

ReBuild NC Homeowner Grant Agreement

THIS AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, _____, by _____ (“Participant(s)/Homeowner(s)”), in consideration for the grant offered by the North Carolina Department of Public Safety, Office of Recovery and Resiliency (“NCORR”). The undersigned makes the following representations, covenants, promises, and agreements in favor of NCORR and in consideration of the award of certain CDBG-DR grant funded services as more fully set forth below (the “Agreement”). By signing this Agreement, the undersigned agree(s) to the terms and conditions as stated herein.

SECTION 1: PARTICIPANT INFORMATION	
Participant:	Co-Participant:
Name:	Name:
Home Address:	Home Address:
Mailing Address (if different from Physical Address)	Mailing Address (if different from Physical Address)
Social Security Number: XXX-XX-_____	Social Security Number: XXX-XX-_____
SECTION 2: IMPLEMENTING AGENCY	
Name: North Carolina Office of Recovery and Resiliency	
Mailing Address: PO Box 110465, Durham, NC 27709	
SECTION 3: GRANT INFORMATION	
Reimbursement Amount:	Application Number:
Closing Date:	

Disbursement of Funds: The proceeds of the Grant will be disbursed by NCORR to the Contractor and/or their designees to complete the approved scope of work agreed upon by NCORR, the Participant(s), and the Contractor and/or their designees, and any approved Change Order(s). Subsequent Change Orders must be approved prior to initiating additional work. All approved change orders and other awarded costs will be incorporated into a final calculation of grant award prior to program closeout. Awards related to eligible pre-award rehabilitation expenses approved by NCORR shall be disbursed to the Participant.

RECITALS

WHEREAS, the United States Department of Housing and Urban Development (“HUD”) has allocated Community Development Block Grant Disaster Recovery (“CDBG-DR”) Program funds to the State of North Carolina; and

WHEREAS, The North Carolina Office of Recovery and Resiliency (“NCORR”), acting as the Grantee for the State of North Carolina (the “State”) will make assistance, including but not limited to CDBG-DR funds for Homeowner Recovery, available to the Counties, its citizens, federally recognized tribes and other entities in accordance with the State’s Approved Action Plan and Amendments; and

WHEREAS, subject to the execution of this Grant Agreement, the terms and conditions set forth herein, the continuing availability of Program funding and all Program policies and procedures which are incorporated herein by reference, the Participant(s) shall be eligible to receive the Award (as defined below) in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the Grant Award, the Participant(s) make the following continuing representations, agreements, and promises:

- 1) **Term.** This Grant Agreement, except for provisions set forth below that expressly survive the termination thereof, shall begin on the effective date and terminate upon NCORR’s determination of project closeout. Closeout activities include, but not limited to, the following: property rehabilitation, reconstruction, or replacement; passing final inspection; removal of damaged property or debris; and, submittal of all closeout paperwork.
- 2) **Grant Proceeds Contingent.** NCORR’s Grant Award under this Agreement is contingent upon appropriation, budgeting, and availability of specific funds to discharge those proceeds. Nothing in this Agreement constitutes a debt, direct or indirect multiple fiscal year financial obligation, a pledge of NCORR’s credit, or a payment guarantee by NCORR to the Participant or any Contractor.
- 3) **Award Amount.** NCORR has deemed the participant eligible for grant assistance for the rehabilitation, reconstruction, or replacement of the property, with elevation if such service is required, pursuant to Program policies and procedures. Eligible grant assistance may include the reimbursement of costs incurred by the Participant, provided such costs were approved and determined eligible. The final grant award amount shall be determined based on the information the Participant(s) provided in the Program application, the Program estimate of work completed by the Participant, if any, the actual cost of delivery of the service to be provided, any necessary relocation expenses, and any potential change orders. Grant awards shall be provided in accordance with Program policies and procedures and all applicable federal, state and local rules and regulations governing the Program. Upon project completion and prior to grant closeout, Participant shall receive a final calculation of the grant award.
- 4) **Award Calculation.** NCORR will manage the assistance Participant(s) receive from the Program. Based on the information provided by the Participant(s) and reviewed by NCORR and/ or its contractor, the Participant(s) are eligible for the Award to pay an authorized Contractor for the rehabilitation, reconstruction, or replacement and any elevation services deemed necessary by Program policy to make the dwelling decent, safe, and sanitary (DSS).

