

## **MUNICIPAL AGREEMENT**

### **WAKE COUNTY, NORTH CAROLINA**

This municipality agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the Town of Rolesville, a body corporate and politic located in the State of North Carolina, hereinafter referred to as the "Municipality", and the **County of Wake**, a body corporate and politic located in the State of North Carolina, hereinafter referred to as the "County." This agreement will not become effective until all conditions placed upon the County's funding are satisfied.

WHEREAS, the County has received a Community Development Block Grant (CDBG) from the U.S. Department of Housing and Urban Development (HUD) to be used principally to benefit low- and moderate-income persons by financing concentrated community revitalization and public facility projects, scattered housing rehabilitation projects, affordable housing development incentives, and community economic development incentives; and,

WHEREAS, the County had set aside up to \$476,096.00 of CDBG funds and the town will contribute \$676,468.18 in matching funds for the project. These funds will assist the town with the installation of a sidewalk along Young Street; and,

WHEREAS, the Wake County Board of Commissioner's approved the Housing and Community Revitalization Affordable Housing Action Plan on July 17, 2017 that included the funds for this project. The budget for this project was approved by the Wake County Board of Commissioners on February 5, 2018

NOW, THEREFORE, the purpose of this municipality agreement is to memorialize the terms and conditions of acceptance of assistance given by the County to the Municipality.

### **ARTICLE ONE - RESPONSIBILITIES OF THE MUNICIPALITY**

#### **I. STATEMENT OF WORK**

The Municipality is constructing a Sidewalk along Young Street in Rolesville, NC. The Municipality will be using CDBG funds to assist with this project.

The Municipality shall endeavor to pursue completion of the project by December 31, 2018. The municipality shall inform the County immediately should any changes occur in the project schedule including but not limited to, design, permitting, easements and construction. The total cost of the Sidewalk is estimated at \$1,102,696.00 (Exhibit A). The County's contribution will be \$476,096. Due to the estimated cost, the Town will be contributing \$676,468.18 (which includes 5% contingency). All costs for the project that exceed the estimated cost and contingency shall be paid for 100% by the Municipality. The Municipality assumes responsibility for all ongoing maintenance costs associated with project.

#### **II. TERMS**

- A. The Municipality agrees to proceed with the planning of the project after receipt of a fully executed original of this Agreement. The funds provided by the County shall be drawn down by the contractor selected for the project through payment applications approved by the Engineer, the Town and Wake County. This agreement shall be in effect until the date of completion estimated to be December 31, 2018. Time is of the essence with respect to all dates specified in the Contract Documents as Completion Dates.

- B. The Municipality agrees to create a timeline for any town required action. If timelines are not met, and an amended timeline has not been agreed upon by the County, consequences could potentially include cancellation of the project. Cancellation of a project would require forfeiture of any municipal matching funds already expended, and the potential reimbursement to the County of any federal funds expended.
- C. The Municipality will submit to the County a check in the amount of \$557,444.18 prior to any work completed. They have already submitted a check in the amount of \$119,024 for a total of \$676,468.18. Any additional amount over the estimated budget and contingency will need to be submitted to Wake County within 15 days of the change order approval.

### III. RECORDS AND REPORTS

- A. The Municipality shall provide all records (such as easement documentation) necessary for the County to meet its federal program and reporting requirements described in ARTICLE TWO below.
- B. Uniform Administrative Requirements.  
Municipality shall follow the administrative requirements as described in 24 CFR 570.502 (a): the requirements and standards of OMB Circular No. A-87, "Cost Principles for State, Local and Indian Tribal Governments", OMB Circular A-133, "Audits of States, Local Governments and Non Profit Organizations, Sections of 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".
- C. Reversion of Assets  
Upon expiration of this agreement, the Municipality must transfer to the County any unexpended County funds on hand and any accounts receivable attributable to the use of County funds.
- D. Other Program Requirements and CDBG Compliance Requirements  
Exhibit B and Exhibit C are incorporated as part of the contract by reference.
- E. The Municipality shall allow the County to inspect all records pertaining to the Project at reasonable times during regular business hours. The Municipality also agrees that it will supply such financial records, information and verifications that may be requested by the County.

### IV. INSURANCE REQUIREMENTS

The Municipality shall obtain, at his sole expense, all insurance required in the following paragraphs and shall not commence work until such insurance is in effect and certification thereof has been received by the County's Finance Office. If any required insurance policy expires during the term of this agreement, Contractor must provide a certificate of insurance to the County Finance office as evidence of policy renewal prior to such policy expiration.

Contractor's signature on this agreement indicates that Contractor agrees to the terms of this insurance section and understands that failure to comply may result in cancellation of this agreement at Owner's option.

Professional Liability Insurance – applicable to all services provided under this Contract with limits of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate.

Workers' Compensation Insurance - with limits for Coverage A Statutory-State of North Carolina and Coverage B Employers Liability \$500,000 each accident, disease policy limit and disease Each Employee.

Commercial General Liability - Combined single limits of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. This insurance shall include Comprehensive Broad Form Coverage including contractual liability.

Commercial Automobile Liability - with limits no less than \$1,000,000 per occurrence for bodily injury and property damage for any vehicle used during performance of contract services, including coverage for owned, hired, and non-owned vehicles. Evidence of commercial automobile coverage is only necessary if vehicles are used in the provision of services under this Agreement.

If any coverage is on a claims-made basis, Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement and to purchase and maintain Supplemental Extended Reporting Period or 'tail coverage' with a minimum reporting period of not less than three (3) years if the policy expires or is cancelled or non-renewed. If coverage is replaced, the new policy must include full prior acts coverage or a retroactive date to cover the effective dates of this Agreement. Contractor shall provide a Certificate of Insurance annually to Owner indicating any claims made coverage and respective retroactive date. The duty to provide extended coverage as set forth herein survives the effective dates of this Agreement.

