STATE OF NORTH CAROLINA

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF EMERGENCY MANAGEMENT

AND

COUNTY OF POLK

MEMORANDUM OF AGREEMENT (MOA)

MOA#: 4827-0010
DPS Fund Code:4827DRNCP00000010
MOA Amount: $1,348,739.50

County: Polk
Tax ID/EIN#: 56-600333
FIPS#: 37149

MOA Period of Performance: See Section 22. Period of Agreement/Period of Performance.

This Memorandum of Agreement ("MOA" or "Agreement") is made by and between the **COUNTY OF POLK** ("County" or SUBRECIPIENT/SUBGRANTEE), and the **NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT** ("State" or "NCEM" or AGENCY/GRANTEE). For the purposes of this memorandum, the County of Polk will be referred to as "County" throughout this document and the North Carolina Department of Public Safety, Division of Emergency Management will be referred to as "State."

WHEREAS, the County of Polk completed the State Centric Election Form for all North Carolina Sub-Applicants (Subrecipients) and selected the Opt-In Section agreeing to participate in the State Centric Model this the 23rd day of April, 2026; and

WHEREAS, the North Carolina Emergency Management Act, N.C.G.S. § 166A-19 et. seq. and N.C.G.S. §§ 143B-1000 and 166A-19.12(10) and (13) authorize the relationship as described herein; and

WHEREAS, the North Carolina Emergency Management Act, N.C.G.S. § 166A-19.12(25) authorizes the Division to contract for services from vendors specializing in housing elevation, acquisition, demolition, and mitigation reconstruction on private residential structures to implement the federal Hazard Mitigation Grant Program on behalf of the State or political subdivisions; and

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WHEREAS, the State and the County represent that it is fully qualified, possesses the requisite skills, knowledge, qualifications, and experience to provide the services identified herein, and does agree to perform as described herein;

NOW, THEREFORE, the State and the County do mutually agree as follows:

(1) SCOPE OF WORK

The State and County shall implement the Hazard Mitigation project summarized below and as described in the approved project application (**Project # 4827-0010**) and in accordance with the State Centric Plan. The approved project Application and the State Centric Plan are hereby incorporated by reference into this Agreement as if fully set out herein.

FEMA has also reviewed the Subrecipient Management Costs (SRMC) documentation for this project and has awarded SRMC in the amount of **$40,000.00** as noted in the table below. This amount reflects the first increment of SRMC. Subrecipient Management Costs must be implemented in accordance with the 2024 Hazard Mitigation Assistance Program and Policy Guide Part 13 B.

Project	SRMC Available (5%) *	SRMC Awarded	SRMC Remaining
4827-0010	$67,436,98	$40,000.00	$27,436.98

The "SRMC Available" amount listed above is the total amount that is available for the lifespan of the project and is based on the current approved Total Project Costs. The SRMC Available amount is subject to change based on cost underruns or cost overruns or property withdrawals. Properties that are withdrawn from the project after award will lessen the overall SRMC Available amount.

The "SRMC Awarded" amount reflects the SRMC Awarded at the time of the FEMA award for SRMC costs. This number is based on estimates that were provided to FEMA at the application stage. Upon request and justification from the County, the State can seek the release of additional "SRMC Remaining" funds for the County beyond the initial SRMC Awarded amount.

To receive any reimbursement of SRMC funds, whether designated Awarded, Available, or Remaining, the County must justify work ***actually performed through the submission of the reimbursement forms found in Attachment B to the State.*** *The County will submit Requests for Reimbursements (RFRs) through the designated submission platform (e.g., Salesforce, EM Grants) using the form found below in* ***Attachment B.***

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The State, on behalf of the County will acquire and demolish four (4) residential structures listed in the table below and return the land to green space. **The deed to the property will be transferred to the County of Polk with restrictions imposed for the site to remain as open space in perpetuity consistent with Title 44 of the Code of Federal Regulations (C.F.R.) §Part 80.**

The County will also be required to maintain the property in accordance with the floodplain management criteria of 44 C.F.R. §60.3 and to comply with any local or state ordinance requirements.

Site Locations:

	Address	City	State	ZIP	Latitude	Longitude
1.	3 Wall Road	Tryon	NC	28782	35.223129	-82.262258
2.	2741 Green River Cove Rd.	Saluda	NC	28773	35.265187	-82.320050
3.	3419 Green River Cove Rd.	Saluda	NC	28773	35.271183	-82.311194
4.	2863 Green River Cove Rd.	Saluda	NC	28773	35.266076	-82.318255

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(2) CONDITIONS

AGENCY/GRANTEE (State) shall:

1) Provide oversight to all contract work and be the initial point of contact for the County to obtain answers to questions on behalf of homeowners or local leadership (**See Attachment A**).

2) Process reimbursement requests for all billable time of the County. The State will provide support for filling out these requests in the form of providing documents and advice regarding the reimbursement process. If a reimbursement is returned for lack of information or documentation, Hazard Mitigation Section Project Managers (PM) will contact the designated County POC to discuss what is missing so corrections can be timely made and resubmitted for payment. The County must submit complete documentation acceptable to the State to receive reimbursement. Attached to this MOA are blank reimbursement forms for the County to submit their documentation to the State. **(Attachment B).**

3) Be available to meet with County leadership if any questions about the project need to be answered in a public forum. The County POC should notify the HM Project Manager as far in advance as possible so schedules can be worked out to attend County meetings. Acknowledgement of request/decision by HM to meet with County leadership will be communicated within 14 calendar days to County POC.