Eligible costs incurred by the Participant may be reimbursed based on economy/standard grade building materials determined by industry software prices and not actual expenses incurred by the Participant(s). The details of the award and the cost of any reimbursement are detailed in the "ReBuild NC Award Letter." The necessary work is based on a Scope of Work determined by a damage inspection made by the Program according to Program policies and procedures. The work to be conducted on the damaged property is set out in the estimate attached as *Exhibit A "Scope of Work,"* and any Change Order(s) approved by NCORR. Participant(s) have received and consent to NCORR's assessment of the Scope of Work.

The Grant Amount may be less than the total cost of the Scope of Work based on Program eligibility policies. The Grant Amount is subject to adjustment based on approved Change Order(s) and any Duplication of Benefits ("DOB") received by the Participant(s) (as further described below), regardless of when those benefits are received.

Participant(s) are advised and agree that additional information may be required by NCORR to determine that the Grant Amount was properly calculated. Participant(s) should maintain all records, receipts, invoices and other documentation related to any demolition, repairs, or construction of the Damaged Home for no less than five (5) years from project closeout. Participant will provide the documentation to NCORR upon request.

- 5) **Prohibition Against Duplication of Benefits ("DOB").** Any funds already received by Participant(s) to recover from damage to the Property for the Qualifying Event from FEMA, SBA, insurance companies, nonprofits or any other source must be deducted from Participant's grant amount as a DOB. Participant(s) agree that if Participant(s) receive insurance proceeds, or federal benefits from FEMA, SBA, or any other program for the rehabilitation, reconstruction, or replacement to the residence which is the subject of this Agreement, Participant(s) will report receiving benefits by emailing or calling within one (1) month of receipt of additional proceeds and/or benefits. If Participant(s) fail to report additional insurance proceeds and/or federal benefits, NCORR may require immediate repayment of the additional assistance received by the Participant(s) to NCORR.
- 6) **Duplication of Benefits ("DOB") Contribution.** Participant agrees to contribute the amount of verified DOB to the Participant's recovery effort. Such contribution will be documented separate of this agreement and such contribution shall be made in accordance with NCORR Policy regarding the contribution of DOB.
- 7) **Disbursement of Funds.** The contribution of Participant's DOB will be disbursed first by NCORR, if applicable. The CDBG-DR Grant Amount will be disbursed following full disbursement of Participant's DOB contribution. All funds will be paid by NCORR to the designated Contractor during the rehabilitation, reconstruction, or replacement of the damaged home in accordance with the Program Policies and Procedures. Participant(s) will not receive any disbursement of program funds. NCORR has the right to issue payment to the Contractor where it has been determined that work has been completed in accordance with the Scope of Work and any approved Change Order(s), regardless of an assertion by Participant(s) that the Project has not been completed.
- 8) **Change Orders.** Participant(s) understand and acknowledge 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 represent the entire Grant Agreement between the parties for the rehabilitation, reconstruction, or replacement of their damaged property under the CDBG-DR Housing Program. All changes that include subsequent asbestos testing/surveying fee, asbestos abatement fee and asbestos clearance fee that will

adjust award are hereby incorporated into this Agreement.

- 9) Contractor Agreement and Purchasing Procedures.** Participant(s) agree that NCORR will select and contract with a qualified Contractor to complete the work on the Participant(s)' damaged property. Participant(s) acknowledge and understand that they are an intended beneficiary of that contract between NCORR and the Contractor. The Program requires that: (a) NCORR and the Construction Manager (CM) oversee the construction process and inspection(s); and (b) once final inspection is approved by NCORR, NCORR will authorize disbursement of final payment to the Contractor.

Neither this Grant Agreement nor any other Program documents govern, authorize or contemplate any separate agreements between the Participant(s), Contractor, or Subcontractors outside the Scope of Work or approved Change Order(s), if any.