All insurance companies must be licensed or authorized in North Carolina and carry a rating of "A-VII" or better in the current A.M. Best Key Rating Guide; or have reasonable equivalent financial strength to the satisfaction of the County's Finance Office.

Insurance with limits no less than those specified above and proof of rating if requested shall be evidenced by a Certificate of Insurance issued by a duly authorized representative of the Issuer. In the case of self-insurance, a letter of explanation must be provided to and approved by the County Risk Management.

The municipality shall be responsible for providing immediate notice of cancellation or non-renewal during the term of this Agreement to the County Finance Office and for three years subsequent for any claims made coverage. Copies or originals of correspondence, certificates, endorsements or other items pertaining to insurance shall be sent to:

Wake County Finance Office  
P. O. Box 550  
Raleigh, NC 27602

If Contractor does not meet the insurance requirements specified above, alternate insurance coverage satisfactory to Owner may be considered. Any requests for consideration of alternate coverage must be presented by Contractor PRIOR TO provision of any services associated with this Agreement.

In the event that Contractor uses subcontractors to perform any of the services under this Agreement, then and in that event, Contractor shall contractually require such subcontractor(s) to meet all of the requirements of this section.

## **ARTICLE TWO - RESPONSIBILITIES OF THE COUNTY**

- I. The County shall supervise all aspects of design and the construction of the project. The supervision shall include but is not limited to all construction activities for the project that conform to specifications including:

1. Acquire all necessary approvals and permits from the local jurisdictions, such as site plan approval, zoning, environmental permits and construction permits;
  2. Bid the project according to federal regulations and guidelines.
  3. Monitor and manage construction with a completion date of June 30, 2019.
  4. Process payment requests from contractors;
  5. Digital photographs of the area before and after project implementation.
  6. Copies of all permits and final inspection certificates issued pursuant to the requirements of the NC State Building Code.
  7. Weekly Davis Bacon Certified Payrolls, submitted monthly from construction contractors.
  8. Conduct an Environmental Review (where applicable) and obtain HUD release of funds
- II. The County shall provide timely information and technical assistance necessary to assist the Municipality.
- III. The County shall provide up to \$476,096 in CDBG funds for the project.
- IV. The County shall document activities undertaken with the funds, the location of those activities, amount of CDBG funds budgeted and expended, and provisions under Subpart C under which it is eligible (24 CFR 570.204(a) and 570.207(b)(3)(iii)).
- I. The County shall conduct periodic Davis Bacon interviews of contractors' employees.
- VI. The County shall document how the activities undertaken with its CDBG funds benefit low- and moderate- income persons:
- A. Show the total cost of the activity, including both CDBG and non-CDBG funds;
  - B. Comply with 24 CFR 570.505 regarding any change of use of real property acquired or improved with CDBG assistance.
  - C. Prepare fair housing and equal opportunity records containing:
    1. Documentation of actions undertaken to meet the requirements of 24 CFR 570.607(b) which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low and moderate income persons and the use of local businesses.
    2. Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of \$25,000 or more paid, with CDBG funds, data indicating which of those entities are minority or women's businesses, the amount of the contract, and documentation of the Municipality's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, services and construction.
- VII. Demonstrate and monitor that activities at the facility meet National Objectives: low and moderate income benefits (24 CFR 570.208(a) (1) or (4)) (24 CFR 570.506 (b)(5)).

### **ARTICLE THREE - PROGRAM INCOME**

- I. Program income is defined as the gross income received by the County or the Municipality directly generated by the use of CDBG funds. It is not anticipated that this project will generate any program income. However, should any income be generated, it shall be recorded by the

Municipality and reported to the County (24 CFR 570.504 (a)). Any program income shall be disbursed before any additional CDBG funds are withdrawn from the U.S. Treasury for the same purposes that generated the program income to begin with (24 CFR 570.500 (a)(1)(v) 04(c)).

- II Any program income generated shall be returned to the County and be used to support CDBG-eligible activities.

#### **ARTICLE FOUR - AUDIT**

- I. Each party agrees that any duly authorized representative of the County, the U.S. Department of HUD, the Comptroller General of the United States, and the County shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all of the books, records, and other documents relating to the grant and the fulfillment of this agreement for a period of three years following the completion of all closeout procedures respecting the CDBG funds, and the final settlement and conclusion of all issues arising out of this project.

Notwithstanding anything herein to the contrary, the parties hereto acknowledge the due execution of this Agreement between the Municipality and the County and agree that any conflict between the provisions, requirements, duties or obligations shall be in favor of this agreement.

#### **ARTICLE FIVE – RELATIONSHIP OF PARTIES**

- I. **INDEMNIFICATION**

The Contractor shall indemnify and hold harmless to the extent permitted by law the Owner and its employees from and against any and all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance or nonperformance of the Work, provided that any such claim, damages, loss or expense (A) is attributable to bodily injury, sickness, disease or death or injury to, or destruction of, property, including the loss of use resulting therefrom; and (B) is caused in whole or in part by any breach of any provision of the Agreement or by any negligent or wrongful act or omission of the Contractor, any Subcontractor, or supplier of the Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The indemnification obligation under this paragraph shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under workers' compensation acts, disability benefits acts or other employee benefit acts.

