

## **SUBRECIPIENT AGREEMENT**

This Subrecipient AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and between ROWAN COUNTY, hereinafter called the COUNTY and SALISBURY COMMUNITY DEVELOPMENT CORPORATION, hereinafter called the ADMINISTRATOR.

WHEREAS, the COUNTY intends to implement its FY20/21 Rowan County HOME project (hereinafter called the PROJECT) by means of this Subrecipient AGREEMENT with funds awarded by the US Department of Housing and Urban Development through the Cabarrus/Rowan/Iredell HOME Consortium

NOW, THEREFORE, the COUNTY and ADMINISTRATOR, for the consideration hereinafter named, agree as follows:

The COUNTY and ADMINISTRATOR hereby acknowledge and agree that no funds are committed under this Agreement until such time as the US Department of Housing and Urban Development through the Cabarrus/Rowan/Iredell HOME Consortium has issued authorization to proceed with the PROJECT as stipulated in COUNTY's funding approval.

The ADMINISTRATOR agrees to perform for the above-named PROJECT, professional services as hereinafter set forth and in doing so, acknowledges it will comply with the Terms and Conditions of the Annual Agreement for the Execution of the HOME Investment Partnerships Program between the City of Concord, NC and Rowan County, NC as if it were a signatory to the agreement including all applicable federal regulations of 24 CFR Part 92 contained in the HOME Investments Partnerships Program.

The COUNTY agrees to compensate the ADMINISTRATOR for services as hereinafter provided.

The ADMINISTRATOR's scope of work / services shall include:

1. Develop and Maintain Administrative Guidelines, Construction Forms and General Specifications for the PROJECT.
2. Contact and respond to homeowner or applicant inquiries for rehabilitation assistance; develop and maintain applications for HOME assistance, review applications; and provide recommendations for selection of recipients of HOME assistance based on the application guidelines.
3. Complete environmental and historic structures compliance procedures in accordance with HOME guidelines.
4. Assist the County with the financial management of the program.
5. Complete all monthly, quarterly, annual, and closeout performance reports as requested by HOME.
6. Conduct coordination sessions and meetings with the local Building Inspectors as necessary.
7. Complete preliminary work write-ups with cost estimates for dwelling units using HUD Existing Section 8 and HOME Energy Standard; coordinate septic tank and water well permitting process, as necessary.
8. Coordinate bid award process, including attendance at bid opening and contract award recommendations.
9. Conduct periodic inspections (minimum one (1) day per week) of rehabilitation construction activities that includes coordination of lead based paint and asbestos abatement activities.
10. Process and/or negotiate change orders as necessary.
11. Review partial and final payment request from contractors as necessary.
12. Conduct Final Inspection of each dwelling unit, generating “punch lists” and coordinating with the local Inspections Department as necessary.
13. Maintain individual rehabilitation case files on each dwelling unit including associated contracts and for the project in general. Records must be maintained for at least five (5) years after the Project completion date, except for documents imposing recapture provisions, which must be retained 5 years after the expiration of the period of affordability.
14. Assure compliance with all State and Federal EEO, procurement, and affirmative action requirements.
15. Perform and document annual verifications of homeowner(s) in PROJECT assisted housing units to ensure compliance with the affordability period.

The ADMINISTRATOR's services shall not include (1) Appraisals; (2) Legal Services; and (3) Preparation of Audit Reports and/or any other financial documents relating to the project. These services, as required, may be furnished by the ADMINISTRATOR and separately paid for by the COUNTY, for a price to be subsequently agreed upon as the need for these services arises, or in the absence of such separate agreement, as specified hereinafter as "additional services", excepting those cases where the COUNTY chooses to make direct payments for same.

Payment: The COUNTY agrees to pay the ADMINISTRATOR a fee for services noted as follows:

- |     |                                |   |
|-----|--------------------------------|---|
| I)  | General Project Administration | A fee of Ten Thousand, Six Hundred Ninety-Three Dollars (\$10,693.00)                     |
| II) | Service Delivery               | A not-to-exceed amount of Seventeen Thousand, Eight Hundred Twenty-Six Dollars (\$17,826) |

It is agreed by the parties hereto that the appropriate adjustments in any fixed and/or lump sum payments shall be made in the event that the physical scope of the Project, time for completion, or services required are materially increased or decreased beyond that contemplated at this time.

The ADMINISTRATOR shall receive progress payments based on the amount of work performed and documented as submitted to the COUNTY by the ADMINISTRATOR in accordance with the hourly fee schedule as shown on Exhibit "A".