- (a) Vacating Home. If determined that vacating the home is necessary based on NCORR policy and procedures, Participants shall vacate the Home and remove all personal property, fixtures and appliances from Home on or before the date Participant gave NCORR at the Grant Agreement Signing or by the date Participant provided NCORR in compliance with the Post-Grant Agreement Signing Instructions Participant received at Grant Agreement Signing.
- (b) Storage. If included in Participant award, NCORR and Contractor will work with Participant in scheduling the delivery of a sufficiently sized mobile storage unit to the to the Property or other storage arrangement, as approved by NCORR, prior to the start of construction by Contractor as set forth in the Notice to Proceed.
- (c) Moving Assistance. If Participant is eligible for moving assistance and such assistance is included in Participant award, then NCORR, CM and Contractor will work with Participant in scheduling movers to assist Participant in moving personal property, fixtures, and/or appliances to Participant's temporary housing and/or into a storage unit prior to the start of construction by Contractor as set forth in the Notice to Proceed.
- (d) Abandoned Personal Property, Fixtures and Appliances. As required in the Notice to Proceed, Contractor and Participant, along with NCORR and/or CM, if warranted, shall have a preconstruction meeting at the Home. As part of the preconstruction meeting, all attendees shall, subject to any safety protocols, inspect each room of the Home including attics and crawl spaces to verify that all personal property, fixtures and appliances that Participant desires to keep have been removed from the Home.

If NCORR, CM and Contractor find personal property of value which is not obviously damaged, functional fixtures of value which are not obviously damaged, and/or functional appliances in the Home, CM/Contractor shall attempt to contact Participant to confirm Participant's intent to abandon such property, fixtures or appliances and to ascertain whether Participant plans to remove the subject property, fixtures or appliances prior to the commencement of work.

If Participant is unavailable, and CM and Contractor determine that construction can proceed, then Contractor shall, subject to safety protocols with respect to firearms, ammunition or other household hazardous materials, remove personal property from the Home to an area on the Property protected from the elements, to the extent possible, or take such reasonable measures to protect the property until Participant is contacted and can take possession of the property and/or securely store it on the Property.

Participant shall execute a form that shall acknowledge Contractor's right to access the Property and Home; acknowledge removal of all personal property, fixtures, and appliances; and release Contractor from liability for disposing of all remaining personal property, fixtures and appliances in the area of the Home subject to the Scope of Work. Participant shall indemnify and hold harmless NCORR from any damages sustained to personal property stored in storage containers.

10) Access to Property and Agreement to Cooperate. Participant(s) shall grant and ensure full access to the property to any authorized representative or designees of the Housing Recovery Program. Authorized persons shall include, but are not limited to, NCORR-designated onsite representative(s) and contractors; and any authorized inspectors, whether for NCORR, authorized contractors, or governmental entities with appropriate legal authority, as may be required to make inspections and to complete the Project. Authorized persons must try to give Participant(s) at least 24-hour notice of intent to gain access to the interior of the property. Participant(s) agrees to cooperate with all such parties and their designees; and not to unreasonably interfere with work on the Project or inspections of the property. In the event Participant(s) unreasonably interferes with the work or inspections of the property, authorized Program designees shall deliver written notice to NCORR. If Participant(s) do not cease the activities specified in the notice within three (3) calendar days, Participant(s) may be prohibited from participating in the CDBD-DR Program and may be required to reimburse NCORR for the work completed on the property by any Contractor, subcontractor or other designees. NCORR shall determine if Participant(s) have violated this provision of the Agreement, and impose a resolution for the violation. Participant(s) shall be given written notice of the remedy imposed for violation, and given the opportunity to appeal the decision within five (5) business days. Participant(s) will cooperate with Contractor to ensure that all utilities, including water, sewer and electrical service, are available and supplied to the property for the duration of the Project.

Participant shall: (i) remove all pets from the Home; properly and lawfully remove all firearms and ammunition from the Home; and properly and lawfully remove and/or dispose of hazardous household materials prior to the start of Construction.