The Municipality shall operate as an independent contractor, and the County shall not be responsible for any of the Municipality's acts or omissions. The Municipality shall not be treated as an employee with respect to the services performed hereunder for federal or state tax, unemployment or workers' compensation purposes. The Municipality agrees that neither federal, nor state or payroll tax of any kind shall be withheld or paid by the County on behalf of the Municipality or the employees of the Municipality. The Municipality further agrees that the Municipality is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The Municipality shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of the County. The County shall not be liable to the Municipality for any expenses paid or incurred by the Municipality unless otherwise agreed in writing. The Municipality shall supply, at his sole expense, all equipment, tools, materials, and supplies required to provide the contracted services unless otherwise agreed in writing. The Municipality shall comply with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The Municipality shall insure that all personnel engaged in work under

this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

**II. NO WAIVER OF SOVEREIGN IMMUNITY**

Wake County and the Provider agree that nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense of sovereign or governmental immunity from any cause of action alleged or brought against Wake County for any reason if otherwise available as a matter of law.

**III. NON-ASSIGNMENT**

The Municipality shall not assign any of its rights or obligations hereunder, including rights to payments, to any other party without the prior written consent of the County.

**IV. ENTIRE AGREEMENT**

The Municipality and the County agree that this document constitutes the entire agreement between the two parties and may only be modified by a written mutual agreement signed by the parties.

- V. To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS 64-26(a)) relating to the E-Verify requirements.

- VI. By signing this agreement, Contractor certifies that as of the date of execution of this Agreement 1) it does not appear on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-6E and published on the State Treasurer's website at [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and 2) it will not utilize any subcontractor that appears on the Final Divestment List in the performance of duties under this Agreement.

**ARTICLE SIX - TERMINATION**

**I. NON-APPROPRIATION**

Municipality recognized that Wake County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are not available and not appropriated to purchase the services specified in this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the thirty (30) day notice requirement set forth in Section VI. In the event of a legal change in Wake County's statutory authority, mandate, and mandated functions which adversely affects Wake County's authority to continue its obligations under this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the thirty (30) day notice requirement set forth in Section

- II. The laws of the State of North Carolina shall apply to the interpretation and enforcement of this Agreement. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or nonperformance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Wake County, North Carolina, or the United States District Court sitting in Wake County, North Carolina, and it is agreed by the parties that no other court shall have jurisdiction or venue with respect to such suits or actions.

- III. This Agreement may be terminated with consent of both parties. If any provision of the Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- IV. Noncompliance with the construction timelines referenced in Article I, Section B shall constitute grounds to terminate, within thirty (30) days, the project with any municipal funds already expended being forfeit and repayment of any federal funds utilized to be reimbursed by the municipality.

## ARTICLE SEVEN – PROJECT CONTACTS

Project contacts shall be as follows:

Municipality	Amy Stevens Town of Rolesville 502 Southtown Circle., Rolesville, NC 27571 (919) 556-3506 <a href="mailto:amy.stevens@rolesville.nc.gov">amy.stevens@rolesville.nc.gov</a>
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Wake County	Thomas Covington Facilities Design & Construction PO Box 550, Raleigh, NC 27602 (919) 856-6362 <a href="mailto:Thomas.Covington@wakegov.com">Thomas.Covington@wakegov.com</a>
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with copy to:	Alicia Arnold P.O. Box 550, Suite 448 WCOB Raleigh, NC 27602 (919) 856-5868 <a href="mailto:Alicia.Arnold@wakegov.com">Alicia.Arnold@wakegov.com</a>
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and date first above written in a number of counterparts, each of which shall, without proof or accounting for other counterparts, be deemed an original contract.

WAKE COUNTY

MUNICIPALITY

\_\_\_\_\_  
Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fac. Design & Constr. Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Alicia Arnold, Housing Division Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Provider IRS Identification No.

## EXHIBIT A BUDGET

<b>Wake County - CDBG Rolesville Young Street Project</b>		
<b>PROJECT BUDGET SUMMARY</b>		
January 9, 2018		
<b>Professional Services</b>		
Design, Permitting and Bidding, the Wooten Company		\$ 67,816.00
Construction Administration, The Wooten Company		\$ 27,200.68
Geotech, The Wooten Company		\$ 16,000.00
Total		\$ 111,016.68
<b>Construction</b>		
Narron Contracting		\$ 991,950.00
Total		\$ 991,950.00
<b>Total Project Development Cost</b>		
		<b>\$ 1,102,966.68</b>
<b>Proposed Funding</b>		
Local Funding provided by the Town of Rolesville		\$ 119,024.00
FY15 Housing CDBG Action Plan		\$ 476,096.00
Addl funds from Rolesville, to be approved Feb 5 Commission Meeting	\$ 507,846.68	
to include 5% construction contingency	\$ 49,597.50	
Addl funds from Rolesville TOTAL		\$ 557,444.18
<b>Total CDBG Funds:</b>		<b>\$ 1,152,564.18</b>
<b>Contingency / Reserve</b>		<b>\$ 49,597.50</b>



## **EXHIBIT B**

### **OTHER PROGRAM REQUIREMENTS**

The Contractor, Engineer or Municipality must also follow the requirements list below in completing its activities.

1. Section 109 of the Act--24 CFR 570.602;

This section requires that no person in the United States shall on the ground of race, color, national origin, age, or handicapped status be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds make available pursuant to the Act.

2. Labor Standards--24 CFR 570.603;

Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

3. Environmental Review--24 CFR 570.604;

The Environmental Review for the project has been completed and is on file in the Wake County Human Services Department, 300 S. Salisbury St., Suite 410, Raleigh, NC.

4. Employment and Contracting opportunities--24 CFR 570.607;

The Contractor, Engineer or Municipality shall comply with Executive Order 11246, as amend by Executive Order 12086, and regulations issued pursuant thereto which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. Contractors and subcontractors shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship. Section 3 of the Housing and Urban Development Act of 1968 requires, to the greatest extent feasible opportunities for training and employment by given to low and moderate income persons residing within Wake County. The Act also states that contracts for work in connection with federally-funded projects be awarded to eligible businesses which are located in, or owned in substantial part by persons residing in the County.