Should the ADMINISTRATOR be required to render "additional services" in connection with related work upon which the work scope does not apply, the ADMINISTRATOR shall receive additional compensation for such additional services at the hourly rates as specified on the fee schedule attached hereto as Exhibit "A" for the hours actually worked by the appropriate classification of employee. Prior to initiating or providing "additional services" that may or shall require funding outside the HOME Program's allowable general project administration and service delivery parameters referenced in item I and II above, the ADMINISTRATOR shall obtain written confirmation from the Rowan County Manager that said "additional services" will be a cost

supported and paid by Rowan County, otherwise the COUNTY at its discretion, may opt to not pay in part or in whole, the costs associated with said “additional services.”

If, through any cause, the ADMINISTRATOR shall fail to fulfill in timely and proper manner his obligations under this Agreement, or the ADMINISTRATOR shall violate any of the covenants, agreements, or stipulations of this Agreement, or the COUNTY has reasonable misgivings related to the ADMINISTRATOR’s ability to manage or complete the Project, the COUNTY shall thereupon have the right to terminate this Agreement by giving written notice to the ADMINISTRATOR of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the ADMINISTRATOR under this Agreement shall, at the option of the COUNTY become its property and the ADMINISTRATOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

If, through any cause, the COUNTY shall fail to fulfill in timely and proper manner their obligations under this Agreement, or the COUNTY, shall violate any of the covenants, agreements, or stipulations of this Agreement, or the AMINISTRATOR has reasonable misgivings related to the future nature of the Agreement, the Salisbury Community Development Corporation shall thereupon have the right to terminate this Agreement by giving written notice to the COUNTY of such termination and specifying the effective date thereof, not less than 30 days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the ADMINISTRATOR under this Agreement shall, at the option of the COUNTY become its property and the ADMINISTRATOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the ADMINISTRATOR shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the ADMINISTRATOR, and the County may withhold any payments to the ADMINISTRATOR for

the purpose of set-off until such time as the exact amount of damages due the County from the ADMINISTRATOR is determined.

By entering into this Agreement, the ADMINISTRATOR certifies that neither it (nor he or she) nor any person or firm who has an interest in the ADMINISTRATOR 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 Agreement 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.

The following contract provisions shall be referenced in Exhibit "B" and become a part of this Agreement:

- Conflict of Interest
- Legal Remedies
- Termination
- Nondiscrimination
- Age Discrimination
- Section 504 - Nondiscrimination on the Basis of Handicap
- Executive Order 11246
- Section 3
- Copeland Act Davis-Bacon Act
- Contract Work Hours and Safety Standards
- Access to Records and Record Retainage
- Clean Water
- Clean Air
- E.O. 11738
- EPA Regulations Provisions

- Lead-Based Paint
- Lobbying

The COUNTY and ADMINISTRATOR hereby agree to the full performance of the covenants contained herein.

{Signature Page Follows}

IN WITNESS WHEREOF, they have executed this Agreement, the day and the year first above written, which is the effective date of this Agreement.

SALISBURY COMMUNITY  
DEVELOPMENT CORPORATION

ROWAN COUNTY

By: \_\_\_\_\_  
David McCoy, Board President

By: \_\_\_\_\_  
Chairman  
Rowan County

Witness: \_\_\_\_\_  
Chanaka V. Yatawara, Executive Director

Witness: \_\_\_\_\_  
Clerk  
Rowan County

(SEAL)

(SEAL)

## **EXHIBIT "A"**

### **SALISBURY COMMUNITY DEVELOPMENT CORPORATION FEE SCHEDULE**

Salisbury Community Development Corporation is pleased to offer our clients a competitive rate structure. Our firm aggressively pursues the control of overhead and quality in an effort to maintain the highest level of professional service at the most reasonable project costs.

PROGRAM ADMINISTRATOR	\$125.00/HOUR
REHABILITATION SPECIALIST	\$ 80.00/HOUR
ADMINISTRATOR	\$ 70.00/HOUR
WORK WRITE UPS & INSPECTIONS*	\$ 80.00/HOUR

\*not-to-exceed fee of \$1,800 per project

Salisbury Community Development Corporation's hourly rates include all expenses and reflect our competitive pricing.

Specific projects may be addressed on an hourly rate or based on mutually agreed upon lump sum fees, negotiated on the basis of a well-defined scope of services.

The ultimate aim of our services and fees is to provide the client with professional assistance in a timely and cost-conscious manner.

Rates are subject to change based on economic conditions.