11) Elevation. If the damaged or destroyed property is located within a 100-year floodplain or special flood area and the repairs are in excess of the "*reconstruction threshold*," as set in NCORR policies, Participant(s) must elevate the property to meet Federal floodplain requirements to receive Program funds. Replaced properties must be elevated two feet above the Base Flood Elevation (BFE), and meet National Flood Insurance Program (NFIP) minimum requirements and the current building code to qualify. If the Property is deemed in need of mandatory elevation, Participant(s) will receive an award for the elevation scope in addition to any CDBG-DR Program assistance provided for the rehabilitation, reconstruction, or replacement of the damaged or destroyed property.

12) Flood Insurance. If the damaged or destroyed property is located within a Special Flood Hazard Area, the following provisions apply.

- a) Participant(s) understand and acknowledge that failure to maintain required flood insurance shall result in ineligibility from future federal disaster relief, including but not limited to, CDBG-DR program assistance. In addition, the Participant(s) may be required to forfeit or repay the entire amount of federal assistance previously provided.
- b) If flood insurance is required for any property that is the subject of this Agreement, the insurable structure shall, at all times, be under a flood insurance policy in an amount of

the lesser of (1) the full insurable value of the project cost as determined by the grant award, or (2) the maximum amount available for the structure under the National Flood Insurance Program, or a successor program.

- c) If the Participant(s) cannot afford flood insurance or a flood insurance rider, the NCORR Housing Recovery Program may assist in payment of the premium for flood insurance, up to \$2,000 per household for low-to-moderate (LMI) income households located within the 100-year floodplain. The Participant(s) are responsible for the payment of excess flood insurance premiums that may exist after assistance from NCORR, and for premiums every year thereafter. Participants who receive CDBG-DR assistance and reside in a floodplain must purchase and maintain flood insurance on the property for the life of the property, unless and until FEMA Flood Insurance Rate Maps change and no longer include the damaged property in a flood zone. If the Participant(s) relocate to another primary residence during the term in which NCORR is assisting in the payment of flood insurance premiums, Participant(s) are required to notify NCORR and repay an amount calculated based on the portion of the insurance policy paid for while the residence is not the Participant(s)'s primary residence.
- d) If the Participant(s) are required to maintain flood insurance on the property and the property is leased, sold, assigned, or inherited by any person or entity not a party to this Agreement, Participant(s) shall notify all transferees in writing of the continuing obligation to maintain flood insurance on the property, and that the transferee may be liable if he/she/they fail to do so. If Participant(s) fail to provide such notice, Participant(s) may be liable to the United States for repayment of previous disaster assistance related to the property and may not be eligible for future federal disaster assistance.

13) Participant(s) Continuing Representations. As a condition of receipt of this Award, Participant(s) hereby expressly make the following representations and warranties:

- a) I/we provided true and accurate information in connection with my/our Program application(s) and to Program staff and have not misrepresented or omitted any information relevant to my/our eligibility for Program assistance;
- b) I/we attest that my/our property (1) was damaged or destroyed by Hurricane Matthew and/or Florence or is not in suitable condition due to adverse effects on housing suitability and availability in my/our county of residence; (2) is located in an eligible county; (3) and was owned and occupied as my/our primary residence prior to October 8, 2016 (Hurricane Matthew) or September 14, 2018 (Hurricane Florence), or I have since inherited or will inherit or come into possession of the property and the property is still owned by me/us as of the effective date or will be owned by me/us prior to grant closeout;
- c) I/we attest that my/our property has not received notices of default or seizure related to taxes, mortgage, title, or bankruptcy;
- d) I/we attest that any lienholders (mortgage, finance company, etc.) and other parties with a financial interest in the property have been notified of the anticipated change to the property. I understand that I will communicate with any lienholders or other parties with a financial interest, keeping them up-to-date on the construction process, as well as providing the necessary documents/information (MHU value, square footage, title/lien

recording, etc.) that the lienholder or other interested parties may require.