5. Uniform Administrative Requirements and Cost Principles--24 CFR 570.610;

The Contractor, Engineer or Municipality shall comply with the policies, guidelines and requirements of sections 1-20 of 24 CFR Part 85 and OMB Circulars A-87 and A-128 as implemented in 24 CFR Part 44. The OMB Circulars describe federal rules that must be followed when CDBG funded activities are carried out.

6. Conflict of Interest--24 CFR 570.611;

No employee, officer, or agent of the grantee or sub-grantee shall participate in selection, or in award or administration of a contract supported by Federal funds if a conflict of interest, real or

apparent, would be involved. Such a conflict would arise when an employee, officer, agent, member of his/her immediate family, partner, or organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for the award.

7. Executive Order 12372--Intergovernmental Review of Federal Programs--24 CFR 570.612.

The Executive Order 12372 applies only where the use of loan funds will involve the planning and construction of water or sewer facilities. If such facilities will be planned and constructed with County funds, the Municipality must initiate the Executive Order review process.

8. Conditions for Religious Organizations.

Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations shall be followed according to 24 CFR 570.200(j).

9. Clause for Suspension and Termination.

This agreement may be suspended or terminated if the Contractor, Engineer or Municipality materially fails to comply with any term of the award (24 CFR 85.43). This agreement may also be terminated for convenience of either party (24 CFR 85.44).

10. Reversion of Assets.

Any unexpended CDBG funds shall be paid back to the County should the Contractor, Engineer or Municipality default on the agreement. The funds shall be used for an eligible use as defined by Federal guidelines, regulations and statutes at that time.

11. Federal Provisions

Reporting Requirements:

In accordance with 24 CFR 85.36(i)(7), the County and Contractor, Engineer or Municipality will comply with all requirements and regulations pertaining to reporting, specifically those parts listed under 24 CFR 85.40 and 24 CFR 85.41.

In accordance with 24 CFR 85.36(e), the Contractor, Engineer or Municipality will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

Patent Rights:

In accordance with 24 CFR 85.36(i)(8), the County and Contractor, Engineer or Municipality will comply with all requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is invented in the course of or under such contract.

Copyrights:

The United States Department of Housing and Urban Development reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and, to authorize others to use, - for Federal Government purposes: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a grantee, sub-grantee or a contractor purchases ownership with grant support.

Record Retention and Access to Pertinent Information:

In accordance with 24 CFR 85.36(i)(II), the County shall retain all pertinent books, documents, papers and records pertaining to this contract in accordance with 24 CFR 85.42 for a period of three years after the date of final payment and all other pending matter are closed. All accounts and records shall be maintained, including personal property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary to assure proper accounting for all project funds, both Federal and non-Federal shares.

In accordance with 24 CFR 85.36(i)(IO), the Contractor, Engineer or Municipality, and his subcontractor, if any, shall retain all pertinent books, documents, papers and records involving transactions relating to this contract for three years from the date of final payment under this contract.

The Contractor shall make such records available to the County, the Comptroller General of the United States, the U.S. Department of Housing and Urban Development, or their duly authorized representatives, for the purpose of making audit, examination, excerpts and transcriptions.

The periods of access and examination described above, for records, which related to litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract as to which exception has been taken by the County, the Comptroller General of the United States, the U.S. Department of Housing and Urban Development, or their duly authorized representatives, shall continue until such litigation, claims, or exceptions have been disposed of.

Davis-Bacon Act Provision:

The Contractor shall comply with all provisions of the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor Regulations 29 CFR part 5. Under this Act, the Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of contract shall be conditioned upon acceptance of wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

(Contract Work Hours and Safety Standards Act: (Applicable to construction contracts awarded by grantees or sub-grantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers.)

The Contractor, and any of his subcontractors, shall comply with Section 103 and 107 of the contract Work Hours and Safety Standard Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Parts 3, 5 and 5a). Under Section 103 of the Act, the contractor and any of his sub-contractors shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any work week. Section 5 of the Federal Labor Standards Provisions, HIUD form 4010 and 4010.1 attached and incorporated herein, sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that not laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market.

12 Relocation:

The Contractor, Engineer or Municipality must comply with the Uniform Relocation Act (49 CFR Part 24).

13. Debarred and Suspended Parties:

The County and Contractor, Engineer or Municipality must not make any award or permit any award (sub-grant or contract) at any time to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". By entering into this contract, the Contractor certifies that it is not currently debarred or suspended, or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspensions".

The GSA List of Parties Excluded from Federal Procurement or Non-Procurement Programs has been checked on \_\_\_\_\_ and the above Contractor, Engineer or Municipality has been determined to be eligible to participate in a HOME assisted project.

\_\_\_\_\_  
(Signature of Verifying Officer)

\_\_\_\_\_  
Assets & Contracts Manager  
(Title)

IN WITNESS WHEREOF, the parties, by and through their authorized agents, have hereunder set their hands and seal, all as of the day and year first above written.

**EXHIBIT C**  
**SUPPLEMENTARY GENERAL CONDITIONS**  
**CDBG COMPLIANCE REQUIREMENTS**

## **SUPPLEMENTARY GENERAL CONDITIONS CDBG COMPLIANCE REQUIREMENTS**

### **Contract Provisions**

- 1. Conflict of Interest of Members, Officers, or Employees of the Local Governing Body, or other Public Officials Provision**
- 2. Legal Remedies Provision**
- 3. Termination Provision**
- 4. Nondiscrimination Clause, Section 109**
- 5. Age Discrimination Clause**
- 6. Section 504- Disability Discrimination Clause**
- 7. Executive Order 11246 Clause**
- 8. Section 3 Clause**
- 9. Copeland "Anti-Kickback" Act Provision**
- 10. Davis-Bacon Act Provision**
- 11. Contract Work Hours and Safety Standards Act Provision**
- 12. Access to Records and Record Retainage Clause**
- 13. Clean Water, Clean Air, E.O. 11738 and EPA Regulations Provision**
- 14. Lead-Based Paint Clause**
- 15. Lobbying Clause**
- 16. Rights to Inventions Clause**
- 17. Debarment and Suspension**
- 18. Certification of Eligibility**

