOK:** The State has prepared a Benchmark Assignment Pricing Book that will be used for project assignments. Contractors shall accept the pricing contained in NCORR's Pricing Book.
- d) **CDBG-DR:** The Community Development Block Grant – Disaster Recovery. This is a federal grant award issued to support Hurricane Matthew recovery efforts, and related disaster events in North Carolina authorized and funded by the U.S. Department of Housing and Urban Development and is awarded to the State of North Carolina. For the purposes of this RFPQ, CDBG-DR will also include Community Development Block Grant – Mitigation funds.
- e) **CONSTRUCTION MANAGER** or **CM:** A North Carolina-licensed general GC with construction management experience awarded a contract by NCORR that will provide NCORR construction management services.
- f) **CONTRACTOR(S)** or **GC(s):** The Contractors prequalified pursuant to a Request for Prequalification.
- g) **DPS:** North Carolina Department of Public Safety.
- h) **NCORR:** North Carolina Department of Public Safety, Office of Recovery and Resiliency.
- i) **PE:** Professional Engineer.
- j) **RA:** Registered Architect.
- k) **SCOPE OF WORK:** The agreed upon duties and responsibilities of the general contractor for each project site. The Scope of Work may only be altered by a change order.
- l) **STATE:** The State of North Carolina, including any of its sub-units and political subdivisions recognized under North Carolina law.
- m) **STATE AGENCY:** For purposes of this Assignment Contract, any sub-unit within the executive branch of the State, State Officials or Council of State Agencies that may have statutory, managerial or regulatory duties arising from or related to this RFP, CDBG-DR, State Disaster Recovery Acts of 2016, 2017 and 2018, and subsequent acts, and/or Hazard Mitigation Grant Program (HMGP) and these sub-units include but are not limited to: North Carolina Office of Recovery and Resiliency (NCORR), Governor's Office, Department of Public Safety (including NCORR and Division of Purchase & Logistics), Department of Administration (including State Construction Office and

Purchase and Contract), State Building Commission, Department of Insurance, Department of Labor, Department of Insurance, Office of State Auditor, Office of the State Controller, Office of State Budget and Management, State Treasurer, Office of the Attorney General, and State licensing boards.

- n) **WORK ORDER:** Specific, written authorization to perform the task(s) listed therein.

2.2 PREQUALIFICATION CONTENTS

The below items are required to be submitted by the Contractor. Contractor shall populate all attachments that require the Contractor to provide information and include an authorized signature where requested.

- a) All pages of this Assignment Contract shall be returned.
- b) Completed and signed EXECUTION PAGE (page1).
- c) ATTACHMENT A: ASSIGNMENT WORKSHEET
- d) Completed ATTACHMENT B: LOCATION OF WORKERS UTILIZED BY CONTRACTOR
- e) Completed ATTACHMENT C: HUB UTILIZATION
- f) Completed ATTACHMENT D: SECTION 3 UTILIZATION
- g) ATTACHMENT E: CONSTRUCTION GENERAL CONDITIONS
- h) ATTACHMENT F: FEDERAL FUNDS PROVISIONS
- i) All Scope documents that are located within the designated SharePoint folder included in Attachment A: Assignment Worksheet. These documents are included by reference.

3.0 REQUIREMENTS

3.1 APPROVED PRICING CHARGES AND COSTS

Construction Costs: GCs will have to agree to the pricing, which is different depending upon the price of the project awarded, as explained below.

Projects under \$30,000: GCs will be awarded based upon an assignment factor applied to the Estimated Cost of Repair ("ECR"). The assignment factor will be set by NCORR which will include overhead, and profit for all prequalified GCs who wish to participate in projects under \$30,000. The GCs will then either accept or reject the assignment factor. GCs that do not accept the assignment factor will not be awarded contracts below \$30,000.

Demolition: The Lump Sum fixed price for each project site includes but are not limited to: all labor, personnel, equipment, materials, fees, mobilization, bonds, project management, overhead and profit, daily and weekly project site reporting, insurance, compliance with contractual reporting requirements, maintenance, safety, site security, temporary facilities, temporary utilities, dumpster and disposal fees, in-ground and above-ground fuel tanks, and any expenses associated with the scope of work. No additional charges outside the lump sum fixed price will be allowed, unless approved by NCORR in the form of a change order. It is the responsibility of the GC to assess each property prior to accepting the Assignment Contract.

Lead-based paint, Asbestos, or Environmental Abatement (“Abatement”): GCs that discover Asbestos, Lead paint, and Radon in the work area shall provide a change order to the NCORR Construction Manager for this additional Scope of Work. Once the Scope of Work is agreed upon by NCORR in writing, pricing will be negotiated with and approved by NCORR prior to performing the work.

GC shall only invoice for amounts specifically allowed for in the Assignment Contract.

3.2 INVOICES

After award of the Assignment Contract the GC will be provided training by NCORR how to invoice for payment. Unless otherwise instructed, GCs will only submit payment applications to NCORR through the CM.

The standard format for invoicing shall be Single Invoices meaning that the Contractor shall provide NCORR with an invoice for each Work Order. Invoices shall include detailed information, supporting documentation and/or deliverables requested in a Work Order to allow NCORR or their designee to verify fees, costs and/or expenses. At a minimum, the following fields shall be included on all invoice packages:

Contractor’s Contact Information, NC Contract Number, Work Order Date, Item Descriptions (including pricing), and Scope Performed.

3.3 INSURANCE

GCs shall submit a copy of insurance coverage and limits with this executed Assignment. Specific requirements (shown below) are described in detail in Attachment E, Section 15.

At a minimum, Contractor shall provide and maintain the following coverage and limits and obtain the required performance bond:

- a. **Worker’s Compensation** – Contractor shall provide and maintain Worker’s Compensation insurance, as required by the laws of North Carolina, as well as employer’s liability coverage with Insurance minimum limits of **\$250,000.00**, covering all of Contractor’s employees who are engaged in any work under this contract.
- b. **Commercial General Liability** – Contractor shall maintain General Liability Coverage on a Comprehensive Broad Form on a cost occurrence basis in the minimum amount of **\$500,000.00**, Combined Single Limit. (Defense costs shall be in excess of the limit of liability.)
- c. **Automobile** – Contractors shall maintain automobile insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in connection with this contract. The minimum combined single limit shall be **\$250,000.00** bodily injury and property damage; **\$250,000.00** uninsured/under insured motorist; and **\$2,500.00** medical payment.
- e. **Deductible** – Any deductible, if applicable to loss covered by insurance provided, is to be borne by Contractor.

3.4 BONDS; PERFORMANCE AND PAYMENT

All projects will require 100% performance and payment **bonds**, individually or as a whole, **after** issuance of the Work Order (WO), and prior to the Notice to Proceed (NTP). A Notice to Proceed (NTP) will be issued following the review and approval of bonds. Failure to submit bonds 5 calendar days after issuance of the Work Order (WO) will result in termination of the contract.

4.0 SCOPE OF SERVICES

4.1 DESCRIPTION OF SERVICES AND REQUIREMENTS

GCs must be familiar with North Carolina, local, and/or regional Housing Guidelines, if applicable. Each local/regional program will be nuanced depending on local construction requirements, community recovery needs, program goals, and other applicable locally approved program requirements.

NCORR's focus is on customer service for the citizens participating in the program, as well as compliance with all applicable HUD guidelines and regulations.

a) Housing Standards

NCORR's commitment is to provide decent, safe, and sanitary housing to eligible program participants.

b) Americans with Disabilities Act of 1990 requirements

HUD has established standards of compliance that must be followed by every GC on every project where it is mandatory. In addition, GCs will have to adhere to all local, state, and federal rules and regulations.

c) Customer Service

All participants shall be treated with dignity and respect. The State expects responsiveness to the State and the homeowner, first-class customer service, and interactions and communications that are easily understood, prompt, and courteous.