4) Coordinate contracts related to this project. The coordination of contracts will include the preparation, submission, review, and selection of contractors for each project. As part of these responsibilities, the State will review Cost Reports for invoices incurred and review and approve eligible expenses against project.

5) Set up and deliver the **Project Kick-Off** Meeting with the County and Contractor to review and receive feedback from the County on the project budget, project scope of work, project timelines/milestones, and associated roles and responsibilities between State, County, and Contractors. The State will deliver this meeting and County participation will be required.

6) Be available to answer any questions regarding the conditions and responsibilities of the County that are outlined in this Agreement. The role of the State, in addition to procurement-related and project management activities, is to be a resource for information and subject matter expertise.

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SUBRECIPIENT/SUBGRANTEE (COUNTY) shall:

1) Serve as point of contact with homeowners from application intake to project completion. County responsibilities will include communicating with homeowners about project progress and collecting the documents necessary for project success that may be required of the State and Contractor.

Specifically, some of the tasks of the County may include, but are not limited to:

- Assisting homeowners/property owners with the Homeowner Document Packet.
- Executing the duplication of benefits analysis with the homeowner and the collection of documents necessary to this analysis.
- Periodic phone calls/updates to the homeowner.
- Scheduling appointments for contractor visits to the home.
- Attending meetings regarding contract work **(See Attachment A).**

All of these and other related activities and the time spent must be documented on the SRMC forms in order to receive reimbursement. **(See Attachment B).**

In accordance with the provisions of 42 U.S.C. 5155 (Section 312 of the Stafford Act) duplication of benefits is prohibited. As noted above, the County shall perform a duplication of benefits analysis and notify the State of the existence of any insurance coverage for the costs identified in the approved project application, and of any other entitlement to or recovery of funds from any other source for the project costs, including Small Business Administration funds, Minimum Home Repair funds, and other Federal, State, and private funding. ***The State will provide a DOB spreadsheet to the County that will provide assistance in confirming the existence of FEMA, State, and NFIP funding to assist in the DOB analysis***. The County will be responsible for collecting documents from the homeowner to confirm or deny the proper use of all prior recovery funds. At the end of this process, the County will also be responsible for collecting a DOB affidavit from the homeowner.

2) Coordinate with local leaders and community government officials including but not limited to, answering routine questions and updates locally, forwarding questions to the State if needed and coordinating meetings with the State and local leadership.

3) Take part in all pre-construction, pre-project, and project update meetings with the contractor and the State to ensure they are fully briefed on all aspects of the project and can provide estimated timelines to their leadership and homeowners participating in the project.

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The State may require additional reports as needed in order to complete the project before the end of the Period of Performance (POP) established by FEMA in the FEMA award letter. Such additional reports could include new and additional FEMA requirements. The County shall, as soon as possible, provide any additional reports or documentation requested by the State. The State contact will be the HM Project Manager for all reports and requests for reimbursement. In addition, the initial POP established in the FEMA Award letter may be extended. The State will notify the County by letter of any such extensions through communication to the Designated Agent.

4) The County shall be present at all acquisitions closings to take title and possession of the properties acquired in the project. The County shall maintain and utilize the properties in open space or other allowable and agreed upon conditions in perpetuity. The County shall ensure compliance with the deed restrictions and flood insurance requirements for the properties.

5) Submit SRMC reimbursement requests of billable hours spent conducting the above tasks to the State. Reimbursement requests will be made through the designated submission platform (e.g. Salesforce, EM Grants). The State will be available to assist with any questions about using the designated submission platform or reimbursements. Each reimbursement request at a minimum must include:

- County Point of Contact's (POC) Name
- Task Being charged for (to include property address)
- Rate for POC
- Number of hours being reimbursed

To receive SRMC funds under this agreement, the County shall complete the Designated Agent Form and forward it to the HM Project Manager. If the County designates different representatives or designated agents, the County shall notify the State within 30 calendar days of this change. If the new agent is not already listed on the current Designated Agent form as a Secondary Agent, the County will be required to fill out and provide an updated form.

6) A standardized form will be used in the submission for SRMC funds. The State has provided this form in **Attachment B**. The State can provide additional forms if the County requests.

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(3) BUDGET AND FUNDING

The State and County will review Cost Reports for invoices incurred, and review and approve eligible expenses against project **4827-0010;**

Cost Center: 206659-0-0-6024-19h0000038
Budget Information Total/Total Project Costs: $1,348,739.50

**** Amount above does not include SRMC. SRMC amount is subject to change based on cost underruns or cost overruns or property withdrawals. HMGP funding shall only be used for those items specified in the Scope of Work referenced above.*

(4) COMPENSATION

The State will provide the Subrecipient Management Cost funds to the County as provided and allocated by FEMA in the Award Letter dated **April 6, 2026.** To receive SRMC funds, the County must justify time spent on the project by the submitting SRMC Cost Form **(Attachment B)** for the project tasks and awarded properties listed above. The County may submit this SRMC Cost Form every 30 days or whenever is most convenient to the County. The SRMC Cost Form must be submitted through the designated submission platform. SRMC funds are subject to change based on cost underruns or cost overruns or property withdrawals **(See Section 1).**

Any funds not expended by the end of the Period of Performance are subject to de-obligation provisions of Paragraph five (5) below.