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## **EXHIBIT "B"**

### **CONTRACT PROVISIONS**

#### **CONFLICT OF INTEREST:**

Interest of Members, Officers, or Employees of the Subrecipient, Members of Local Governing Body, or Other Public Officials. No member, officer, or employee of the subrecipient, 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, direct or indirect, in any contract or subcontract, or the proceeds thereof, or work to be performed in connection with the program assisted under this agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The recipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

#### **LEGAL REMEDIES:**

As stated in 24 CFR Part 85.36

Contracts other than small purchases 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.

#### **TERMINATION PROVISION:**

As stated in 24 CFR Part 85.36

All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be affected 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.

#### **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 which funds available under this title.

#### **AGE DISCRIMINATION CLAUSE:**

Age Discrimination Act of 1975, as Amended; Nondiscrimination of the Basis of Age

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

## **SECTION 504 - NONDISCRIMINATION ON THE BASIS OF HANDICAP:**

### Section 504 of the Rehabilitation Act of 1973, as Amended; Nondiscrimination on the Basis of Handicap

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

## **EXECUTIVE ORDER 11246:**

During the performance of this agreement, the Administrator agrees as follows:

- 1) The Administrator will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Administrator 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 in this nondiscrimination clause.
- 2) The Administrator will, in all solicitations or advertisements for employees placed by or on behalf of administration of this agreement, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 3) As applicable, the Administrator will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the 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 Administrator 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 Administrator 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 Administrator's noncompliance with the nondiscrimination clauses of this agreement or with any of such rules, regulations, or orders, this agreement may be canceled, terminated, or suspended in whole or in part and the Administrator may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order

11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 7) The Administrator will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant 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 Administrator will take such action with respect to any subcontractor or purchase order as the County may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Administrator becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the County, the Administrator may request the United States to enter into such litigation to protect the interests of the United States.

### **SECTION 3:**

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

agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the County and Administrator for such assistance its successors and assigns. Failure to fulfill these requirements shall subject the County and Administrator, its contractors and subcontractors, its successors or assigns to those sanctions specified by the grant or loan agreement of contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

#### **COPELAND “ANTI-KICKBACK” ACT PROVISION:**

As stated in 24 CFR Part 85.36:

All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee 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.

#### **DAVIS-BACON ACT PROVISION:**

As stated in 24 CFR Part 85.36:

When required by the Federal grant program legislation, all construction contracts in excess of \$2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors 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 often 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 a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

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

Contracts awarded by County and Administrator in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Dept. of Labor Regulations contained in 29 CFR Pars 3, 5 and 5a.

Under Section 103 of the Act, the Administrator and any of his subcontractors 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, HUD Form 4010 sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his

health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market.

#### **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 4 NCAC 19L Rule .0911, Recordkeeping.

The North Carolina Department of Economic and Community Development, the North Carolina Department of 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.

#### **CLEAN WATER, CLEAN AIR, EXECUTIVE ORDER 11738 & EPA REGULATIONS PROVISION:**

##### Compliance with Air and Water Acts

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

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

- 1) A stipulation by the Administrator that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- 2) Agreement by the Administrator to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- 3) A stipulation that as a condition for the award of the 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 Administrator 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 113c (1) of the Clean Air Act or Section 309c of the Federal Water Pollution Control Act.

#### **LEAD-BASED PAINT CLAUSE:**

The Administrator is hereby specifically made aware of the ECD lead-based paint regulations, 4 NCAC 19L, rule .1011, which are applicable to the construction or rehabilitation of residential structures. The extend that the subject matter of this contract involves residential structures; the Contractor will comply with the lead-based paint regulations.

#### **LOBBYING CLAUSES:**

##### Required by Section 1352, Title 31, U.S. Code

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 agent.

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 instruction.

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.

#### **INSURANCE**

During this Agreement's term, the Administrator shall maintain worker's compensation insurance as required by North Carolina law to cover all of the Administrator's employees engaged in any work under the Agreement. The Administrator shall also maintain the following insurance to cover its performance under this Agreement during the Agreement's term:

- General commercial liability in the amount of \$500,000 per occurrence / \$1,000,000 aggregate with County listed as additional insured.
- Workers' Compensation in the amount of \$500,000 employer's liability

- Automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit shall be \$1,000,000 for bodily injury and property damage; and, \$1,000,000 uninsured/underinsured motorist coverage.

The Certificate Holder should be listed as:

Rowan County  
Purchasing Department  
130 W. Innes Street  
Salisbury, NC 28144

\*\*All Certificate(s) of Insurance should be emailed to Purchasing at [michelle.doyle@rowancountync.gov](mailto:michelle.doyle@rowancountync.gov)