4.2 DEMOLITION SCOPE OF WORK

The scope of work for each structure will vary, but may include, although not be limited to, the following:

- a) Obtaining all necessary state and local permits and approvals prior to commencement of the work for each structure.
- b) Removal of any above and/or in-ground oil tanks identified at the project site. The scope of work for this activity includes but is not limited to any permitting requirements, removal, cleaning, and disposal of tank, including all the tank contents, and remediation of any stained soils or surfaces.
- c) Removal and/or repairing/cleaning/servicing, and disposal of in-ground/above ground storage tanks, septic systems, and wells, where applicable.
- d) Marking and identification of all utilities passing through the area; prepare the property prior to commencement of structure demolition.
- e) Identify, remove and properly dispose of all universal and household hazardous wastes remaining in the structures.
- f) Perform baiting.
- g) Provide protection of adjacent properties and pedestrians, where applicable.
- h) Prepare the property prior to commencement of structure demolition to include, but are not limited to:
 - o erecting orange hi-viz safety fence around structures to be demolished;
 - o establishing silt fence and erosion control barriers as well as covering and protecting storm drains to prevent debris and soil run-off;
 - o placing 6 to 8 ft. chain-link fence panels across the front of the property to aid in site control;
 - o erecting any signage required by local, State, and Federal regulations.

- i) Erosion control measures must be maintained in proper condition at all times and expanded when necessary to cover any additional downslope areas that may be disturbed during the demolition and restoration processes. These measures must be installed and maintained prior to the areas being disturbed, and include measures to prevent offsite migration of soil and silt from soil piles. These erosion control measures must remain in place, and be maintained in good working condition, until all backfill and restoration tasks have been completed including seeding and re-vegetation of the property.
- j) Submit a Hazardous Material Handling and Disposal Plan to the CM describing the methods to be employed during the inventory, identification, packaging, and offsite disposal of universal and household hazardous wastes that may be encountered during pre-demolition preparation of the housing units. **Plans must be submitted** within fifteen (15) days of the signing event.
- k) Verify that each house listed for demolition has been abated (if applicable), that the house they are about to demolish is the correct house, and that all activities identified by their pre-demolition survey have been conducted and the house cleared for demolition, and proper permits acquired, before commencing demolition. Asbestos Containing Material (ACM) survey reports will be available for each property where ACM has been identified. Unless identified at property during demolition operations, asbestos abatement will be completed by separate contractor prior to General Contractor receiving control of the property. If ACM is discovered at a project site, NCORR shall be notified immediately and all work shall be stopped until the suspect materials can be sampled and analyzed. If materials come back positive for ACM, abatement must occur prior to any demolition work continuing at project site.
- l) Full demolition, including removal of slabs, foundations, and basements with the end goal being an empty lot devoid of any items except for pre-existing vegetation, trees, and shrubbery.
- m) Where driveways cross sidewalks, if existing joints are not present, the sidewalk/drive must be scored so that the driveway can be removed without damaging the sidewalk. Sidewalks and curbs are to remain intact and undamaged by demolition activities.
- n) All sub-surface holes (such as low areas under removed building foundations and basements, or holes created by the removal of basements and in-ground pools) will be backfilled, compacted and graded utilizing certified clean fill that meets the analytical requirements of the State of North Carolina for unrestricted, residential use. The backfill source must be identified prior to commencing demolition, and certification of the fill, and any analysis performed to verify the fill is clean, must be submitted for approval before material is brought on site. Backfill of basements or deep sub-surface areas will be compacted in minimum one foot increments unless more stringent requirements are provided for under local regulations.
- n) The area affected by demolition operations shall be cleared of all debris, backfilled, and graded, and the area covered with a layer of topsoil and seeded utilizing a seed mix suitable for the area where the work has taken place.
- o) Backfill specifications shall be per any local municipal, County, and State of North Carolina rules and regulations governing that type of activity or per requirements under local building codes, however the fill must consist of clean sand, gravel, or soil. No asphalt, slag, fly-ash, broken concrete, demolition debris, or similar materials shall be permitted for backfill use.
- p) Maintain the property and perform watering of the seed until a thick vegetative cover is established. Once the vegetation has been re-established and NCORR determines demolition work has been completed, the Contractor shall remove the site security measures, taking care not to disturb vegetation in the process.
- q) Provide photo documentation of the entire demolition process to include pictures of the structure prior to demolition; photos of pre-demolition preparations to include locating and disconnect of utilities; pre-

demolition securing of the property; bracing and shoring (if applicable); erosion control measures; protection of adjacent properties; removal of universal waste and household hazardous waste; baiting; demolition of the structure; backfill, grading and compaction of subsurface areas; and the topsoil, seeding, and final restoration of the property. Pre-demolition photo-documentation shall also show any appreciable drop in elevation from the front to the back of the various properties to aid in proper grading and restoration efforts. Backfill and restoration activities may require erection of additional silt fence and erosion control barriers until re-vegetation of the property has occurred. The pre-demolition inspection shall include photo documentation of the interior as well as the exterior of the structure to establish that all universal and household hazardous wastes have been removed and proof that all storm drains in the vicinity of the demolition work have been adequately protected to prevent intrusion of silt and debris.

- r) Perform perimeter and personnel air monitoring during demolition of the structures. At a minimum perimeter air monitoring shall include total particulates / dust and must be continuous during demolition operations. Personnel air monitoring should address both dust and lead. The frequency of air monitoring and the types of monitoring instruments to be employed must be addressed in the Contractor's Site-Specific Health and Safety Plan (HASP).

4.3 REHABILITATION SCOPE OF WORK

It is anticipated that structures eligible for rehabilitation will require an array of repairs ranging from minor to major. The scope of work for each repaired structure will vary, but may include, although not be limited to, the following:

- a) Obtaining all necessary state and local permits and approvals prior to commencement of the work for each structure.
- b) Providing architectural and house plan renderings.
- c) Demolition of damaged interior and exterior materials.
- d) Foundation leveling, repair, excavation and/or elevation.
- e) Structural damage repair.
- f) Building envelope repair, including:
 - o Roof repair or replacement and attendant damage, including shingles, gutters, and shutters
 - o Door and window replacement/repair, or removal
 - o Siding /veneer repair or replacement, or removal
 - o Mechanical (HVAC), replacement of electrical (including panels) and plumbing systems repair, reconfigure, and replacement
 - o Drywall repair or replacement
 - o Rough and trim carpentry
- g) Surface preparation and painting.
- h) Flooring repair, replacement/removal.
- i) Cabinet and appliance repair or replacement.
- j) Lead-based paint, asbestos and other environmental abatement.
- k) Specialty construction elements associated with historic properties, including coordination with the North Carolina Historical Commission or State Historic Preservation Office (SHPO), as well as other local historic districts and stakeholders in other jurisdictions.
- l) Wind mitigation and retrofitting measures.

- m) Specialty construction elements associated with Green Building Construction techniques (as required by HUD).
- n) Accessibility and design of projects to comply with the American with Disabilities Act of 1990 (if applicable) unless a HUD exception applies.
- o) Conducting close-outs for each project, which may include obtaining certificate(s) of occupancy from applicable state and local authorities.
- p) Survey/elevation certificate requirements.
- q) All other work or services for projects to include engineering, architectural, surveying, and/or environmental services required to obtain a certificate of occupancy and passing of final inspection from the local authority having jurisdiction, and NCORR. This includes, but not limited to an as-built survey, plot survey, engineering site visits, and/or site-specific engineering required by City, County, or public utility.

Training and Certification. As the State sees fit, GCs will complete Program-developed and -provided training to certify its understanding and ability to comply with Program standards, Program reporting requirements, Program invoicing requirements, and the Program scoring methodology used to evaluate Contractor performance and allocate future work.