(5) DEOBLIGATION

Pursuant to Paragraph 11 herein and the applicable federal regulations, including but may not be limited to, 2 C.F.R. 200.339, 200.345, 200.346, the State must disallow or de-obligate all remaining Subrecipient Management Cost funds at the end of the project's Period of Performance.

(6) REIMBURSEMENT

All costs must be verified through time sheets and other appropriate documentation, which document the employee's name, hours worked in support of this grant, specified in detail in paragraph two (2) **"Conditions"**; the tasks performed on each property, and the employee's pay rate. Payment shall be submitted to the County after receipt of properly completed Requests for Reimbursement through the designated submission platform **(See Attachment B).**

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(7) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

The County and the State shall be governed by applicable State and Federal laws, rules, regulations, guidance, and policies.

(8) MODIFICATION OF AGREEMENT

Either party may request modification of the provisions of this Agreement upon written mutual agreement of the Parties. Examples of such modifications may include but are not limited to changes in the Scope of Work, Cost, Period of Performance extensions, or extensions of this Agreement itself. These changes, which are mutually agreed upon, shall be valid only when agreed upon in writing by both parties.

(9) RECORD KEEPING AND AUDITS

All financial and programmatic records, supporting documents statistical records and other records of the State and County shall be retained pursuant to 2 C.F.R. Part 200, 09 NCAC Part 3M, and the applicable Records Retention Schedule. All original records pertinent to this Agreement shall be retained by the State and County for **5 years** following the date of termination of this Agreement or of submission of the final closeout report or the applicable Records Retention Schedule, whichever is later, with the following exceptions:

> If any litigation, claim, or audit is started before the expiration of the five-year period and extends beyond the five-year period, the records will be maintained until all litigation, claims, or audit findings involving the records have been resolved.

The County, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the State, its employees, and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the State.

The County shall also provide the State with the records, reports, or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

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(10) LIABILITY

(a) Nothing in this Agreement, express or implied, is intended to confer on any other person any rights or remedies in or by reason of this Agreement. This Agreement does not give any person or entity other than the parties hereto any legal or equitable claim, right, or remedy. This Agreement is intended for the sole and exclusive benefit of the parties hereto. This Agreement is not made for the benefit of any third person or persons. No third party may enforce any part of this Agreement or shall have any rights hereunder. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement.

(b) Except as otherwise provided in subparagraph (c) below, the County shall be solely responsible to parties with whom it shall deal in carrying out the terms of this Agreement and shall save the State harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, the County agrees that it is not an employee or agent of the State, but is an independent contractor.

(c) The County agrees to be fully responsible for its own negligent acts or omissions or tortious acts. Nothing herein is intended to serve as a waiver of sovereign immunity by the State or any other recipient or subgrantee to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of North Carolina to be sued by third parties in any matter arising out of any contract.

(11) DEFAULT: REMEDIES: TERMINATION/OPT OUT

(a) If any of the following events occur ("Events of Default"), all obligations on the part of the State to make any further payment of funds hereunder shall, if the State so elects, terminate, and the State may at its option exercise any of its remedies set forth herein, but the State may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment:

1. If any warranty or representation made by the County in this Agreement or any previous Agreement with the State shall at any time be false or misleading in any respect, or if the County shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with the State and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

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2. If any reports required by this Agreement have not been submitted to the State or have been submitted with incorrect, incomplete, or insufficient information.
Note: If any reports required by this Agreement were not submitted or were submitted with incorrect, incomplete, or insufficient information and this failure was based on a reasonable reliance on information or guidance from the State that itself turned out to be incorrect and such reliance can be demonstrated, then this reliance and the resulting reports or lack thereof will not constitute an Event of Default under this Agreement.
3. If the County elects not to perform any of the work/conditions called for under this Agreement or perform in a timely manner;
4. If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, DHS, FEMA, the N.C. General Assembly, or the Office of State Budget and Management; and
5. Additional conditions of default include but are not limited to misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, and refusal by the County to permit public access to any document, paper, letter, or other material subject to disclosure under N.C. General Statutes.

(b) **Termination for Cause.** Upon the happening of an Event of Default, the State shall give written notice of the conditions of default, setting for the ground or grounds upon which such default is declared ("Notice to Cure"). The County shall have ten (10) days from receipt of the Notice to Cure or unless a shorter time is determined by the State to be necessary. Upon written notice to the County and upon the County's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the State from pursuing any other remedies contained herein or otherwise provided at law or in equity:

1. Terminate this Agreement for cause, provided that the County is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail return receipt requested, to the Designated Agent and address listed below:

Bobby Arledge
Emergency Mgt. Director
P.O. Box 308
Columbus, NC 28722

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2. Commence an appropriate legal or equitable action to enforce performance of this Agreement;
3. Withhold or suspend payment of all or any part of a request for payment;
4. Exercise any other rights or remedies which may otherwise be available under law.