### **Attachments**

- 1. Equal Employment Opportunity Certification-Contractor**
- 2. Equal Employment Opportunity Certification-Subcontractor**
- 3. Section 3 Certification-Contractor**
- 4. Section 3 Certification-Subcontractor**
- 5. Section 3 Affirmative Action Plan**
- 6. Federal Labor Standards Provisions-HUD Form 4010**
- 7. Wage Decision(s)**
- 8. Labor Standards Certification-Contractor**
- 9. Labor Standards Certification-Subcontractor**
- 10. Payroll Supervisor Certification**
- 11. Anti-Lobbying Certification**

**08/23/2016**

## **CDBG CONTRACT PROVISIONS**

### **1. Conflict of Interest (2 CFR Part §200.318 General procurement standards): Interest of Members, Officers, or Employees of the Recipient, Members of Local Governing Body, or Other Public Officials**

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

### **2. Legal Remedies Provision**

As stated in 24 CFR Part 85.36 (2 CFR Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)

All construction contracts shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. The Contractor is referred to the General Conditions of these Contract Documents, which contain detailed provisions concerning breach of contract and remedies for breach of contract.

### **3. Termination Provision**

As stated in 24 CFR Part 85.36 (2 CFR Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)

All construction contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor. The Contractor is referred to the General Conditions of these Contract Documents, which contain detailed provisions concerning termination of the contract.

### **4. Nondiscrimination Clause - Section 109, Housing and Community Development Act of 1974**

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

#### **5. Age Discrimination Act of 1975, as amended - Nondiscrimination on the Basis of Age**

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

### **6. Section 504 of the Rehabilitation Act of 1973, as amended - Nondiscrimination on the Basis of Disability**

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

### **7. Executive Order 11246 Clause**

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30

FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The 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, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The 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 by the agency contracting officer, advisor the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1964, and such other sanctions may be imposed and remedied involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, That in the event the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contractors and subcontractors are required to submit Equal Opportunity Certification Forms (See Attachments 1 and 2).

**8. Section 3 Clause- Compliance in the Provision of Training, Employment, and Business Opportunities  
(24 CFR 135.38)**



All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Contractors and subcontractors are required to submit Section 3 Certification Forms (See Attachments 3 and 4) and Section 3 Plans with Tables A-D (See Attachment 5).

### **9. Copeland "Anti-Kickback" Act Provision**

All construction contracts shall include a provision for compliance with the Copeland "Anti- Kickback" Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR, Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). This Act provides that each contractor and subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

Specific contract requirements concerning this provision are included in the Federal Labor Standards Provisions-HUD Form 4010, included as Attachment 6 to this section of the Contract Documents, and which form a portion of these Contract Documents and the executed contract between the grantee and Contractor.

#### **10. Davis-Bacon Act Provision, as amended, (40 U.S.C. 3141-3148)**

When required by Federal program legislation, all construction contracts, in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors and subcontractors must be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors and subcontractors shall be required to pay wages not less often than once a week. A copy of the current prevailing wage determination issued by the Department of Labor must be placed in each solicitation. The grantee shall report all suspected or reported violations to the grantor agency.

Specific contract requirements concerning this provision are included in the Federal Labor Standards Provisions-HUD Form 4010, included as Attachment 6 to this section of the Contract Documents, and which form a portion of these Contract Documents and the executed contract between the grantee and Contractor. A copy of the current prevailing wage determination(s) issued by the Department of Labor is included as Attachment 7 to this section of the Contract Documents and the award of a contract or subcontract shall be conditioned upon acceptance of the wage determination(s). Contractors and subcontractors are required to submit Labor Standards Certification Forms (See Attachments 8 and 9).

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

Contracts awarded in excess of \$100,000 which involve the employment of mechanics or laborers shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor Regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

Under 40 U.S.C. 3702 of the Act, the Contractor and any of his subcontractors shall be required to compute the wages of every mechanic and laborer on the basis of standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Specific contract requirements concerning this provision are included in the Federal Labor Standards Provisions-HUD Form 4010, included as Attachment 6 to this section of the Contract Documents, and which form a portion of these Contract Documents and the executed contract between the grantee and Contractor.

#### **12. Access to Records and Record Retainage Clause**

In general, all official project records and documents must be maintained during the operation of this project and for a period of three years following close out in compliance with 24 CFR 570.490. The grantee, the North Carolina Department of the Treasurer, U. S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above Rule.

#### **13. Clean Water, Clean Air, E.O. 11738 and EPA Regulations Provision**

Compliance with Air and Water Acts: Contracts and subcontracts of amounts in excess of

\$150,000 are subject to the requirements of the Clean Air Act, as amended, (42 U.S.C. 7401-7671q.), the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251-1387 and the regulations of the Environmental Protection Agency (EPA) with respect thereto, as amended. Violations must be reported to the Federal awarding agency and the Regional Office of the EPA.

The Contractor and any of its subcontractors for work funded under this Agreement which is in excess of \$150,000, agree to the following requirements:

- (1) A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the EPA.
- (2) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 7401-7671q) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1254) relating to inspection, monitoring, entry, reports, and information, and all regulations and guidelines issued there under.
- (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.
- (4) Agreement by the 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 the contractor will take such action as the Government may direct as a means of enforcing such provisions.

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

#### **14. Lead-Based Paint Clause**

The Contractor is hereby specifically made aware of the lead-based paint regulations, (42 U.S.C. 4831; 24 CFR Part 570.608, and 24 CFR Part 35, as amended), which are applicable to the construction or rehabilitation of residential structures. To the extent that the subject matter of this contract involves residential structures, the Contractor will comply with the lead-based paint regulations.