4.4 ELEVATION/MITIGATION SCOPE OF WORK

Each structure elevation shall consist of steps to produce the construction documents for the local authority having jurisdiction approval. These steps will require multiple site visits by various professionals to develop the necessary documents needed for complete construction documents. GC and PE/RA shall schedule or provide services as follows:

- a) All homes that are deemed to need elevation will require a site survey and initial and final elevation certificates. The Site Survey and *initial* Elevation Certificate for elevations projects will be performed and provided by NCORR's vendor and must be followed by the GC. All other engineering, architectural, surveying, and environmental services will be required to be provided by the GC and are included.
- b) Geotechnical soil borings shall be performed by the GC's vendor, if applicable.
- c) Required permits and certificates, to include but not limited to Final Elevation Certificate.
- d) Disconnecting & deactivation of utilities.
- e) Extending/reconfiguring utilities to be reconnected/reactivated.
- f) Elevation of decks/porches/platforms to meet requirements of Elevation Certificate and applicable codes. All MEP systems must be elevated with the structure to conform to requirements of the livable space.
- g) ADA Compliance to include, although not limited to, ramps and lifts where required.
- h) Miscellaneous repairs/rehabilitations due to elevation.
- i) All elevations heights will utilize the greater of the following (BFE+2', Highest Watermark +2', or AHJ Requirement). This information will be provided on the initial elevation certificate and shall be followed.

4.5 ADDITIONAL REQUIREMENTS

- a) Provide professional labor, equipment, and materials adequate to perform the work in accordance with the Scope of Work issued for each eligible applicant's residential structure while ensuring that all applicable housing standards and codes are met.

- b) Comply with all applicable local, state, and federal laws, regulations, and guidelines, which may include: HUD Community Development Block Grant disaster laws, regulations, and guidelines; the Davis-Bacon Act (for repairs to properties containing more than four (4) units or more); Section 3 of the Housing and Urban Development Act of 1968; and M/WBE regulations.
- c) Provide documentation and tracking of construction progress including **daily reports** as required by NCORR.
- d) Meet with individual property owners to review the Scope of Work to be performed, including establishing a work schedule acceptable to property owners and NCORR and reviewing work upon final inspection.
- e) Meet NCORR's time frames for work completion requirements from the Notice to Proceed, homeowner consent/contract execution and/or permitting, whichever is later, and subject to environmental abatements that may impact a GC's schedule.
- f) Meet all federal, state, and local requirements for the transport and disposal of municipal solid, industrial, hazardous, and other wastes from demolished structures.
- g) Provide a one-year workmanship warranty, a two-year MEP systems warranty and a ten-year structural warranty.
- h) Assist homeowners in vacating their damaged home, if necessary. Moving services will primarily be authorized to support the elderly and disabled homeowners, and NCORR will coordinate with the approved GCs to minimize risk in the administration of these services.
- i) To ensure homeowners are not out of their homes longer than necessary NCORR has established standards for timely completion of contracted work. Completion standards begin the day NCORR issues the vendor a Notice to Proceed (NTP) and ends when home passes final inspection and the homeowner accepts key turnover. The State will assess liquidated damages for each day that exceeds required timeframes from NTP to construction passing final inspection and homeowner accepting keys. The State assesses liquidated damages of **two hundred fifty dollars (\$250) a day for each day** that exceeds approved contractual timeframe from NTP to construction passing final inspection and homeowner accepting keys. The timeframe from NTP to homeowner accepting keys is colloquially known as the Period of Performance and includes the initial period with the original scope plus any NCORR-approved time extensions. Liquidated damages are assessed for any days beyond that Period of Performance.
- j) Vendor shall provide Project Specific Site Health and Safety Plan (HASP) shall be submitted within 15 days of NTP and prior to any work beginning for each project.

4.0 PERIOD OF PERFORMANCE

General Contractors must **mobilize** within **20 days** of Contract award (which shall include obtaining consent to perform the work, design, permitting, surveying, temporary utilities, etc.) and complete assigned construction projects within the contracted time (subject to environmental remediation).

Demolition:

Each Work Order shall have an initial term of **20** calendar days after Notice to Proceed for Demolition.

Rehabilitation:

Each Work Order shall have an initial term of **45** calendar days after Notice to Proceed for Rehabilitation.

Elevation/Mitigation:

Each Work Order shall have an initial term of **20** calendar days after Notice to Proceed for Elevation/Mitigation

At the end of the Work Order's current term, the State shall have the option, in its sole discretion, to extend the Work Order on the same terms and conditions. The State will give Vendor written notice of its intent whether to exercise each option no later than **10** days before the end of the Work Order's then-current term.

5.0 SCOPE OF WORK AUTHORIZATION AND COMPENSATION

NCORR may request GC to perform certain projects as described above, subject to specific work authorization in the form of a General Work Order (Work Order). All Work Orders shall be in writing, signed by both the GC and NCORR (or its designee), and shall include a Scope of Services, a list of tasks to be performed by GC, a time schedule, a list of deliverables, if any, and such other information or special conditions as may be necessary for the work requested.

6.0 PROJECT AWARDING METHODOLOGY

Contracts up to \$29,999.99 will be awarded via assignment to a GC pursuant to N.C.G.S. § 143-131.

Awarding of Projects Under \$30,000

As defined in N.C.G.S. § 143-131, contracts under \$30,000 do not require competitive bidding or award to the lowest, responsive, responsible bidder. These contracts will be awarded with an assignment factor that will be applied to the ECR. The assignment factor will be set by NCORR, that will include overhead and profit for projects under \$30,000. The GCs will then either accept or reject the assignment factor.

Attachments begin on the next page.

ATTACHMENT A: ASSIGNMENT WORKSHEET

All information needed (ECR's, Tier 1 and Tier II requirements, ACM/LBP Survey's (if applicable), Assignment Worksheet) is located as attachments to the Intent to Award email:

Project ID	Address	City	County	ECR Cost	Assignment Factor	Multiplier (w/63.9%)	Final Cost
APP-08749	[REDACTED]	Bolton	Columbus	\$7,340.69	2.00	\$12,031.39	\$24,062.78

ATTACHMENT B: LOCATION OF WORKERS UTILIZED BY VENDOR

In accordance with N. C. Gen. Stat. § 143-59.4, the Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of this Contract. The State will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award. Please complete items a, b, and c below.

a) Will any work under this Contract be performed outside the United States?

YES NO

If the Vendor answered "YES" above, Vendor shall complete items 1 and 2 below:

1. List the location(s) outside the United States where work under this Contract will be performed by the Vendor, any sub-Contractors, employees, or other persons performing work under the Contract:

2. Describe the corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other sub-Contractors that will perform work outside the U.S.:

b) The Vendor agrees to provide notice, in writing to the State, of the relocation of the Vendor, employees of the Vendor, sub-Contractors of the Vendor, or other persons performing services under the Contract outside of the United States.

YES NO

NOTE: All Vendor or sub-Contractor personnel providing call or contact center services to the State of North Carolina under the Contract **shall** disclose to inbound callers the location from which the call or contact center services are being provided.

c) Identify all U.S. locations, outside of North Carolina, if any, at which performance will occur:

ATTACHMENT D: SECTION 3 UTILIZATION

This form should contain a detailed description of the supplies and/or services to be provided by each certified Section 3 Business under this Contract. Attach additional sheets if necessary.

At least one (1) subcontract MUST be listed.

Section 3 vendors can be found at <https://hudapps.hud.gov/OpportunityPortal/>

Complete the following form.