(c) **Termination For Convenience.** In addition to Termination for Cause, the State may terminate this Agreement at any time by providing thirty (30) days' notice in writing from the State to the County. If the Agreement is terminated by the State as provided in this Section, the State shall reimburse the County for those eligible items for which such option is exercised, less any payment or compensation previously made. The County will not be able to receive reimbursement for any eligible activities performed after the date of the notice in writing.

(d) Suspension or termination constitutes final State action. Notification of suspension or termination shall include notice of administrative hearing rights and time frames.

(e) The County shall return funds to the State if found in non-compliance with laws, rules, regulations governing the use of the funds or this Agreement.

(f) Notwithstanding the above, the County shall not be relieved of liability to the State by virtue of any breach of Agreement by the County. The State may, to the extent authorized by law, withhold any payments to the County for purpose of set-off until such time as the exact amount of damages due the State from the County is determined.

(12) <u>OTHER PROVISIONS</u>

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the County, in the Application, in any subsequent submission or response to the State request, or any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference into this Agreement as if fully set out herein. The lack of accuracy thereof or any material changes shall, at the option of the State and with thirty (30) days written notice to the County, cause the termination of this Agreement and the release of the State from all its obligations to the County. As noted above in Section 11(2), if any inaccurate information provided by the County is the result of a reliance on incorrect information provided by the State and such reliance can be demonstrated, then termination under this provision shall not apply.

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(b) This Agreement shall be construed under the laws of the State of North Carolina and venue for any actions arising out of this Agreement shall be filed in State Court in Wake County, North Carolina. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

(c) No waiver by the State of any right or remedy granted hereunder or failure to insist on strict performance by the County shall affect or extend or act as a waiver of any other right or remedy of the State hereunder or affect the subsequent exercise of the same right or remedy by the State for any further or subsequent default by the County. Any power of approval or disapproval granted to the State under the terms of this Agreement shall survive the terms and life of this agreement as a whole.

(13) SUBCONTRACTS

(a) If the County subcontracts any or all of the tasks or work required under this Agreement, the County agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this Agreement with the State.

(b) The County agrees to include in the subcontract that the subcontractor shall hold the State and County harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

(c) If the County subcontracts work contemplated under this Agreement, a copy of the executed subcontract must be forwarded to the State within ten (10) days of execution of said subcontract.

(d) Contractual arrangement with other parties shall in no way relieve the County of its responsibilities to ensure that all funds issued pursuant to this grant be administered in accordance with all state and federal requirements.

(14) TERMS AND CONDITIONS

This Agreement and any exhibits and amendments annexed hereto and any documents incorporated specifically by reference represents the entire Agreement between the parties and supersedes all prior oral and written statements or agreements.

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(15) STANDARD CONDITIONS

The State and the County agree to be bound by the following standard conditions:

(a) The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the North Carolina General Assembly and is contingent upon Congress, the Department of Homeland Security, and FEMA providing Hazard Mitigation Grant Program funds for projects.

(b) If otherwise allowed under this Agreement, extension of an agreement for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial agreement.

(c) The State reserves the right to unilaterally cancel this Agreement for refusal by the County to allow public access to all documents, papers, letters, or other material subject to the provisions of the N.C. General Statutes and made or received by the County in conjunction with the Agreement.

(16) LOBBYING PROHIBITION

No funds or other resources received from the State in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the N.C. General Assembly or any state department. The County shall comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352 (as amended). If applicable, the County must sign and submit to the State the Certification Regarding Lobbying, attached as **Attachment C**, and incorporated by reference herein.

(17) DEBARMENT AND SUSPENSION

SUBRECIPIENT/SUBGRANTEE certifies that it:

(1) Is not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from participating in Federal or State grants or awards by any Federal or State department or agency; and

(2) Has not within a three-year period preceding this Agreement been convicted of or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery,

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bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) above;

(4) Has not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

(18) LEGAL AUTHORIZATION

The County certifies with respect to this Agreement that it possesses the legal authority to receive the funds to be provided under this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The County also certifies that the undersigned possesses the authority to legally execute and bind the County to the terms of this Agreement.

(19) ATTACHMENTS

(a) All attachments to this Agreement are incorporated as if set out fully herein.

(b) In the event of any inconsistency or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.

(c) This Agreement includes the following attachments or documents incorporated by reference as if fully set out herein:

1. Attachment A	Agency and Subrecipient Conditions
2. Attachment B	Subrecipient Management Cost Form
3. Attachment C	Lobbying Prohibition/Certification
4. Attachment D	FEMA Required Contract Provisions, FEMA Rules and Regulations

(20) FEMA REQUIRED CONTRACT PROVISIONS

The County shall comply with the applicable FEMA Required Contract Provisions, attached as **Attachment D** and incorporated by reference into this Agreement as if fully set out herein.