#### **15. Lobbying Clause**

As required by 31 U.S.C. Section 1352, Byrd Anti-Lobbying Amendment, Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

#### **16. Rights to Inventions Made Under a Contract or Agreement**

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or municipality wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or municipality must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

#### **17. Debarment and Suspension (Executive Orders 12549 and 12689)**

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

#### **18. Certification of Eligibility**

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001 and 18 U.S.C. 1010.

## CERTIFICATION OF ELIGIBILITY

*This form must be attached and made a part of all contracts obligated by grantees and paid with CDBG funds.*

Grantee: \_\_\_\_\_

Grant Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1) or to participate in HUD programs pursuant to 24 CFR Part 24 or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18

U.S.C. 1001 and 18 U.S.C. 1010.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Printed Name and Title)

\_\_\_\_\_  
(Street Address or P. O. Box)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
DUNS, Tax Identification or Social Security Number

\*\*\*\*\*  
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### FOR GRANTEE USE ONLY

The Federal List of Parties Excluded from Federal Procurement or Non-procurement Programs and State of North Carolina Debarred Vendors List have been checked and the above contractor or subcontractor has been determined to be eligible to participate in a CDBG assisted project.

\_\_\_\_\_  
(Signature of Verifying Officer)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

**INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause: and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

**CERTIFICATION BY BIDDER**

NAME AND ADDRESS OF BIDDER (include ZIP Code)

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

\_\_\_\_\_ Yes      \_\_\_\_\_ No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

\_\_\_\_\_ Yes      \_\_\_\_\_ No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

\_\_\_\_\_ Yes      \_\_\_\_\_ No      \_\_\_\_\_ None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE

DATE

<b>U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b>  <b>CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY</b>	
NAME OF PRIME CONTRACTOR	PROJECT NUMBER
<b>INSTRUCTIONS</b>	
<p>This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause: and, if so, whether it has filed all compliance reports due under applicable instructions.</p> <p>Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.</p>	
<b>CERTIFICATION BY SUBCONTRACTOR</b>	
NAME AND ADDRESS OF SUBCONTRACTOR (include ZIP Code)	
1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.  _____ Yes        _____ No	
2. Compliance reports were required to be filed in connection with such contract or subcontract.  _____ Yes        _____ No	
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.  _____ Yes        _____ No        _____ None Required	
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?  _____ Yes        _____ No	
NAME AND TITLE OF SIGNER (Please type)	
SIGNATURE	DATE

Replaces Form HUD 4238.CD-2, which is Obsolete

HUD 950.2 (11-78)

The undersigned hereby certifies that

Page 1



**CERTIFICATION OF PROPOSED SUBCONTRACTOR REGARDING  
SECTION 3 AND SEGREGATED FACILITIES**

---

Name of Subcontractor

---

Project Name & Number

The undersigned hereby certifies that

- (a) Section 3 provisions are included in the Contract.
- (b) A written Section 3 plan was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$10,000).
- (c) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

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Name & Title of Signer (Print or Type)

---

Signature

---

Date

### **SECTION 3 AFFIRMATIVE ACTION PLAN**

\_\_\_\_\_ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the project area.

- A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the project area the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this Section 3 plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To insure that subcontracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G. To insure that all appropriate project area business concerns are notified of pending subcontractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.
- J. To list on Table A information related to subcontracts to be awarded.
- K. To list on Table B, all projected workforce needs for all phases of this project by occupation, trade, skill level and number of positions.

- L. If successful bidder, to submit prior to final payment, Tables C and D to grantee which includes all applicable hires and subcontractors utilized on this project.

As officers and representatives of \_\_\_\_\_  
(Name of Contractor)

We the undersigned have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**TABLE A- BIDDER'S PROPOSED SUBCONTRACTS BREAKDOWN**

FOR THE PERIOD COVERING \_\_\_\_\_, 20\_\_ through \_\_\_\_\_, 20\_\_.  
(Duration of the CDBG-Assisted Project)

Type of Contract (Business or Profession)	Total Number of Contracts	Total Approximate Dollar Amount	Estimated Number of Contracts To Section 3* Businesses	Estimated Dollar Amount To Section 3* Businesses

*\*A Section 3 Business Concern is a business that is 1) 51% or more owned by Section 3 Residents, or 2) a business whose permanent full-time workforce is at least 30% Section 3 residents, or 3) a business which contracts a dollar amount of all subcontracts with businesses as defined in numbers 1 and 2.*

\_\_\_\_\_  
Company

\_\_\_\_\_  
Project Name

\_\_\_\_\_  
EEO Officer (Signature)

\_\_\_\_\_  
Project Number

\_\_\_\_\_  
Date

**TABLE B- BIDDER'S ESTIMATED PROJECT WORKFORCE BREAKDOWN**

Job Category	Total Estimate Positions Needed for Project	# Positions Currently Occupied By Permanent Employees	# Positions Not Currently Occupied	# Positions To Be Filled By Section 3* Residents
OFFICERS/ SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/ RENTAL/MANAGEMENT				
OFFICE CLERICAL				
OTHERS				

TRADE:

JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				

TRADE:

JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				

TRADE:

JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				

TOTAL				
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*\*A Section 3 Resident is an individual in a public housing project or within a non-metropolitan county in which the project is located and whose income does not exceed 80% of the higher of the median income adjusted by family size, for the county of residence for the non-metropolitan area of the state.*

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Company

---

Project Name

---

Project Number

---

EEO Officer (Signature)