<u>Certified Section 3 Supplier / Subcontractor</u> (Name, Address, and Phone Number)	<u>Detailed Description of Section 3 Suppliers / Services to be Provided under this Assignment</u>	<u>Anticipated Dollar Value of Section 3 Suppliers / Subcontracts</u>
Shepherd-Response LLC/1332 Baez St Raleigh, NC 27608 / 609-214-3627	Management of subcontractors, communication w/NCORR, administrative, construction, compliance, scheduling of AHJ & NCORR inspections	\$2,406.28
Nash Locklear Construction Co. Inc/ 1313 West Carthage Rd, NC 28360 910-521-0906	Brick, Masonry, Carpentry, Demolition, Landscaping, Painting, Dry wall, Roofing	\$1,203.14
At Home Companies LLC / 21 Ennis Rd Elizabeth, NC 28337 / 336-516-8477	Brick, Masonry, Carpentry, Demolition, Landscaping, Painting, Dry wall, Roofing	\$1,203.14

ATTACHMENT E: CONSTRUCTION GENERAL CONDITIONS

ARTICLE 1 - WORKING DRAWINGS AND SPECIFICATIONS AT THE JOB SITE

- a. Contractor shall maintain, in readable condition at his job office, one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by Contractor, designer, and/or NCORR. A copy of the plans and specifications shall be provided to Owner.
- b. Contractor shall maintain at the job office a day-to-day record of work-in-place that is at variance with the contract documents. Such variations shall be fully noted on project drawings by Contractor and submitted to the designer and NCORR upon project completion and no later than thirty (30) days after acceptance of the project.
- c. Contractor shall maintain at the job office a record of all required tests or special inspections that have been performed, clearly indicating the scope of work inspected and the date of approval or rejection. Contractor shall make these tests and special inspection reports available to NCORR, the Authority Having Jurisdiction ("AHJ") and Owner upon request.

ARTICLE 2 - OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

Contractor Construction Documents. All drawings and specifications provided by NCORR in the construction of a Project remain intellectual or proprietary property of NCORR. Owner may request drawings and specifications for future renovation or work at the Home. Owner and Contractor use of these plans and specifications on work other than this Contract without permission of NCORR is prohibited. Owner and Contractor are prohibited from selling NCORR's plans and specifications.

ARTICLE 3 - MATERIALS, EQUIPMENT, EMPLOYEES

- a. Contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of the same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.
- b. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
- c. Upon notice, Contractor shall furnish evidence as to quality of materials.
- d. Products are generally specified by American Society of Testing and Materials (ASTM) or other reference standard and/or by manufacturer's name and model number or trade name. When specified only by reference standard, Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, Contractor has the option of using any product and manufacturer combination listed. However, Contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Request for substitution of materials, items, or equipment shall be submitted to NCORR for approval or disapproval; such approval or disapproval shall be made by NCORR. Alternate materials may be requested after the award if it can clearly be demonstrated that it is an added benefit to Owner and NCORR and Owner approves.
- e. NCORR shall be the judge of equality for proposed substitution of products, materials or equipment and whether they comply with CDBG-DR, HRP and/or grant eligibility rules, requirements and/or standards.

ARTICLE 4 - ROYALTIES, LICENSES AND PATENTS

It is the intention of the contract documents that the work covered herein will not constitute in any way infringement of any patent whatsoever unless the fact of such patent is clearly evidenced herein. Contractor shall protect and save harmless Owner, NCORR, the State of North Carolina and/or HUD against suit on account of alleged or actual infringement. Contractor shall pay all royalties and/or license fees required on account of patented articles or processes, whether the patent rights are evidenced hereinafter.

ARTICLE 5 - PERMITS, INSPECTIONS, FEES, REGULATIONS

- a. Contractor shall give all notices and comply with all laws, ordinances, codes, rules and/or regulations bearing on the conduct of the work under this contract. If Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify NCORR in writing. Any necessary changes required after contract award shall be made by change order in accordance with Article 19. If Contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to NCORR, he shall bear all cost arising therefrom. Additional requirements implemented after contracting will be subject to equitable negotiations.
- b. All work under this contract shall conform to the North Carolina State Building Code and other State, local and national codes as are applicable. The cost of all required inspections and permits shall be the responsibility of Contractor and be included within the contract price. All water taps, meter barrels, vaults and impact fees shall be paid by Contractor and included within the contract price unless otherwise noted.

ARTICLE 6 - PROTECTION OF WORK, PROPERTY AND THE PUBLIC

- a. Contractor shall be responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by NCORR or designer, and by laws or ordinances governing such conditions. Contractor shall be responsible for any damage to Owner's property, or of that of others on the job, by them, their personnel, or their subcontractors, and shall remedy such damages. Contractor shall be responsible for and pay for any damages caused to Owner. Contractor shall have access to the project at all times.
- b. Contractor shall provide cover and protect all portions of the structure when the work is not in progress, provide and set all temporary roofs, covers for doorways, sash and windows, and all other materials necessary to protect all the work on the building, whether set by him, or any of the subcontractors. Any work damaged through the lack of proper protection or from any other cause, shall be repaired or replaced without extra cost to NCORR or Owner.
- c. No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from NCORR.
- d. Contractor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around the same. Contractor shall barricade all walks, roads, etc., as directed by NCORR to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night.
- e. Contractor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the A.G.C. *Accident Prevention Manual in Construction*, as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. Contractor shall clearly mark or post signs warning of existing hazards, and shall barricade excavations, elevator shafts, stairwells and similar hazards. Contractor shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.
- f. Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, *Federal Register*), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.
- g. Contractor shall designate a responsible person of his organization as safety officer/inspector to inspect the project site for unsafe health and safety hazards, to report these hazards to Contractor for correction, and whose duties also include accident prevention on the project, and to provide other safety and health measures on the project site as required by the terms and conditions of the contract. The name of the

safety inspector shall be made known to NCORR at the time of the preconstruction meeting and in all cases prior to any work starting on the project.

- h. In the event of an emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, Contractor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage. Any compensation claimed by Contractor on account of such action shall be determined as provided for under Article 10(b).
- i. Any and all costs associated with correcting damage caused to adjacent properties of the construction site or staging area shall be borne by Contractor. These costs shall include but not be limited to flooding, mud, sand, stone, debris, and discharging of waste products.

ARTICLE 7 - SEDIMENTATION POLLUTION CONTROL ACT OF 1973

- a. Any land-disturbing activity performed by Contractor in connection with the project shall comply with all erosion control measures set forth in the contract documents and any additional measures which may be required in order to ensure that the project is in full compliance with the Sedimentation Pollution Control Act of 1973, as implemented by Title 15, North Carolina Administrative Code, Chapter 4, Sedimentation Control, Subchapters 4A, 4B and 4C, as amended (15 N.C.A.C. 4A, 4B and 4C).
- b. Upon receipt of notice that a land-disturbing activity is in violation of said act, Contractor shall be responsible for ensuring that all steps or actions necessary to bring the project in compliance with said act are promptly taken.
- c. Contractor shall be responsible for defending any legal actions instituted pursuant to N.C. Gen. Stat. §113A-64 against any party or persons described in this article.
- d. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless NCORR, designer, and the agents, consultants and employees of NCORR, and designer from and against all claims, damages, civil penalties, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance of work or failure of performance of work, provided that any such claim, damage, civil penalty, loss or expense is attributable to a violation of the Sedimentation Pollution Control Act. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or persons described in this article.

ARTICLE 8 - INSPECTION OF THE WORK

- a. It is a condition of this contract that the work shall be subject to inspection during normal working hours and during any time work is in preparation and progress by Contractor, designer, designated official representatives AHJ, NCORR and those persons required by state law to test special work for official approval. Contractor shall therefore provide safe access to the work at all times for such inspections. Owner must give advance notice to Contractor and/or NCORR to ensure Owner safety pursuant to OSHA requirements.
- b. Where special inspection or testing is required by virtue of any state laws, instructions of the designer and/or NCORR, specifications or codes, Contractor shall give adequate notice to the designer and NCORR of the time set for such inspection or test, if the inspection or test will be conducted by a party other than the designer. Such special tests or inspections will be made in the presence of NCORR, or his authorized representative, or designer (if necessary) and it shall be Contractor's responsibility to serve ample notice of such tests.
- c. All laboratory tests shall be paid for by Contractor unless provided otherwise in the contract documents, including laboratory tests to establish design mix for concrete, and for additional tests to prove compliance with contract documents where materials have tested deficient, except when the testing laboratory did not follow the appropriate ASTM testing procedures.
- d. Should any work be covered up or concealed prior to inspection and approval by AHJ and NCORR (when required by the contract) and/or special inspector, such work shall be uncovered or exposed for inspection, if so requested by AHJ (verbally or in writing) or NCORR (in writing). Inspection of the work will be made upon notice from Contractor. All cost involved in uncovering, repairing, replacing, recovering and/or restoring to design condition the work that has been covered or concealed will be paid by Contractor involved.