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(21) HAZARD MITIGATION PLAN

If the County is a local governmental entity, the County shall complete, adopt, and, update -- if the County has not already -- an all-hazards mitigation plan in a manner satisfactory to the State Hazard Mitigation Officer and in accordance with FEMA and State requirements including but may not be limited to, 44 C.F.R. 201.6, 44 C.F.R. 201.3, and N.C.G.S. 166A-19.41. The all-hazards mitigation plan shall be developed in accordance with the minimum criteria for local hazard mitigation plans as determined by the State. The minimum criteria are incorporated by reference into this Agreement as if fully set out herein.

(22) PERIOD OF AGREEMENT/PERIOD OF PERFORMANCE

This Agreement becomes effective upon execution of the signatures of all parties. The date of execution shall be the date of the last signature. This Agreement shall terminate 120 days after the expiration of the Period of Performance (POP). It may also be terminated earlier in accordance with the provisions of paragraphs (8), (11), (12) or (17) or the closeout of the project contemplated under this Agreement. This Agreement may be extended as necessary per Section 8. The POP expires on **August 25, 2030**.

The POP may be extended beyond the original date by extensions that the State may request, and FEMA may grant. **Subrecipient management costs incurred after the Period of Performance are not eligible for reimbursement.** If the initial POP is extended, the State will notify the County of such an extension prior to the expiration of the POP and will seek a Modification per Section 8 of this Agreement. If the original POP is not extended, the State will notify the County of the expiration of the POP. In the event the POP is not extended, the County will be required to submit all documents necessary for closeout contemplated under this Agreement within 30 days of the expiration of the POP. If documentation is not submitted within 30 days after the expiration of the POP, the County may forfeit the ability to receive reimbursements for subrecipient management costs.

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IN WITNESS WHEREOF, the AGENCY/GRANTEE and the SUBRECIPIENT/SUBGRANTEE have each executed this Agreement, on this day of _____.

CONTRACTING AGENCY
DIVISION OF EMERGENCY MANAGEMENT
DEPARTMENT OF PUBLIC SAFETY

WITNESS:

_____

BY: _____
WILLIAM C. RAY, DIRECTOR
DIVISION OF EMERGENCY MANAGEMENT
DATE_____

WITNESS:

_____

BY: _____
CAROLINE VALAND
CHIEF DEPUTY SECRETARY ADMINISTRATION
DEPARTMENT OF PUBLIC SAFETY
DATE_____

WITNESS:

_____

BY: _____
BOBBY ARLEDGE
EMERGENCY MGT. DIRECTOR
POLK COUNTY
FEDERAL EMPLOYER I.D. #56-600333
DATE_____

APPROVED AS TO PROCEDURES:

BY: _____
SHARON MARSALIS Ph.D., BUDGET DIRECTOR
DEPARTMENT OF PUBLIC SAFETY
DATE_____

APPROVED AS TO FORM SUBJECT TO EXECUTION BY CAROLINE VALAND, CHIEF DEPUTY SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY.

DEPARTMENT OF PUBLIC SAFETY

BY: _____
WILL POLK
DEPUTY GENERAL COUNSEL

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ATTACHMENT A: AGENCY AND SUBRECIPIENT CONDITIONS

State Centric Model Agency & Subrecipient Obligations (Opt-In)			
Project Phase	**Agency / State**	**Subrecipient / County**	**Contractor / Vendor**
Project Development Phase	• Application is built and submitted to FEMA as Applicant and Counties are Subrecipients.	• Conduct intake/nominate properties.	• N/A
FEMA Award Letter Received	• Contracts set up and bid out. • MOA prepared and submitted to County for review and signature.	• Coordinate with homeowners to answer questions, identify withdrawals, collect documents, and other information needed for project success.	• Responds to bid requests. • Signs BAFO. • Contracts directly with State.
Project Management	• Project Managers conduct kick-off meeting and additional meetings to support the project. • Provide oversight to all contract work and be the initial point of contact for the County to obtain answers to questions on behalf of homeowners or local leadership. • Perform periodic QA/QC inspections.	• Coordinate with Contractors to administer needed permits and DOT requirements, needed for project success. • Participate in all scheduled meetings with State and Contractor. • Coordinate with homeowners to provide information on Contractor visits and answer other project-related questions. • Submit SRMC reimbursement request as needed.	• Requests needed permits for project completion from County. • Begin work and meet timeline quotas.
Project Completion	• Work completion verified. • Additional QA/QC inspections performed if needed.	• Be present for all closings and ensure deed restriction compliance.	• Notify State of work completion.
Request for Reimbursement / Request for Subrecipient Management Costs (SRMC)	• Requests for Reimbursement are received and processed. • Requests for SRMC are received and processed.	• Submit any remaining requests for reimbursement to the State for charges incurred during project. Counties will produce (by deadline) reports, receipts, and other documents requested by State.	• Submit request for payment to the State.
Closeout Phase/Post-Closeout	• Verify work/receipts and reimburses County. • Contractors are paid directly by the State. • State closes out project.	• Payment received for SRMC. • After project completion and closeout, the County shall ensure compliance with 44 C.F.R. 60.3 and Part 80.	• Payment received.