---

Date

## **TABLE C- CONTRACTOR'S SECTION 3 NEW HIRES REPORT**

Job Category	Total Estimate Positions Needed for Project	# Positions Currently Occupied By Permanent Employees	# Positions Not Currently Occupied	# Positions Filled By Section 3* Residents
OFFICERS/ SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/ RENTAL/MANAGEMENT				
OFFICE CLERICAL				
OTHERS				

TRADE:

JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				

TRADE:

JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				

TRADE:

JOURNEYMAN				
APPRENTICES				
MAXIMUM # TRAINEES				
OTHERS				

TOTAL				
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*\*A Section 3 Resident is an individual in a public housing project or within a non-metropolitan county in which the project is located and whose income does not exceed 80% of the higher of the median income adjusted by family size, for the county of residence for the non-metropolitan area of the state.*

\_\_\_\_\_  
Company

\_\_\_\_\_  
Project Name

\_\_\_\_\_  
Project Number

\_\_\_\_\_  
EEO Officer (Signature)

\_\_\_\_\_  
Date

8/2016

## **TABLE D- CONTRACTOR'S SECTION 3 BUSINESS UTILIZATION REPORT**

Project Number:		Total Dollar Amount of Contract	\$ _____
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Name of Prime Contractor:		Address:		Federal Identification No:	
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Name of Subcontractor	Sect. 3 Bsns. *	Address and Phone #	Trade/ Service or Supply	Contract Amount	Award Date	Competitive or Negotiated Bid	Federal Identification No.

*\* Check if a Section 3 Business Concern.*

TOTAL DOLLAR AMOUNT AWARDED TO SECTION 3 BUSINESSES:	\$ _____
------------------------------------------------------	----------

### Section 3 Business Concern

1. A business that is 51% or more owned by section 3 residents, or
2. A business whose permanent full time work force is at least 30% section 3 residents or,
3. A business which contracts a dollar amount of all subcontracts with businesses as defined in numbers 1 and 2 above.

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i). Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or pograms, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

**(ii). (a).** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

**(1).** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

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

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

**(b).** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification

action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215- 0140.)

**(c).** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

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

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

**(iv).** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.



**3. (i). Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonable anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices and trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii). (a).** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b).** Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1).** That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(i) and that such information is correct and complete;

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

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

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

**(d).** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

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

#### **4. Apprentices and Trainees.**

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

**(ii). Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level or progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeymen wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by referenced in this contract.

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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

**9. Disputed concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

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

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

(iii). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.**

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

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

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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(4) **Subcontracts.** The contractor or subcontractor shall insert any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act 40 USC 3701 et seq.

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**2018 WAGE DECISION(S)**

**General Decision Number: NC180103 01/05/2018 NC103****Superseded General Decision Number: NC20170103****State: North Carolina****Construction Type: Highway**

Counties: Brunswick, Cumberland, Currituck, Edgecombe, Franklin, Greene, Hoke, Johnston, Nash, New Hanover, Onslow, Pender, Pitt, Wake and Wayne Counties in North Carolina.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number 0 -Publication Date 01/05/2018

\* SUNC2014-005 11/17/2014

	<b>Rates</b>	<b>Fringes</b>
BLASTER.....	\$ 21.04	
CARPENTER.....	\$ 13.72	
CEMENT MASON/CONCRETE FINISHER...	\$ 14.48	
ELECTRICIAN		
Electrician.....	\$ 17.97	
Telecommunications Technician.....	\$ 16.79	.63
IRONWORKER.....	\$ 16.02	
LABORER		
Asphalt Raker and Spreader..	\$ 12.46	
Asphalt Screed/Jackman.....	\$ 14.33	
Carpenter Tender.....	\$ 12.88	
Cement Mason/Concrete Finisher Tender.....	\$ 12.54	
Common or General.....	\$ 10.20	
Guardrail/Fence Installer...	\$ 12.87	
Pipelay.....	\$ 12.17	
Traffic Signal/Lighting Installer.....	\$ 14.89	
PAINTER		
Bridge.....	\$ 24.57	
POWER EQUIPMENT OPERATOR		
Asphalt Broom Tractor.....	\$ 11.85	
Bulldozer Fine.....	\$ 17.04	
Bulldozer Rough.....	\$ 14.34	
Concrete Grinder/Groover....	\$ 20.34	2.30
Crane Boom Trucks.....	\$ 20.54	
Crane Other.....	\$ 20.08	
Crane Rough/All Terrain.....	\$ 20.67	
Drill Operator Rock.....	\$ 14.38	
	<b>Rates</b>	<b>Fringes</b>
Drill Operator Structure....	\$ 21.14	

	<b>Rates</b>	<b>Fringes</b>
Excavator Fine.....	\$ 16.60	
Excavator Rough.....	\$ 14.00	
Grader/Blade Fine.....	\$ 18.47	
Grader/Blade Rough.....	\$ 14.62	
Loader 2 Cubic Yards or Less.....	\$ 13.76	
Loader Greater Than 2 Cubic Yards.....	\$ 14.14	
Material Transfer Vehicle (Shuttle Buggy).....	\$ 15.18	
Mechanic.....	\$ 17.55	
Milling Machine.....	\$ 15.36	
Off-Road Hauler/Water Tanker.....	\$ 11.36	
Oiler/Greaser.....	\$ 13.55	
Pavement Marking Equipment..	\$ 12.11	
Paver Asphalt.....	\$ 15.59	
Paver Concrete.....	\$ 18.20	
Roller Asphalt Breakdown....	\$ 12.45	
Roller Asphalt Finish.....	\$ 13.85	
Roller Other.....	\$ 11.36	
Scraper Finish.....	\$ 12.71	
Scraper Rough.....	\$ 11.35	
Slip Form Machine.....	\$ 16.50	
Tack Truck/Distributor Operator.....	\$ 14.52	
<b>TRUCK DRIVER</b>		
GVWR of 26,000 or Less.....	\$ 11.12	
GVWR of 26,001 Lbs. or Greater.....	\$ 12.37	