ARTICLE 9 - CONTRACTOR AND SUBCONTRACTOR RELATIONSHIPS

- a. Contractor agrees that the terms of its contract shall apply equally to each subcontractor as to Contractor, and Contractor agrees to take such action as may be necessary to bind each subcontractor to these terms. Contractor further agrees to conform to the Code of Ethical Conduct as adopted by the Associated General Contractors of America, Inc., with respect to contractor-subcontractor relationships, and that payments to subcontractors shall be made in accordance with the provisions of G.S. 143-134.1 titled Interest on final payments due to prime contractors: payments to subcontractors.
- b. Within seven days of receipt by Contractor of each periodic or final payment, Contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the subcontractor be delayed by more than seven days after receipt of periodic or final payment by Contractor, Contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due, NCORR shall not be liable for interest resulting from Contractor's failure to pay any subcontractor.
- c. NCORR will retain no more than five (5) percent of progress payments from Contractor, which will be released upon final acceptance of the HRP project. Should Contractor fail to perform work under the contract, substantially delay completion of the work, or fail to correct non-conforming work in a timely manner, NCORR may use retainage to correct non-conforming work and/or complete performance of the contract. The percentage of retainage on payments made by Contractor to the subcontractor shall not exceed the percentage of retainage on payments made by NCORR to Contractor. Any percentage of retainage on payments made by Contractor to the subcontractor that exceeds the percentage of retainage on payments made by NCORR to Contractor shall be subject to interest to be paid by Contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.
- d. Nothing in this section shall prevent Contractor, at the time of application and certification to NCORR, from withholding application and certification to NCORR for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third-party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment and materials; damage to contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by NCORR.

ARTICLE 10 - CHANGES IN THE WORK

- a. NCORR may make changes to the work covered by the contract. These changes will not invalidate any portion of the contract and will not relieve or release Contractor from any guarantee given by it pertinent to the contract provisions. These changes will not affect the validity of the guarantee bond and will not relieve the surety or sureties of said bond. All extra work shall be executed under conditions of the original contract.
- b. Except in an emergency endangering life or property, no change shall be made by Contractor except upon receipt of an approved change order or written field order from NCORR authorizing such change. No claim for adjustments of the contract price shall be valid unless this procedure is followed.

A field order, transmitted by fax, electronically, or hand delivered, may be used where the change involved impacts the critical path of the work. A formal change order shall be issued as expeditiously as possible.

In the event of an emergency endangering life or property, Contractor may be directed to proceed on a time and materials basis, whereupon Contractor shall proceed and keep accurately on such form as specified by NCORR, a correct account of costs, together with all proper invoices, payrolls and supporting data. Upon completion of the work, the change order will be prepared as outlined under either Method "c(1)" or Method "c(2)" or both.

- c. In determining the values of changes, either additive or deductive, Contract shall be based on the contractual language.
- d. Should below grade concealed conditions be encountered in the performance of the work, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the contract documents, the contract sum and time for completion may be equitably adjusted by change order upon claim by either party made within thirty (30) days after the condition has been identified. All

change orders shall be supported by a unit cost breakdown showing method of arriving at net cost as defined above.

- e. In all change orders, Contractor will provide such proposal and supporting data in suitable written format. NCORR shall verify correctness. Delay in the processing of the change order due to lack of proper submittal by Contractor of all required supporting data shall not constitute grounds for a time extension or basis of a claim. Within fourteen (14) days after receipt of Contractor's accepted proposal, including all supporting documentation required by NCORR, NCORR shall prepare the change order and forward to Contractor for his signature or otherwise respond, in writing, to Contractor's proposal. Within seven (7) days after receipt of the change order executed by Contractor, NCORR's representative shall certify the change order by his or her signature, and forward the change order and all supporting data to NCORR for its review of CDBG-DR, HRP and/or grant eligibility compliance and, if compliant, NCORR will sign the change order and the revised scope of work may proceed. If the change order is denied, then Contractor shall not proceed with the work. In case of emergency or extenuating circumstances, approval of changes may be obtained verbally by telephone or via field orders approved by all parties, and then shall be substantiated in writing as outlined under normal procedure.
- f. A change order, when issued, shall include full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the project as a result of the change in the work.
- g. Contractor understands and acknowledges that any and all change orders made subsequent to this Grant Agreement shall be incorporated herein by reference into this original Grant Agreement. Subsequent Change Orders shall then represent the entire Grant Agreement between the parties for the new construction of their damaged home under the Program.

ARTICLE 11 - TIME OF COMPLETION, DELAYS, EXTENSION OF TIME

- a. Contractor shall commence work to be performed under this agreement on a date to be specified in a written Notice to Proceed from NCORR and shall fully complete all work hereunder within the time of completion stated in the Contract. Time is of the essence and Contractor acknowledges NCORR will likely suffer financial damage for failure to complete the work within the time of completion. For each day in excess of the above number of days, the sum of \$250.00 per day shall be deducted from Contractor's next draw request as liquidated damages reasonably estimated in advance to cover the losses incurred by NCORR by reason of failure of said Contractor to complete the work within the time specified, such time being in the essence of this contract and a material consideration thereof. If Contractor disputes the calculation of liquidated damages, then NCORR may recover actual damages.
- b. If Contractor is delayed at any time in the progress of his work solely by: any act or negligence of Owner or NCORR; by changes ordered in the work; by labor disputes at the project site; by abnormal weather conditions not reasonably anticipated for the locality where the work is performed; by unavoidable casualties; by any causes beyond Contractor's control; or by any other causes which NCORR determine may justify the delay, then the contract time may be extended by change order only for the time which NCORR may determine is reasonable.

Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity for the locality where work is performed. For purposes of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where work is performed and on daily weather logs kept on the job site by Contractor reflecting the effect of the weather on progress of the work and initiated by the NCORR's representative. No weather delays shall be considered after the building is dried-in unless work claimed to be delayed is on the critical path of the baseline schedule or approved updated schedule. Time extensions for weather delays, acts of God, labor disputes, fire, delays in transportation, unavoidable casualties or other delays which are beyond the control of NCORR do not entitle Contractor to compensable damages for delays. Any Contractor claim for compensable damages for delays is limited to delays caused solely by Owner or its agents. Contractor caused delays shall be accounted for before Owner or NCORR caused delays in the case of concurrent delays.

- c. Requests for extensions of time shall be made in writing to NCORR, with copies provided to NCORR, within fifteen (15) days following cause of delay. The request must contain a brief description of: the event or situation that caused the delay; how the event and situation impacted critical work needed to complete

the Project on time as such work is reflected in the schedule or reasonably inferred from the progress of construction; a statement of Contractor's inability to perform other work to mitigate the impact of the event or situation causing delay; a statement that Contractor (including employees, subcontractors, or suppliers) were not the cause of the event or situation; and such other additional work and costs incurred by Contractor resulting from the event or situation delaying Contractor's work. **Contractor understands that the failure to provide a timely request with the requested details and cost information shall result in rejection of the request absent a reasonable and substantiated explanation for the lack of timeliness which was caused by events, situations or persons outside Contractor's control. Contractor further understands that the payments made under this Contract are from a federal grant administered by a State agency and, as a result, Contractor understands that any requests for time extensions are subject to the State and federal False Claims Acts and auditing requirements.**

- d. If a performance or payment bond has been provided by Contractor for this Project, then Contractor shall notify its surety in writing of any extension of time that is granted by NCORR.