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ATTACHMENT B: SUBRECIPIENT MANAGEMENT COSTS FORM

Project #: _____ COUNTY: _____ Modification #: N/A

Applicant Name: _____

Project Title: _____

Point of Contact

Name: _____ Title: _____

Agency: _____ Address: _____

Phone: _____ Email: _____

Current Federal Share Amount: $ - Cost Share Percentage: _____

Total Project Costs	
Total Estimated SRMC Ceiling *up to 5% of total project costs (**adjusted based on cost share)	

Subrecipient Management Costs Details

A. Personnel (In-House Labor) *If "Salaried" convert to hourly rate (Salary/Hours = Hourly Rate)

Position	Base Rate	Fringe %					Total Rate	Hours	Costs
		FICA	Health Insurance	Life Insurance	Retirement	Other			
							$-		$-
							$-		$-
							$-		$-
							$-		$-
Pre-Award							$-		$-
Estimated Subtotal:									$-

Narrative:

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B. Contractual Services

Company Name(s) or Consultant(s)	Purpose	Costs
Pre-award		
Estimated Subtotal:		$ -

Narrative:

C. Indirect Costs * Must have a federally approved indirect cost rate. Must attach letter from Cognizant Agency.

Description	Base	Rate	Costs
	$ -		$ -
Estimated Subtotal:			$ -

Narrative:

Total Estimated Subrecipient Management Cost Request: **$ -**

Maximum amount that can be claimed (5%) _____

If negative, adjust budget above by amount shown _____

Pre-award Subrecipient Management Cost is requested in the amount of: _____

Pre-award activities were performed by (Position(s) or Company): _____

Estimated Start Date: _____

Please select an option below:

☐ Solicitation, review, and processing of Subapplications and subawards

☐ Subapplication development regarding feasibility and effectiveness, and BCA

Pre-award SRMC can only be requested in Year 1. Supporting documentation is required with this request.

Strategic Funds Management (SFM) - Subrecipient Management Costs (SRMC) need to be obligated in increments sufficient to cover Subrecipient needs, for no more than one year, unless contractual agreements require additional funding. FEMA has established a threshold where annual increments will be applied to larger awards allowing smaller awards to be fully obligated.

Annual Breakdown of Estimated SRMC			
Year 1	**Year 2**	**Year 3**	**Total Estimated SRMC**
			$ -

Subrecipient Acknowledgement: *Authorized Agent or Point of Contact (POC) can sign

☐ Our organization is declining the use of SRMC funding for the referenced project.
**Authorized Agent must sign for declining funds

This request is related to eligible indirect costs, direct administrative costs, or other administrative expenses associated with this specific project.

The administrative requirements of the Code of Federal Regulations Title 2 Part 200: Uniform Administration Requirements (2 C.F.R. 200) have been met.

Name: _____ Authorization: _____

Title: _____

Signature: _____ Date: _____

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ATTACHMENT C : CERTIFICATION REGARDING LOBBYING (Appendix A, 44 C.F.R. Part 18)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her 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 an 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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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. 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.

The SUBRECIPIENT/SUBGRANTEE's authorized official, **Bobby Arledge,** certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the SUBRECIPIENT/SUBGRANTEE understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

_____
Signature of SUBRECIPIENT/SUBGRANTEE's Authorized Official

Bobby Arledge, Emergency Mgt. Director
Name and Title of SUBRECIPIENT/SUBGRANTEE's Authorized Official

_____
Date

ATTACHMENT D: FEMA REQUIRED CONTRACT PROVISIONS, FEMA RULES AND REGULATIONS (2 C.F.R. Part 200, Appendix II)

To the extent applicable, the following are the requirements that SUBRECIPIENT/SUBGRANTEE must agree to in order to be awarded any funds under this Agreement.

1. **No Governmental Non-Competes.** SUBRECIPIENT/SUBGRANTEE shall not impose or enforce any non-competition agreement upon the employees included in SUBRECIPIENT/SUBGRANTEE's Agreement that would prevent those employees from accepting any offer of employment from the State of North Carolina outside of the first Term of the Agreement. By executing this Agreement, the SUBRECIPIENT/SUBGRANTEE affirms this condition. This affirmation is a material condition for the State's award of any work under this MOA.
2. **Program Monitoring**. SUBRECIPIENT/SUBGRANTEE agrees to assist and cooperate with the Federal grantor agency and State or their duly designated representatives in the monitoring of the project or projects to which this agreement relates, and to provide in form and manner approved by STATE such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.
3. **Termination for Cause.** Upon the happening of an Event of Default, AGENCY/GRANTEE shall give written notice of the conditions of default, setting for the ground or grounds upon which such default is declared ("Notice to Cure"). The SUBRECIPIENT/SUBGRANTEE shall have ten (10) days from receipt of the Notice to Cure or unless a shorter time is determined by the AGENCY/GRANTEE to be necessary. The AGENCY/GRANTEE shall effect termination according to the following procedure: any longer period that is set forth in the Notice to Cure to cure the default. Upon written notice to the County and upon the County's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the State from pursuing any other remedies contained herein or otherwise provided at law or in equity:
    a. Terminate this Agreement for Cause, provided that the County is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail return receipt requested, to the Designated Agent.
    b. Commence an appropriate legal or equitable action to enforce performance of this Agreement
    c. Withhold or suspend payment of all or any part of a request for payment
    d. Exercise any other rights or remedies which may otherwise be available under law
4. **Termination For Convenience.** The AGENCY/GRANTEE may terminate this Agreement at any time by providing thirty (30) days' notice in writing from the AGENCY/GRANTEE to the SUBRECIPIENT/SUBGRANTEE. If the Agreement is terminated by the AGENCY/GRANTEE as provided in this section, the AGENCY/GRANTEE shall reimburse for those eligible items for which such option is exercised, less any payment or compensation previously made. SUBRECIPIENT/SUBGRANTEE will not be able to receive reimbursement for any eligible activities performed after the date of the notice in writing.
5. **Funding Contingency.** The Agreement may be suspended and/or terminated without liability to the State if any grant is suspended or terminated, and unless and until the State receives funds in an amount that is deemed sufficient to enable it to fund the Agreement awarded, the State is under no obligation to make any payments to the SUBRECIPIENT/SUBGRANTEE.