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**WELDERS** - Receive rate prescribed for craft performing operation to which welding is incidental.  
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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).  
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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

## Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

## Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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## WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.), and 3.), should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION



**COMMUNITY DEVELOPMENT BLOCK GRANT  
PROGRAM CONTRACTOR'S CERTIFICATION  
CONCERNING LABOR STANDARDS AND PREVAILING WAGE  
REQUIREMENTS**

TO (Appropriate Recipient):	Date:
C/O:	Project Number (if any):
	Project Name:

1. The undersigned, having executed a contract with \_\_\_\_\_ for the construction of the above-identified project, acknowledges that:

- (a) The Labor Standards provisions are included in the aforesaid contract:
- (b) Correction of any infractions of the aforesaid conditions, including infractions by any of his subcontractors and any lower tier subcontractors, is his responsibility.

2. He certifies that:

- (a) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller General of the United State pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5) or pursuant to the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
- (b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to any of aforementioned regulatory or statutory provisions.

3. He agrees to obtain and forward to the aforementioned recipient within ten days after the execution of any subcontract, including those executed by his subcontractors and any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.

4. He certifies that:

- (a) The legal name and the business address of the undersigned are:

(b) The undersigned is:

(1) A Single Proprietorship	(3) A Corporation Organized in the State of
(2) A Partnership	(4) Other Organization (Describe)

(c) The name, title and address of the owner, partners or officers of the undersigned area:

Name	Title	Address

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- (d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are (if none, so state):

Name	Address	Nature of Interest

- (e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are (if none, so state):

Name	Address	Trade Classification

B.

_____ <b>Contractor</b>	_____ <b>Typed Name and Title</b>
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\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**WARNING**

U.S. Criminal Code Section 1010, Title 18, U.S.C., provides in part: "Whoever . . . makes, passes, utters, or publishes any statement, knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
SUBCONTRACTOR'S CERTIFICATION  
CONCERNING LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS**

TO (Appropriate Recipient):	Date:
C/O:	Project Number (if any):
	Project Name:

1. The undersigned, having executed a contract with (Contractor or Subcontractor) \_\_\_\_\_  
for \_\_\_\_\_ (Nature of Work)  
\_\_\_\_\_ in the amount of  
\$ \_\_\_\_\_ for the construction of the above-identified project, certifies that:
- (a) The Labor Standards Provisions of the Contract for Construction are included in the aforesaid contract:
  - (b) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller General of the United State pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5) or pursuant to the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
  - (c) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to the aforesaid regulatory or statutory provisions.
2. He agrees to obtain and forward to the contractor, for transmittal to the recipient, within ten days after the execution of any subcontract, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements, executed by the lower tier subcontractor, in duplicate.
- (a) The workmen will report for duty on or about (Date) \_\_\_\_\_.

3. He certifies that:

(a) The legal name and the business address of the undersigned are:

  
  

(b) The undersigned is:

(1) A Single Proprietorship	(3) A Corporation Organized in the State of
(2) A Partnership	(4) Other Organization (Describe)

(c) The name, title and address of the owner, partners or officers of the undersigned area:

Name	Title	Address

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(d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are (if none, so state):

Name	Address	Nature of Interest

(e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are (if none, so state):

Name	Address	Trade Classification

\_\_\_\_\_  
Subcontractor

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**WARNING**

U.S. Criminal Code Section 1010, Title 18, U.S.C., provides in part: "Whoever . . . makes, passes, utters, or publishes any statement, knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**CERTIFICATE FROM CONTRACTOR APPOINTING OFFICER OR EMPLOYEE  
TO SUPERVISE PAYMENT OF EMPLOYEES**

**Local Agency** \_\_\_\_\_ **CDBG Grant No.** \_\_\_\_\_

**Project Name** \_\_\_\_\_ **Date** \_\_\_\_\_

**Location** \_\_\_\_\_ **Project No.** \_\_\_\_\_

(I) (We) hereby certify that (I am) (we are) (the prime contractor) (a subcontractor) for (Specify "General Construction," "Plumbing, "Roofing," etc.) \_\_\_\_\_

\_\_\_\_\_ in connection with construction of the above-mentioned Project, and that (I) (we) have appointed \_\_\_\_\_ whose signature

appears below, to supervise the payment of (my) (our) employees beginning

\_\_\_\_\_, 20 : That (he) (she) is in a position to have full knowledge of the facts set forth in the payroll documents and in the statement of compliance required by the so-called Kick-Back Statute which (he) (she) is to execute with (my) (our) full authority and approval until such time as (I) (we) submit to the (Name of Local Agency)

\_\_\_\_\_ a new certificate appointing some other person for the purposes herein above stated.

\_\_\_\_\_  
Identifying Signature of Appointee

Attest (if required):

\_\_\_\_\_  
(Name of Firm or Corporation)

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

Note: This certificate must be executed by an authorized officer of a corporation or by a member of a partnership, and shall be executed prior to and be submitted with the first payroll. Should the appointee be changed, a new certificate must accompany the first payroll for which the new appointee executes a statement of compliance required by the Kick-Back Statute.

CDBG # 115 (10-83)

## **CERTIFICATION REGARDING GOVERNMENT-WIDE RESTRICTION ON LOBBYING**

(For contracts, grants, cooperative agreements, and loans over

\$100,000) The undersigned certifies, to the best of his knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards (at all tiers, including contracts under grants, loans, and cooperative agreements, subcontracts, and sub-grants) over \$100,000, and that all municipalities shall certify and disclose accordingly.

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

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Name of Entity (city, county, contractor, etc.)

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Name of Certifying Official (Mayor, Presiding Commissioner, President, etc.)

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Signature of Certifying Official