- e) I/we attest that a member of the household meets the definition of lawful presence in the United States, meaning they are a citizen of the United States or is otherwise legally present in the United States under federal immigration laws. Further, I/we agree that evidence of lawful presence is available and may be provided to NCORR if so requested;
- f) I/we are of the age of majority and of sound mind (including an undersigned Representative, if any) have full power, authority, and legal right to execute this Grant Agreement;
- g) I/we will not sell, lease or transfer the property for the term of this Agreement and any extensions thereof, or until after closeout documentation is approved by NCORR, unless such sale, lease, or transfer is approved by NCORR in advance of such transaction;
- h) I/we will not convert the property to an ineligible use or structure type, including but not limited to property exclusively for the conduct of business or vacant land;
- i) If applicable, I/we will stop working on the damaged home and commit to allowing the Program to rehabilitate, reconstruct, or replace the home including, environmental remediation and local code requirements in order to achieve, at a minimum, a decent, safe, and sanitary (DSS) dwelling, *or* I acknowledge that the property is currently acceptable to me/us to receive a reimbursement only grant award;
- j) I/we have reported all potentially duplicative assistance received in my/our initial application and any potentially duplicative assistance received since the initial application;
- k) I/we certify that I/we have provided complete, accurate, and current information regarding household income to demonstrate eligibility to receive CDBG-DR Program funds and further affirm that my I/my income has not changed since that original determination of eligibility, *or* I/we inherited or will inherit the property and did not provide income information to the Program.
- l) I/we have notified or attempted to notify all parties with an ownership interest in the property regarding participation in this Program, or know of no other parties with an ownership interest in the property. I/we acknowledge that any interference by any person(s) who claims to have an interest in the damaged property may result in my/our repaying the Grant Amount or otherwise being liable for costs related to those claims; and
- m) I/we have had an opportunity to read, understand and agree to the Program policies and procedures and the scope of work for my damaged home.
- n) I/we understand the Scope of Work performed pursuant to this Grant Award may result in an increase in property taxes and similar costs of home ownership like utilities.
- o) I/we understand the final Grant Award may change based on unforeseen changes in

scope, market conditions, and other factors. I/we understand that the final calculation of the value of the Grant Award shall be provided after project completion and prior to grant closeout.

- p) For properties located within the Special Flood Hazard Area (SFHA): I/we will obtain flood insurance with building coverage amounts equal to or greater than the Award amount as required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001 (the "Flood Disaster Act") and all other applicable State and Federal regulations once the scope of work for the property is complete. I/we understand that I/we have a continuing obligation to notify the Program of any changes to my/our flood insurance policy, and that proof of flood insurance will be required at closeout. Relevant changes include, but are not limited to, changes in insurance carrier, coverage limits and maximums, claims made to the insurance policy, renewal and cancellation notices.

14) Default. The Participant(s) will be in default of this Agreement if the Participant(s) made a false certification in the immediately preceding Paragraph or fails to comply with any of the obligations set forth in this Agreement or applicable Program policies and procedures. Before NCORR may exercise the right to declare the Participant(s) in default, NCORR shall give the Participant(s) an opportunity to be heard upon not less than five (5) calendar days' written notice that sets forth the grounds for declaring a default. NCORR's decision shall be binding. Upon declaring a default, at its discretion, NCORR may take any or all of the following actions up to and including termination of this Agreement:

- a) If Participant(s) are under the CDBG-DR Housing Recovery Program, NCORR may direct any Contractor to stop work on the Property, either temporarily or permanently, or issue a change order to the construction and/or abatement contract;
- b) Demand recapture for all or a portion of the Award that was paid and/or is due to a third party under this Agreement;
- c) Require recapture for reasonable attorney's fees and/or collection costs;
- d) Waive, forgive, and/or provide an opportunity to cure the default; and/or
- e) Sue Participant(s) for damages or injunctive or equitable relief.

15) Terminations.