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6. **Equal Employment Opportunity**. During the performance of this Agreement, the SUBRECIPIENT/SUBGRANTEE agrees as follows:
    a. The SUBRECIPIENT/SUBGRANTEE will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The SUBRECIPIENT/SUBGRANTEE will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The SUBRECIPIENT/SUBGRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
    b. The SUBRECIPIENT/SUBGRANTEE will, in all solicitations or advertisements for employees placed by or on behalf of the SUBRECIPIENT/SUBGRANTEE, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
    c. The SUBRECIPIENT/SUBGRANTEE will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the SUBRECIPIENT/SUBGRANTEE's legal duty to furnish information.
    d. The SUBRECIPIENT/SUBGRANTEE will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the SUBRECIPIENT/SUBGRANTEE's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
    e. The SUBRECIPIENT/SUBGRANTEE will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
    f. The SUBRECIPIENT/SUBGRANTEE will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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g. In the event of the SUBRECIPIENT/SUBGRANTEE's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the SUBRECIPIENT/SUBGRANTEE may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The SUBRECIPIENT/SUBGRANTEE will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or SUBRECIPIENT/SUBGRANTEE. The SUBRECIPIENT/SUBGRANTEE will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a SUBRECIPIENT/SUBGRANTEE becomes involved in, or is threatened with, litigation with a subcontractor or SUBRECIPIENT/ SUBGRANTEE as a result of such direction by the administering agency, the SUBRECIPIENT/SUBGRANTEE may request the United States to enter into such litigation to protect the interests of the United States.

   The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of SUBRECIPIENT/SUBGRANTEE and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

   The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a SUBRECIPIENT/SUBGRANTEE debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon SUBRECIPIENT/ SUBGRANTEE and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received

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from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7. **Anti-Discrimination**. SUBRECIPIENT/SUBGRANTEE will comply with the following clauses: Titles VI and VII of the Civil Rights Act of 1964 (PL 88-352), and the regulations issued pursuant thereto (prohibiting discrimination on the basis race, color, national origin and ensuring that individuals are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age); Title IX of the Education Amendments of 1972 (codified as amended at 20 U.S.C. § 1681 et seq.) (prohibiting discrimination on the basis of sex); Titles I, II, III, IV, and V of the Americans with Disability Act of 1990 (prohibiting discrimination on the basis of disability); Section 504 of the Rehabilitation Act of 1973 (codified as amended at 29 U.S.C. § 794) (prohibiting discrimination on the basis of handicap); the Age Discrimination Act of 1975 (codified as amended at 42 U.S.C. § 6101 et seq.) (prohibiting age discrimination); Executive Order 11063 as amended by Executive Order 2259; and Section 109 of the Housing and Community Development Act of 1974, as amended.
8. **Debarment and Suspension.**
   a. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the SUBRECIPIENT/SUBGRANTEE is required to verify that none of the SUBRECIPIENT/SUBGRANTEE's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
   b. The SUBRECIPIENT/SUBGRANTEE must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
   c. This certification is a material representation of fact relied upon by State. If it is later determined that the SUBRECIPIENT/SUBGRANTEE did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
   d. The SUBRECIPIENT/SUBGRANTEE agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The SUBRECIPIENT/SUBGRANTEE further agrees to include a provision requiring such compliance in its lower tier covered transactions.
9. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** (as Amended).
   SUBRECIPIENT/SUBGRANTEE's who apply or bid for an award of $100,000 or more shall 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 shall 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 recipient who in turn will forward the certification(s) to the awarding agency.
   Required Certification. If applicable, RECIPIENTS/SUBGRANTEE must sign and submit to the SUBRECIPIENT/SUBGRANTEE the certification in Attachment C.