ARTICLE 12 – APPLICATIONS FOR PAYMENT

- a. Contractor shall submit to NCORR a request for payment for work done on a schedule agreed upon by Contractor and NCORR. The request shall be in the form agreed upon between Contractor and NCORR, but shall show substantially the value of work done and materials delivered to the site during the period since the last payment, and shall sum up the financial status of the contract with the following information:
1. Total value of contract including change orders.
 2. Value of work completed to date.
 3. Less five percent (5%) retainage.
 4. Less previous payments.
 5. Current amount due.
- b. Contractor, upon request of NCORR, shall substantiate the request with invoices of vouchers or payrolls or other evidence including compliance with federal prevailing wage laws.
- c. Prior to submitting the first request, Contractor shall prepare for NCORR a schedule of values (SOV) showing a breakdown of the contract price into values of the various parts of the work, so arranged as to facilitate payments to Contractor and subcontractors. Contractor shall list the value of each subcontractor and supplier, identifying each minority business subcontractor and supplier.
- d. NCORR will withhold retainage up to the statutory amount of five percent (5%) to ensure a prequalified contractor's completion of the project and/or to resolve any disputes with NCORR or subcontractors.

ARTICLE 13 - CERTIFICATES OF PAYMENT AND FINAL PAYMENT

- a. Within five (5) days from receipt of request for payment from Contractor (or other date set by Contractor and NCORR), Contractor shall issue and forward to NCORR a certificate for payment. This certificate shall indicate the amount requested by Contractor. If the certificate is not approved by NCORR, NCORR shall state in writing to Contractor and NCORR his reasons for withholding payment.
- b. No certificate issued or payment made shall constitute an acceptance of the work or any part thereof until issuance of a certificate of occupancy issued by AHJ and NCORR closeout the contract (warranties and guarantees shall remain in effect after contract closeout). The making and acceptance of final payment shall constitute a waiver of all claims by Contractor against Owner or NCORR except:
1. Claims arising from unsettled liens or claims against Contractor.
 2. Faulty work or materials appearing after final payment.
 3. Failure of Contractor to perform the work in accordance with drawings and specifications, such failure appearing after payment.
 4. As conditioned in any payment bond.
- c. Contractor shall forward to NCORR the final application for payment along with the following documents:
1. List of minority business subcontractors and material suppliers showing breakdown of contract amounts and total actual payments to subs and material suppliers.
 2. Affidavit of Release of Liens.
 3. Affidavit of Contractor of payment to material suppliers and subcontractors.

4. Consent of Surety to Final Payment.
5. Certificates of state agencies required by state law.
6. If applicable, Asbestos Manifest from a permitted disposal facility.
7. Warranty certification by homeowner.
8. Homeowner Acceptance of Work.

ARTICLE 14 - PAYMENTS WITHHELD

- a. NCORR may withhold payment for the following reasons:
 1. Faulty work not corrected.
 2. The unpaid balance on the contract is insufficient to complete the work in the judgment of the designer and/or NCORR.
 3. To provide for sufficient contract balance to cover liquidated damages that will be assessed.
 4. Payment documentation has not been submitted by the contractor or is unacceptable.
 5. Non-compliance with contractual requirements.
- b. When grounds for withholding payments have been removed, payment will be released.

ARTICLE 15 - MINIMUM INSURANCE REQUIREMENTS

COVERAGE - During the term of the Contract, Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. At a minimum, Contractor shall provide and maintain the applicable coverage and limits and obtain the required performance bond.

REQUIREMENTS - Providing and maintaining adequate insurance coverage is a material obligation of Contractor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. Contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by Contractor shall not be interpreted as limiting Contractor's liability and obligations under the Contract.

After NCORR's assignment of the Contract to Contractor and prior to performance of the contract, Contractor shall provide proof of the foregoing insurance coverages by providing NCORR with a certificate of insurance. Contractor shall provide a copy of the certificate of insurance upon request of Owner or Owner's attorney. If any personal injury or property damage or claim of such injury or damage should occur during construction of the Project, Contractor shall provide upon request of NCORR, subcontractor, any employee of an entity inspecting the property or providing architectural, engineering and/or land surveying services (including but not limited to State employees, employees of any authority having jurisdiction), Owner, and/or any attorney representing Owner a complete copy of any insurance policy that may provide coverage for the injury, damages and/or claim.

NOTE: The State Tort Claims Act, N.C. Gen. Stat. §§ 143-291 et seq., may apply to any incident involving any State employees who may be at the Project site during construction for purposes of performing CDBG-DR grant monitoring/compliance work and/or inspection of construction if he/she allegedly caused property damage or personal injury. However, the State of North Carolina and the U.S. Department of Housing and Urban Development are not liable for any personal injury, property damage, any other tort claim, or breach of this Contract by virtue of funding any portion of the construction via the CDBG-DR award to Owner.

ARTICLE 16 - PAYMENT & PERFORMANCE BONDS

- a. NCORR will require Contractor to furnish a payment bond executed by a surety company authorized to do business in North Carolina. The bond shall be in the full contract amount. The bond shall be executed in the form as required by NCORR. Payments bonds will be required for major new construction projects.
- b. All bonds shall be countersigned by an authorized agent of the bonding company who is licensed to do business in North Carolina.

- c. **Performance Bond**—NCORR will require Contractor to furnish a performance bond executed by a surety company authorized to do business in North Carolina. The performance bond shall be in the full contract amount. Contractor shall submit a sample performance bond and sample power of attorney to NCORR for review and approval.

ARTICLE 17 - CONTRACTOR'S AFFIDAVIT

The final payment of retained amount due Contractor on account of the contract shall not become due until Contractor has furnished to NCORR an affidavit signed, sworn and notarized to the effect that all payments for materials, services or subcontracted work in connection with his contract have been satisfied, and that no claims or liens exist against Contractor in connection with this contract. In the event that Contractor cannot obtain similar affidavits from subcontractors to protect Contractor and Owner from possible liens or claims against the subcontractor, Contractor shall state in his affidavit that no claims or liens exist against any subcontractor to the best of Contractor's knowledge, and if any appear afterward, Contractor shall hold NCORR and Owner harmless.

ARTICLE 18 - USE OF PREMISES

- a. Contractor shall confine its equipment, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits or directions of AHJ and NCORR and shall not exceed those established limits in his operations.
- b. Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.
- c. Contractor shall enforce NCORR's instructions regarding signs, advertisements, fires and smoking.
- d. No firearms, any type of alcoholic beverages, or drugs (other than those prescribed by a physician) will be permitted at the job site.

ARTICLE 19 - CUTTING, PATCHING AND DIGGING

- a. Contractor shall do all cutting, fitting or patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by work of other subcontractors shown upon or reasonably implied by the drawings and specifications for the completed structure, as the designer or NCORR may direct.
- b. Any cost brought about by defective or ill-timed work shall be borne by the party responsible therefore.
- c. Contractor should coordinate the work of the subcontractors to avoid unnecessary cutting, fitting or patching so that Contractor avoids damaging the work of its subcontractors, and subcontractors avoid damaging the work of Contractor and/or other subcontractors.

ARTICLE 20 - UTILITIES, STRUCTURES, SIGNS

- a. If the house is unoccupied, Contractor shall provide necessary and adequate facilities for water, electricity, gas, oil, sewer and other utility services which may be necessary and required for completion of the project, including all utilities required for testing, cleaning, balancing, and sterilization of designated plumbing, mechanical and electrical systems. Any permanent meters installed shall be listed in Contractor's name until work has a final acceptance. Contractor shall contact all affected utility companies prior to contract execution to determine their requirements to provide temporary and permanent service and include all costs associated with providing those services in their contract price. Coordination of the work of the utility companies during construction is the sole responsibility of Contractor. If occupied NCORR, Contractor and Owner must reach an agreement as to apportionment of utilities, which must be included in the contract before construction begins.
- b. Meters shall be relisted in Owner's name on the day following final acceptance, and Owner shall pay for services used after that date.

ARTICLE 21 - CLEANING UP

- a. Contractor shall keep the building and surrounding area reasonably free from rubbish at all times, and shall remove debris from the site on a timely basis or when directed to do so by NCORR. Contractor shall provide an onsite refuse container(s) for the use of all contractors. Contractor shall remove rubbish and

debris from the building on a daily basis. Contractor shall broom clean the building as required to minimize dust and dirt accumulation.