(a) Termination for Convenience. Participant or NCORR may terminate this Agreement for convenience at any time by giving at least seven (7) days' notice in writing to the other Party. If this Agreement is terminated for convenience by the Participant after the Environmental Review is completed, Participant shall pay NCORR for all work properly performed (including Environmental Reviews and/or Architectural/Engineering services), and in place at the Project site as of the date of the termination and reasonable demobilization costs. Unless the notice of termination directs otherwise, NCORR shall immediately stop work on the Project and cease case management of the Project.

(b) Termination for Cause/Default. Participant agrees and understands that NCORR may act to terminate this Agreement for cause or default to protect NCORR's interest in the Project and/or the expenditure of federal CDBG-DR grant funds. An action to terminate the Agreement for cause may arise if any of the following occur:

- (1) Participant acts in a threatening or violent manner towards NCORR staff and/or its contractors;
- (2) Participant repeatedly prevents NCORR staff and/or its contractors access to the Property, making the Project impossible to complete;
- (3) Participant fails to return documents in a timely manner;
- (4) Participant persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction;
- (5) Participant materially violates the Project's safety protocols and/or federal/state safety standards or rules that results in a personal injury, death or significant property damage; or,
- (6) Project is later deemed unfeasible due to latent Environmental Review concerns, Local ordinances do not allow for replacement or reconstruction, changes in construction, etc.

16) Closeout Certification. Upon completion of the Participant's project under the Program, Participant(s) may be contacted to confirm compliance with NCORR policies and HUD requirements. Participants may be required to confirm that the CDBG-DR-assisted property is their primary residence, the property has up to date flood insurance (if applicable), and that no additional funds have been received for disaster related activities. In addition, the Participant(s) may be asked to submit documentation of ownership, insurance, and DOB from other sources. NCORR will monitor Participant(s) compliance with the Program and reserves the right to request additional documentation to determine compliance, as needed. If found in default of program compliance, NCORR will be responsible for the collection of all overpayments of Program funding and remittance of overpayments to NCORR upon receipt by the Participant(s).

17) Subrogation and Assignment.**a) Assignment relating to funds received under the Program.**

- i) In consideration of Participant's receipt of CDBG-DR Program benefits and/or the

commitment by NCORR to provide benefits to the Participant under the Program, Participant hereby assigns to NCORR all of the Participant's rights to future payment and all payments previously received under any policy of casualty or property damage insurance (the "Policies"), and/or any and all compensation by virtue of any settlement, offer, or judgment against a third-party for the same property loss that was provided for through the Program and/or under any reimbursement or relief program related to or administered by FEMA, SBA, and/or under any reimbursement or relief program administered by any other organization that are the basis of the calculation of Participant's award to be paid to or on behalf of the Participant under the Program using CDBG-DR funds and that are determined to be a Duplication of Benefits ("DOB") in accordance with the Stafford Act as provided in the Agreement. These Subrogation and Assignment provisions apply only to payments the Participant may receive for damage that this Agreement is intended to address. In other words, these provisions do not apply to payments received for damages from other unrelated disasters or other unrelated insurable events.

- ii) The proceeds or payments referred to in the preceding subparagraph whether they are from insurance, FEMA or the SBA, or any other source, shall be referred to herein as "Proceeds", and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds". Upon receiving any Proceeds not previously disclosed to NCORR, Participant agrees to immediately notify NCORR of such additional amounts. If some or all of the proceeds are determined to be a DOB, the portion that is a DOB shall be retained by NCORR and deposited into an Escrow Account as described herein and in the Escrow Agreement incorporated herein by reference.

b) Cooperation and Further Documentation.

- i) Participant agrees to assist and cooperate with NCORR should the State elect to pursue, or participate in the Participant's pursuit of, any of the claims Participant has against the insurers for reimbursement of DOB Proceeds under any such policies. Participant's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Participant's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by NCORR. Participant further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Participant would be entitled to under any applicable Disaster Program.
- ii) If requested by NCORR, Participant agrees to execute such further and additional documents and instruments as may be requested to further and better assign to NCORR, to the extent of the Award and the Policies and Procedures, any amounts received for disaster recovery assistance that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by NCORR to consummate and make effective the purposes of this Agreement.

c) Authorization of NCORR to Contact Third Parties.