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10. **Access to Records**. The following access to records requirements apply to this Agreement:
    a. The SUBRECIPIENT/SUBGRANTEE agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the SUBRECIPIENT/SUBGRANTEE which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
    b. The SUBRECIPIENT/SUBGRANTEE agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
    c. The SUBRECIPIENT/SUBGRANTEE agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.
    d. In compliance with the Disaster Recovery Act of 2018, State and the SUBRECIPIENT/SUBGRANTEE acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
    e. SUBRECIPIENT/SUBGRANTEE agrees to allow the departments and agencies of the State of North Carolina, FEMA, the Comptroller General of the United States, and any of their duly authorized representatives access to any books, documents, papers, and records of SUBRECIPIENT/SUBGRANTEE which are directly pertinent to the NCEM Program for the purpose of making audits, examinations, excerpts, and transcriptions.
11. **Records Retention.** All records required to be kept on the project shall be maintained for at least five (5) years after final payments and until all other pending matters under the grant for this project have been closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the five (5) year period, whichever is later.
12. **Energy Efficiency**. All participants in the projects funded hereby shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).
13. **Personnel.** SUBRECIPIENT/SUBGRANTEE represents that it has, or will secure at its own expense, all personnel required in performing the work under this Agreement. Such personnel shall not be employees of NCEM or have any direct contractual relationship with NCEM that provides direct support to HMGP programs providing comparable services. All of the work contemplated in this Agreement will be performed by SUBRECIPIENT/SUBGRANTEE or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and State law to perform such work. No person who is serving a sentence in penal or correctional institution shall be employed to work under this Agreement.
14. **Debarment, Suspension and Ineligibility (2 C.F.R. 200, Appendix II(I)).** SUBRECIPIENT/SUBGRANTEE represents and warrants that it and its Subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. 180 and 24 C.F.R. 24.1 (government debarment and suspension regulations).
15. **Program Fraud and False or Fraudulent Statements or Related Acts.** SUBRECIPIENT/SUBGRANTEE acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the Agreement.

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16. **No Obligation by Federal Government.** The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, SUBRECIPIENT/SUBGRANTEE, or any other party pertaining to any matter resulting from the Agreement.
17. **Compliance with Federal Law, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Agreement. The SUBRECIPIENT/SUBGRANTEE will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
18. **DHS Seal, Logo, and Flags.** The SUBRECIPIENT/SUBGRANTEE shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
19. **Prohibition on Contracting for Covered Telecommunications Equipment or Services.**
    a. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
    b. Prohibitions.
        i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
        ii. Unless an exception in paragraph (c) of this clause applies, the SUBRECIPIENT/SUBGRANTEE and its sub-contractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
            1. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
            2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
            3. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
            4. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
    c. Exceptions.
        i. This clause does not prohibit RECIPIENT/SUBGRNATEE and its sub-contractors from providing—

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1. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

ii. By necessary implication and regulation, the prohibitions also do not apply to;

1. Covered telecommunications equipment or services that:
   a. Are not used as a substantial or essential component of any system; and
   b. Are not used as critical technology of any system
2. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d. Reporting Requirement.

i. In the event the RECIPIENT/SUBGRNATEE or its sub-contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the RECIPIENT/SUBGRATEE or subcontractor is notified of such by a subcontractor at any tier or by any other source, the subcontractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

ii. The SUBRECIPIENT/SUBGRANTEE shall report the following information pursuant to paragraph (d)(1) of this clause:

1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
2. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services

e. *Subcontracts.* The SUBRECIPIENT/SUBGRANTEE shall insert the substance of this clause, including this paragraph (e), in all contracts, subcontracts, and other contractual instruments.

20. **System For Awards Management**. SUBRECIPIENT/SUBGRANTEE shall be responsible to ensure that it has checked the federal System for Awards Management (SAM) https://www.sam.gov/SAM/ and the State Debarred Vendors Listing, https://ncadmin.nc.gov/documents/nc-debarred-vendors to verify that subcontractors have not been suspended or debarred from doing business with federal or State government.

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21. **DHS Standard Terms and Conditions.** In addition to the FEMA Rules and Regulations above, DHS Standard Terms and Conditions apply to the agreement as pertinent to the program as FEMA is a subdivision of DHS. The applicable DHS Standard Terms and Conditions for grants, cooperative agreements, fixed amount awards, and other types of federal financial assistance are based on the fiscal year in which the financial assistance award was funded. For access to the conditions, please see www.dhs.gov/publications/dhs-standard-terms-and-conditions.
22. **Termination for Unavailable Funding.** The continuation of this Agreement is contingent upon the appropriation and release of sufficient funds to AGENCY/GRANTEE to fulfill the requirements of this Agreement. Failure of the appropriate authorities to approve and provide an adequate budget to AGENCY/GRANTEE for fulfillment of the Agreement terms shall constitute reason for termination of the Agreement by either Party.
23. **Iran Divestment Act Certification.** SUBRECIPIENT/SUBGRANTEE certifies that, as of the date listed above, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), SUBRECIPIENT/SUBGRANTEE shall not utilize in the performance of the Agreement any contractor or subcontractor that is identified on the Final Divestment List.
24. **Client Data and Other Sensitive Information.** SUBRECIPIENT/SUBGRANTEE must comply with 2 C.F.R. §200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information NCEM designates as sensitive or consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.
25. **Funding Contingency.** The Agreement may be suspended and/or terminated without liability to the State if any grant is suspended or terminated, and unless and until the State receives funds in an amount that is deemed sufficient to enable it to fund the Agreement awarded, the State is under no obligation to make any payments to the SUBRECIPIENT/ SUBGRANTEE.

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