- b. Contractor shall provide and maintain suitable all-weather access to the building.
- c. Before final inspection and acceptance of the building, Contractor shall clean the work area, including glass, hardware, fixtures, masonry, tile and marble (using no acid), clean and wax all floors as specified, and completely prepare the building for use by Owner, with no cleaning required by Owner.

ARTICLE 22 - GUARANTEE

- a. Contractor shall unconditionally guarantee materials and workmanship against patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the date of final acceptance of the work or beneficial occupancy and shall replace such defective materials or workmanship without cost to Owner. Contractor shall provide a ten (10) year warranty for all structural work performed under the Contract.
- b. Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. Contractor shall replace such defective equipment or materials, without cost to Owner, within the manufacturer's warranty period.
- c. Additionally, Owner may bring an action for latent defects caused by the negligence of Contractor which are hidden or not readily apparent to Owner or NCORR at the time of final acceptance, whichever occurred first, in accordance with applicable law.
- d. Guarantees for roof, equipment, materials, and supplies shall be stipulated in the specifications sections governing such roof, equipment, materials, or supplies. Contractor shall also provide all instruction manuals stipulated in the specification sections and/or that were furnished to Contractor from the manufacturer (e.g., hot water heaters, HVAC units, electrical equipment or fixtures, plumbing equipment and fixtures, appliances, etc.).

ARTICLE 23 – WOMEN AND MINORITY BUSINESS PARTICIPATION

2 C.F.R. § 200.321 requires that all necessary affirmative steps are taken to assure that minority and women's businesses are used when possible, and N.C. Gen. Stat. 143-128.2 establishes a ten percent (10%) goal for participation by minority and women owned businesses in total value of work for the HRP. The document, *Guidelines for Recruitment and Selection of Minority Businesses for Participation in State Construction Contracts*, including Affidavits, is found on the N.C. State Construction Office website.

ARTICLE 24 – CONTRACTOR EVALUATION

Contractor's overall work performance on each assigned or awarded HRP project/contract shall be fairly evaluated in accordance with the policy and procedures for determining continued prequalification for future work in the HRP. Contractor Evaluation Procedures are hereby incorporated and made a part of Contractor's approval of its application for prequalification. NCORR will evaluate Contractor's performance.

ARTICLE 25 – GIFTS

Pursuant to N.C. Gen. Stat. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, subcontractor, supplier, vendor, etc.) to make gifts or to give favors to any State employee. This prohibition covers those vendors and contractors who: (1) have a contract with a governmental agency; or (2) have performed under such a contract within the past year; or (3) anticipate bidding on such a contract in the future. For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review G.S. Sec. 133-32.

During the construction of the Project, Contractor and subcontractors are prohibited from making gifts to any employees of NCORR and/or any other State employee from any other State Agency that may have any involvement, influence, responsibilities, oversight, management and/or duties that pertain to and/or relate to the contract administration, financial administration and/or disposition of claims arising from and/or relating to the Contract and/or Project. In addition, Contractors are prohibited from making gifts to the Owner at any time. Contractors in violation of this provision of the agreement will be removed from participation in the program and reported to the HUD Office of Inspector General for investigation.

ARTICLE 26 – AUDITING-ACCESS TO PERSONS AND RECORDS

In accordance with 2 C.F.R. § 200.501 and N.C. Gen. Stat. §147-64.7, the Office of the Inspector General (OIG), State Auditor, NCORR or other applicable state agency internal auditors, or HUD shall have access to NCORR's and Contractor's officers, employees, agents and/or other persons in control of and/or responsible for Contractor's records that relate to this Contract for purposes of conducting audits under the referenced statute. HUD and NCORR's internal auditors shall also have the right to access and copy NCORR's and Contractor's records relating to the Contract and Project during the term of the Contract and within five years following the completion of the Project/close-out of the Contract to verify accounts, accuracy, information, calculations and/or data affecting and/or relating to NCORR's and Contractor's requests for payment, requests for change orders, change orders, claims for extra work, requests for time extensions and related claims for delay/extended general conditions costs, claims for lost productivity, claims for loss efficiency, claims for idle equipment or labor, claims for price/cost escalation, pass-through claims of subcontractors and/or suppliers, and/or any other type of claim for payment or damages from NCORR and/or Owner.

ARTICLE 27 – NORTH CAROLINA FALSE CLAIMS ACT

The False Claims Act (31 U.S. Code § 3729) and the North Carolina False Claims Act ("NCFCA"), N.C Gen. Stat. § 1-605 through 1-618, apply to this Contract. Contractor should familiarize itself with the False Claims Act and the NCFCA and should seek the assistance of an attorney if it has any questions regarding the NCFCA and its applicability to any requests, demands and/or claims for payment it submits to the State through the contracting state agency, institution, university or community college.

The purpose of the NCFCA "is to deter persons from knowingly causing or assisting in causing the State to pay claims that are false or fraudulent and to provide remedies in the form of treble damages and civil penalties when money is obtained from the State by reason of a false or fraudulent claim." (Section 1-605(b).) Contractor's liability under the NCFCA may arise from, but is not limited to: requests for payment, invoices, billing, claims for extra work, requests for change orders, requests for time extensions, claims for delay damages/extended general conditions costs, claims for lost productivity, claims for loss efficiencies, claims for idle equipment or labor, claims for price/cost escalation, pass-through claims of subcontractors and/or suppliers, documentation used to support any of the foregoing requests or claims, and/or any other request for payment from the State through the contracting state agency, institution, university or community college.

ATTACHMENT F: FEDERAL FUNDS PROVISIONS

Where federal funds are utilized, and to the extent applicable and absent stricter or controlling State provisions, the following federal provisions may apply consistent with Uniform Guidance in 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, and its Appendix II. Relevant federal authorities may require additional provisions depending on the scope and context of the Contract. Failure or unwillingness of the Vendor to continually meet any of these requirements, as applicable, may result in Contract termination.

1. Flood Disaster Protection. This Contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this Contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201 (d) of said Act; and the use of any assistance provided under this Contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

2. Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793). Contractor will not discriminate against any employee or applicant for employment because of a physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act

Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by NCORR, provided by or through the Program Administrator. Such notices shall state Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued

pursuant to Section 503 of the Act, so that such provisions will be binding upon each Subcontractor or Contractor. Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

3. Age Discrimination Act of 1975. Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.
4. Discrimination Due to Beliefs. No person with responsibilities in the operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.
5. Certification of Nonsegregated Facilities. By the submission of this Proposal, Contractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. Contractor certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. Contractor agrees that a breach of this certification is a violation of the equal opportunity clause of this Contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local customs or any other reason.

Contractor further agrees that (except where he has obtained identical certifications from proposed Subcontractors and material Suppliers for specific time periods), he will obtain identical certifications from proposed Subcontractors or material Suppliers prior to the award of subcontracts or the consummation of material supply agreements exceeding \$10,000, which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certification in his files.

6. Drug Free Workplace. Contractor hereby certifies that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988, as amended, and with 24 C.F.R. Part 21.
7. Contractor Work Hours, Safety, and Protection of Lives and Health. For construction contracts over \$100,000, Contractor shall comply with all standards and regulations applicable to the working hours of laborers and mechanics required by 40 U.S.C. 3702 and 3704, as supplemented by the Department of Labor regulations (29 C.F.R. Part 5). In general, these regulations and standards require Contractor to pay a basic rate for the first 40 hours of a standard 40-hour work week, and a rate of not less than one and half times the basic pay rate for hours worked in excess of 40 hours.

Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518) Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 7, 1971, Title 29 – LABOR, shall be observed and Contractor shall take or cause to be taken, such additional safety and health measures as NCORR may determine to be reasonably necessary.

8. Danger Signals and Safety Devices. Contractor shall make all necessary precautions to

guard against damages to property and injury to persons. Contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case Contractor fails or neglects to take such precautions, NCORR may have such lights and barricades installed and charge the cost of this work to Contractor. Such action by NCORR does not relieve Contractor of any liability incurred under these specifications or contract.