Participant expressly allows NCORR to request of any company or entity with which the Participant held insurance policies, or FEMA, or the SBA, or any other entity from which Participant has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by NCORR to monitor and/or enforce its interest in the rights assigned to it under this Agreement and gives Participant's consent to such company or entity to release said information to NCORR. Participant agrees to execute any third-party verification forms or other documentation required for NCORR or its designees to access Participant information to enforce this provision of the Agreement.

d) Agreement to Turn over Duplicative Proceeds; Future Reassignment.

- i) If Participant (or any lender to which DOB Proceeds are payable, to the extent permitted by superior loan documents) has received or hereafter receives any DOB Proceeds, Participant agrees to promptly pay such amounts to NCORR, if Participant received an award under the Program in an amount greater than the amount Participant would have received if such DOB Proceeds had been considered in the calculation of Participant's award.
- ii) In the event that the Participant received, receives or is scheduled to receive any Proceeds not previously disclosed to NCORR ("Subsequent Proceeds"), Participant shall notify NCORR of such Subsequent Proceeds, and NCORR will determine the amount, if any, of such Subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds") in accordance with the Stafford Act. Subsequent DOB Proceeds shall be disbursed as follows:
 - (1) If the Award has been fully expended by NCORR, any subsequent DOB Proceeds shall be paid by Participant to NCORR up to the amount of the Award as reflected in the current grant award value.
 - (2) If no portion of the Award has been expended by NCORR, any Subsequent DOB Proceeds shall be paid by Participant to NCORR and used to reduce the Award. If the application of the Subsequent DOB Proceeds would reduce the Award to zero, all Subsequent DOB Proceeds and any funds previously paid by the Participant to NCORR shall be returned to the Participant, and this Agreement shall terminate.
 - (3) If some portion of the Award has been expended by NCORR, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (1) Subsequent DOB Proceeds shall first be paid by Participant to NCORR to reduce the unexpended portion of the Award; (2) if the application of the Subsequent DOB Proceeds would reduce the unexpended Award to zero, any remaining Subsequent DOB Proceeds shall be applied to expended portion of the Award and retained by NCORR; (3) if the application of the Subsequent DOB Proceeds reduces both the unexpended and the expended portions of the Award to zero, any remaining Subsequent DOB Proceeds shall be returned to the Participant, and this Agreement shall terminate.
 - (4) If NCORR makes the determination that the Participant(s) does not qualify to participate in any of the Housing Recovery Programs or the Participant decides not to participate in the Housing Recovery Programs, the Subsequent DOB

Proceeds and any funds previously paid by the Participant to NCORR that have not been used or obligated by the Program shall be returned to the Participant and this Agreement shall terminate.

- iii) Once NCORR has recovered an amount equal to the Award, NCORR will reassign to Participant any rights assigned to NCORR pursuant to this Agreement.

18) Changes. This Agreement completely integrates all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment shall have any force or effect unless part of this Agreement. No later renewal, addition, deletion, or other amendment shall have any force or effect except in a written supplemental document the parties sign. Except as specifically stated in this Agreement, no representations, agreements, covenants, warranties, or certifications, express or implied, exist between the parties.

- a) **Notification of Changes.** Participant(s) have a continuing obligation to notify NCORR if any of the information contained in Participant(s)' application or this Agreement becomes incomplete or incorrect at any time prior to the commencement of rehabilitation of Participant(s)' residence that is the subject of this Agreement. To update any information, Participant(s) shall contact their case manager or enter such new information in the web portal

19) Non-Waiver by NCORR. No waiver of any breach or default shall constitute or be construed as a waiver by NCORR of any subsequent breach or default or of any breach or default of any other provision.

20) Environmental Conditions. Recipients, to include Program Participants, of CDBG-DR funds are required to comply with the requirements of the National Environmental Policy Act of 1969 (NEPA) found at 24 C.F.R., Part 58 and complete an Environmental Review Record (ERR). NCORR may require additional environmental reviews for projects that receive these funds. No funds may be obligated or expended by NCORR until the environment review procedures outlined in Part 58 have been executed. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity.

- 21) Lead-Based Paint Prohibitions.** Any rehabilitation, reconstruction, or replacement and/or elevation of residential housing with assistance provided under this Agreement shall be subject to HUD's Lead-Based Paint Regulations at 24 C.F.R. § 570.608, 24 C.F.R. § 35, Subpart B, and Chapter 130A of the North Carolina General Statutes, Article 19A (Lead-Based Paint Hazard Management Program). Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted, and if completed, Owner will receive a copy of the lead inspection/risk assessment report. Failure to complete lead hazard reduction or abatement activities in accordance with HUD's Lead Safe Housing Rule (LSHR) will result in repayment of all program funding, to include reimbursement for any previous work completed on the Property to NCORR.
- 22) Appeals and Complaints Procedures.** If Participant(s) have a grievance or desire to appeal a decision rendered regarding any provision of this Agreement, Participant(s) can file an appeal with NCORR in the manner outlined in the Homeowner Recovery Program Manual. The appeal must be in writing and should specifically allege the basis for the appeal, the relevant facts and circumstances, and provide any supporting documentation that justifies the appeal.
- 23) Construction Dispute Resolution.** Participant(s) shall be provided information about their rights concerning construction dispute resolution.
- 24) Enforcement.** The Participant(s) acknowledge that NCORR has the right and responsibility to enforce this Agreement.
- 25) Choice of Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. Venue for any action or proceeding arising under this Agreement shall be in the courts of the State of North Carolina.
- 26) Severability/Construction.** Any provision of this Agreement found to be prohibited by law or unenforceable will be ineffective only to the extent of such prohibition or unenforceability without invalidating any other part hereof, or any of the other documents referenced herein. This Agreement, to the extent possible, will be construed or reformed to give validity to its provisions. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not a party hereto except for the United States of America as set forth herein.

- 27) Indemnification Agreement.** Participant agrees to indemnify and hold harmless the State, NCORR, and/or vendors, and each of their respective officers, directors, agents, designated representatives, employees and affiliates (“Indemnified Parties”) from any and all claims, losses, damages or liability (including attorney’s fees) arising out of, or in any way related to, the CDBG-DR Award, or any other act or failure to act under this Agreement, any receipt of or eligibility for any DOB, and/or all other documents executed in furtherance of the CDBG-DR Award and/or this Agreement. If Participant(s) attempts to take legal action against the Indemnified Parties, the Indemnified Parties will have the right to recover from Participant attorney fees and other expenses incurred in connection with such action in the event of an adverse determination or judgment against Participant(s). The obligations under this provision are independent of all other rights or obligations set forth herein. This indemnification provision shall survive the disbursement of the Award funds, as well as any termination of this Agreement.
- 28) Consent to Electronic Transaction.** Participant(s) acknowledge that electronic records are being collected, maintained, stored and utilized for the Program and that automated agents have been used to determine identification and eligibility for the Program. Participant(s) consent to the use of electronic records in accordance with the State’s security policy and procedure for such records. In order to verify the Participant(s)’ identity and eligibility for the Program, NCORR requires that certain personal information be provided. By accepting the Grant Award, Participant(s) authorize NCORR to store and use the information provided by Participant(s) for such purposes, including information from third-party reports needed to process the application and Grant Amount.
- 29) Entire Agreement.** Participant(s) understand and acknowledge that this Grant Agreement and any other agreements or Program policies and procedures that have been incorporated herein by reference, represent the entire agreement between the parties for the rehabilitation of their damaged home under the CDBG-DR Housing Program. Neither NCORR, nor any of their sub recipients or designees are legally responsible for the actions or omissions of any Contractor, subcontractor or their designees in the rehabilitation, reconstruction, or replacement of Participant(s)’ damaged property outside the Scope of Work incorporated herein, unless approved by a Change Order or by an amendment to the Grant Agreement.

PARTICIPANT(S):

Printed Name _____

Signature _____

Date _____

Printed Name _____

Signature _____

Date _____