9. Lead Based Paint Hazards. The rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 C.F.R. Part 35. Contractor and its Subcontractors shall comply with the provisions for the elimination and reduction of lead-based paint hazards under Subpart B of said regulations.
10. Compliance with Air and Water Acts. For each home rehabilitation Owner-Contractor Agreement over \$100,000, Contractor and all of its Subcontractors shall comply with 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 C.F.R. Part 15, as amended.

In addition to the foregoing requirements, all nonexempt Contractors and Subcontractors shall furnish to NCORR, the following:

- 10.1. A stipulation by Contractor or its 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 C.F.R. Part 15, as amended.
- 10.2. An agreement by Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857 c-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.
- 10.3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
- 10.4. An agreement by Contractor 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 Contractor will take such action as the government may direct as a means of enforcing such provisions.
11. Energy Efficiency (42 U.S.C. 6201). Contractor shall 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 (Public Law 94-163).
12. Access to Records, Maintenance of Records. NCORR and HUD, 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 Contractor which are directly pertinent to this Contract, for the purpose of audits, examinations, and making excerpts and transcriptions.

All records required by 24 C.F.R. 570.506 that are pertinent to the activities funded under this Contract shall be maintained in a central location by Contractor and will be maintained for a period of five (5) years from closeout of the grant from which this Contract is funded.
13. Copyright. No State provided materials, including but not limited to reports, maps, documents, home plans and specifications, any public record, or documents submitted with or in response to RFPQ, HRP contractor-owner contract form, and related HRP and/or

CDBG-DR documents pertaining to procurement, contract administration, contract management/monitoring, CDBG-DR planning and compliance, and/or contract auditing, in whole or in part, shall be available to Contractor for purposes of copyrighting as Contractor's intellectual and/or proprietary property. Subject to North Carolina Public Records laws, any such materials produced resulting from this Agreement that might be subject to copyright shall be the property of State of North Carolina, through NCORR, other State agency, and/or a federal agency of the United States (e.g., HUD and FEMA), and all such rights shall belong to the State of North Carolina and/or the United States.

14. Patents. Contractor shall hold and save NCORR and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract including its use by NCORR, unless otherwise specifically stipulated in the Contract.

License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by NCORR must be reasonable and paid to the holder of the patent, or his authorized license, direct by NCORR and not by or through Contractor.

If Contractor uses any design, device or materials covered by letters, patent or copyright, it shall provide for such use by suitable agreement with Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood that, without exception, the Contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the Work. Contractor and/or his Sureties shall indemnify and save harmless NCORR from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this Contract, and shall indemnify NCORR for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

15. Confidential Findings. Some of the reports, information, data, etc. (e.g., homeowner personally identifying information, including but not limited to: income and/or tax records, social security numbers, birthdates, driver's license numbers, etc.), prepared or assembled by NCORR, HUD, FEMA, counties, other governmental agencies, and/or Contractor under award HRP contracts may be confidential, and Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the appropriate governmental entity that authored the information, requested the information and/or is responsible for the program for which Contractor is performing the work that generated the confidential information. Contractor understands that most documents and billing records will be public records and Contractor will have to consult with the governmental entity to determine whether a proposed document may be submitted to the governmental entity with confidential information and the method used to maintain confidentiality if the document contains confidential information.

16. Conflict of Interest. No member, officer, or employee of NCORR or the local jurisdictions served through this Contract, or agent, consultant, or member of the DPS, or other public official who exercises or has exercised any functions or responsibilities with respect to this Contract during his or her tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Contract or in any activity or benefit with regard to the Contract.

Contractor shall cause to be incorporated in all contracts and/or subcontracts the foregoing provision regarding conflicts of interest.

No member of or delegate to Congress, or NCORR employee, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation.

If a person receiving assistance under this Program does in fact have a conflict of interest as discussed herein, such conflict will be fully disclosed in writing to NCORR and addressed under applicable law.

17. **Interest of Contractor.** Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the above-described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interest shall be employed.
18. **Political Activity.** Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.
19. **Lobbying (31 U.S.C. 1352).** Contractor certifies, to the best of its knowledge and belief that:
 - 19.1. No federally appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for purposes 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 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.
 - 19.2. If any funds other than federally 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, Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
20. **Personnel.** Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with NCORR or other governmental entity involved in other State or federal disaster recovery programs.

All the services required hereunder will be performed by Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

21. **Hiring of Illegal Aliens.** The hiring of illegal aliens is prohibited under Federal Labor Laws. As a condition of Contractor's prequalification under RFPQ, Contractor certifies that it, and each of its sub-contractors for any subcontract awarded, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.
22. **Anti-Kickback Rules.** Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 2760). Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Contract to ensure compliance by the Subcontractors with such regulations and shall be responsible for the submission of affidavits required of Subcontractors thereunder

except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

23. Debarment, Suspension and Ineligibility (2 C.F.R. 200, Appendix II(I)). Contractor represents and warrants that it and its Subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. 180 and 24 C.F.R. 24.1 (government debarment and suspension regulations).
24. Subcontracts. Contractor shall not enter into any subcontract with any Subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the State of North Carolina.

Contractor shall be as fully responsible to NCORR for the acts and omissions of Contractor's Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by Contractor.

Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractor to Contractor by the terms of the Contract Documents insofar as applicable to the work of Subcontractors and to give Contractor the same power in regard to terminating any subcontract that NCORR may exercise over Contractor under any provision of the Contract Documents.

Nothing contained in this contract shall create any contractual relationship between any Subcontractor and NCORR.

25. Assignability. Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of NCORR, provided that claims for money due or to become due Contractor from NCORR under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to NCORR.
26. Termination for Unavailable Funding. The continuation of this Contract is contingent upon the appropriation and release of sufficient funds to NCORR to fulfill the requirements of this Contract. Failure of the appropriate authorities to approve and provide an adequate budget to NCORR for fulfillment of the Contract terms shall constitute reason for termination of the Contract by either Party. Contractor shall be paid for all authorized services properly performed prior to termination.
27. Breach of Contract Terms. Any violation or breach of any of the terms of this Contract on the part of Contractor or Contractor's Subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the parties of this Contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and/or remedies otherwise imposed or available by law.
28. Davis-Bacon Act (Payment of Prevailing Wages). The Davis-Bacon Act, as amended (40 U.S.C. 3141-3148), shall apply to all CDBG-DR Housing Recovery Program construction projects involving eight (8) or more units when the contract awarded by NCORR is in excess of \$2,000. Contractor and subcontractors on such projects shall comply with the Davis-Bacon Act, 40 U.S.C. 3141-3144, and 3146-3148, as supplemented by Department of Labor regulations found in 29 C.F.R. Part 5 ("Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once a week. NCORR must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. NCORR (including any NCORR assigned to manage the construction contract between Contractor and Owner) shall facilitate and monitor compliance with the

Davis Bacon Act, and report all suspected and/or actual violations of the Davis-Bacon Act to HUD.

29. Procurement of Recovered Materials. Contractor agrees to comply with 2 C.F.R. 200.322, which requires the procurement of items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 to contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
30. Iran Divestment Act Certification. Contractor certifies that, as of the date listed above, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.
31. Federal Funding Accountability and Transparency Act (FFATA). The Contractor shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The grantee must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and must have a Data Universal Numbering System (DUNS) number. The grantee must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.
32. Client Data and Other Sensitive Information. The Contractor must comply with 2 CFR §200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR 200.82, and other information HUD or NCORR designates as sensitive or consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.
33. Equal Employment Opportunity. Contractor agrees to the following Equal Opportunity Certification:
- 33.1. Contractor will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor 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, sexual orientation, gender identity, 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. Contractor 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.*
- 33.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 33.3. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information

of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

- 33.4. Contractor 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 Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 33.5. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 33.6. Contractor 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.
- 33.7. In the event of Contractor'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 Contractor 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 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.
- 33.8. Contractor will include the portion of the sentence immediately preceding paragraph (32.1) and the provisions of paragraphs (32.1) through (32.7) 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 or vendor. Contractor 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 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.