NC DEPARTMENT of COMMERCE
RURAL ECONOMIC DEVELOPMENT

Josh Stein
GOVERNOR

Lee Lilley
SECRETARY

Reginald Speight
ASSISTANT SECRETARY

August 20, 2025

«Contact_Name_Full»
«Contact_Title»
«Org_Name»
«Org_Address»

Re: Contract Agreement for Grant Number «Request_Reference_Number»; Your Signature and Reply is Requested
Project Title: "«Request_Project_Title»"

Dear «Contact_Title» «Contact_Last_Name»:

Enclosed for your review and signature is a complete set of contract documents required to finalize the grant award from the North Carolina Rural Infrastructure Authority. Below is a description of the documents enclosed along with an explanation of required actions for each document.

Document Description:	**Signed By:**
Deed of Trust Documentation	Highest Elected Official – Unit of Local Government. Return one original to Commerce.
Grant Agreement: Outlines the terms of Grant Agreement between the Department of Commerce and the Unit of Local Government.	Highest Elected Official - Unit of Local Government. Return one original to Commerce.
Exhibit A: Grant Application	Signatures gathered at application - Highest Elected Official – Unit of Local Government, Legal Property Owner listed on the Deed, and the Job Creating Business involved in the project. No additional signatures required.
Exhibit B: Program Guidelines	No Signature Required.
Exhibit C: Legally Binding Commitment (LBC): Outlines terms and conditions of the Loan.	Highest Elected Official -Unit of Local Government and Legal Property Owner listed on the Deed. Return one original to Commerce.
Exhibit D: Limited Waiver of Confidentiality: Contains employment information reported to the Department of Commerce's Division of Employment Security.	Each Business involved in the project.

Execute these documents, scan a quality copy and return to my attention at REIreports@commerce.nc.gov. If you have any questions or if I can be of any assistance, please contact me at bethany.davenport@commerce.nc.gov.

Sincerely,

Bethany P. Davenport

Bethany P Davenport
Fiscal and Compliance Manager

Enclosure

The Department of Commerce strongly encourages the Governmental Unit secure the funds loaned to the property owner, **«Request_Property_Owner_Legal_Name»**, with a Deed of Trust on the property.

Please check the appropriate box below indicating the intention of the Governmental Unit:

☐ The Governmental Unit will secure the funds with a Deed of Trust listing the **«Org_Name»** as the beneficiary in the amount of **$«Request_Grant_Amount»**.

☐ The **«Org_Name»** ("Governmental Unit") has elected NOT to secure with a deed of trust on the subject property the **$«Request_Grant_Amount»** in grant funds awarded by the North Carolina Department of Commerce ("Commerce") for a building reuse grant. Governmental Unit acknowledges and agrees that it is liable to the State for any grant funds that must be repaid under the Grant Agreement or Legally Binding Commitment, including (without limitation), any required repayments due to the property owner's failure to create and maintain jobs, which could include the full amount of the grant. Governmental Unit acknowledges that its liability to Commerce arises whether or not it is able to collect any repayment from the property owner under the Legally Binding Commitment, but still elects not to obtain a deed of trust on the subject property.

Please fill in the box below:

Governmental Unit Name: **«Org_Name»**_____

By (Signature): _____

Printed Name: _____

Title: _____

Date: _____

This Rural Economic Development Grant Agreement (the "Agreement") between the North Carolina Department of Commerce ("Commerce"), an agency of the State of North Carolina (the "State"), and the **«Org_Name»** (the "Governmental Unit" and, together with Commerce, the "Parties") is made effective as of **«Request_Project_Start_Date»** ("Effective Date") and shall remain in effect through **«Request_Project_End_Date»** ("Termination Date"), unless this Agreement is terminated on an earlier date under the terms of this Agreement or unless extended for an express term agreed upon in writing by the Governmental Unit and Commerce (such period of time running from the Effective Date to the applicable Termination Date described above shall constitute the "Grant Term");

WHEREAS, the North Carolina General Assembly (the "General Assembly") has determined that it is the policy of the State to stimulate economic activity and to create new jobs for citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State;

WHEREAS, the General Assembly has enacted legislation creating a program to provide matching grants or loans to specific local governmental units so as to productively reuse certain buildings and properties or expand rural health care facilities (the "Building Reuse Program"), subject to the requirements of N.C.G.S. §§ 143B-472.127 and .128, as a method of stimulating economic activity in the State;

WHEREAS, the General Assembly has created the Rural Economic Development Division ("REDD") within Commerce and has tasked REDD with administering the Building Reuse Program under N.C.G.S. §§ 143B-472.126 and .127;

WHEREAS, under N.C.G.S. § 143B-472.128, the General Assembly created the North Carolina Rural Infrastructure Authority (the "Rural Authority") and has empowered the Rural Authority to review applications for and, where appropriate, authorize such matching grants or loans to local government units under the Building Reuse Program;

WHEREAS, the Rural Authority under N.C.G.S. § 143B-472.128, is authorized to make such matching grants or loans: 1) based on the application ("Application") filed by the Governmental Unit and any subsequent materials supporting the Application that have been approved of by Commerce in writing as of the Effective Date, all of which are included as Exhibit A and are incorporated by reference herein; (2) based on the representation in the Application that **«Request_Property_Owner_Legal_Name»** (the "Owner") owns certain real property located at:

«Request_Property_Address_for_Proj»

In **«Codes_County_Request»** County, North Carolina ("Property"); (3) based on Commerce's Rural Economic Development Grant requirements and guidelines (the "Guidelines"), which are included as Exhibit B and are incorporated herein and which may be amended, modified, or supplemented and applied accordingly to this Agreement by Commerce in its sole discretion; and for (4) the creation and retention of certain jobs in the course of completing certain renovations/construction work at the Property (altogether, the "Project") as summarized below:

«Request_Project_Description»

WHEREAS, the Rural Authority grants to the Governmental Unit an amount not to exceed **$«Request_Grant_Amount»** for expenditures directly relating to the Project. The Governmental Unit hereby represents and warrants that all Grant funds shall be utilized exclusively for the purpose of the Project and consistently with all applicable laws, rules, regulations, and requirements, and that the Governmental Unit shall not make or approve of any improper expenditure of Grant funds (including Loan funds). Administrative expenses of the Governmental Unit are not eligible for Grant funding and any such use of Grant funds will violate this Agreement and may result in repayment of any funds used for such purposes; and

WHEREAS, based on the terms, conditions, and representations in the LBC of this Agreement, the Rural Authority has approved a grant (the "Grant") to the Governmental Unit.

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration as set out herein, the Parties mutually agree to the following terms and conditions:

SECTION 1. DEFINITIONS

1.1 "Agreement" means this Rural Economic Development Grant Agreement for Building Reuse between the Governmental Unit and the Department of Commerce, as amended, modified, revised, or supplemented from time to time and including the documents set forth in the Preamble and the Exhibits listed in Paragraph 6.16.

1.2 "Application" has the meaning set forth in the Preamble.

1.3 "Baseline Number" means the total number of full-time jobs in North Carolina that the Business reported having at the time of the Application for the Project. The Owner agrees that the Business shall be required to maintain in existence its Baseline Number of jobs for as long as it takes the Business to create and maintain its required number of New Jobs.

1.4 "Business" means the entity (or entities, as applicable) required to create and maintain certain full-time New Jobs to complete the Project.

1.5 "Commerce" means the North Carolina Department of Commerce.

1.6 "Effective Date" has the meaning set forth in the Preamble.

1.7 "Facility" means the Owner's real property, as described in the Application.

1.8 "General Assembly" means the North Carolina General Assembly.

1.9 "Governmental Unit" has the meaning set forth in the preamble.

1.10 "Grant" means the Rural Economic Development Grant for Building Reuse awarded to [insert grantee name] on [award date] by the Rural Infrastructure Authority and subject to the terms and conditions of this Agreement and the LBC (defined in 1.10 below).

1.11 "Grant Term" means the effective period of this Agreement beginning on ("Effective Date") and terminating on, unless terminated on an earlier date under the terms of this Agreement (either one of which dates shall constitute the "Termination Date") or unless extended for an express term agreed upon in writing by the Governmental Unit and Commerce.

1.12 "Guidelines" has the meaning set forth in the Preamble, is incorporated herein by reference, and is included as Exhibit B.

1.13 "Legally Binding Commitment ("LBC")" means the Rural Economic Development Loan Agreement and Legally Binding Commitment between the Governmental Unit and the Property Owner that outlines the terms and conditions of the Loan. The LBC is incorporated herein by reference and included as Exhibit C.

1.14 "Loan" means the funds given by the Governmental Unit to the Property Owner, which consists entirely of State grant funds, to fund the Project.

1.15 "New Job" means any job or jobs filled by employees hired for the Project on or after the Effective Date who work for at least thirty-five (35) hours per week, are eligible for all benefits generally available to all full-time employees of the Business, and whose wages are subject to withholding under Article 4A of Chapter 105 of the North Carolina General Statutes. Independent contractors, consultants, and seasonal and temporary employees are not to be included as New Jobs.

The New Jobs cannot be existing North Carolina positions or employees of the Company or any of its related members or affiliates that are transferred or shifted such that a previously existing North Carolina job, or a North Carolina job that was not previously part of the Project, is counted towards performance under this Agreement.

1.16 "North Carolina Rural Infrastructure Authority" has the meaning set forth in the preamble.

1.17 "Owner" means every individual or entity that has any ownership interest in the real property which is the subject of the Project.

1.18 "Project" has the meaning set forth in the preamble.

1.19 "Project Change" means any material alteration, addition, deletion, or expansion of the Project, including material changes to construction or rehabilitation, the terms or conditions of the loan under the LBC ("Loan"), the required number of New Jobs, the matching investment in the Project, any cessation of business by the Owner or the Business and any filing of bankruptcy by the Governmental Unit or the Owner.

1.20 "Property" means that certain real property located at [insert location from above].

1.21 "State" means the State of North Carolina and any of its related agencies, commissions, or departments (including Commerce, the North Carolina State Auditor, the North Carolina Office of State Budget and Management, and the Joint Legislative Commission on Governmental Operations) and any of their authorized representatives.

SECTION 2. REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties by the Governmental Unit and the Owner

The Governmental Unit represents and warrants that the execution of this Agreement has been authorized by the necessary Governmental Unit and is not in violation of any law or statute, and:

a) To the knowledge of the Governmental Unit, no action or legal proceeding is threatened against or affecting it, the Owner, or the Business that may adversely affect the Project or any of the transactions contemplated by this Agreement or the validity or enforceability of this Agreement or the abilities of the Governmental Unit or the Owner to discharge their obligations under this Agreement. If it is subsequently found that such an action, suit, proceeding, or investigation did or could threaten or affect the development and/or completion of the Project, the Governmental Unit shall be liable to Commerce for repayment of the entire amount of the Grant, and this Agreement may be terminated by Commerce effective upon notice.

b) No approval is necessary, or if any approval is necessary, all such approvals have been obtained from any governmental authority as a condition to the execution of this Agreement by the Governmental Unit. The Governmental Unit shall provide Commerce with evidence of the existence of any such necessary approvals at the time of the execution of this Agreement.

c) The Governmental Unit is solvent.

d) A cash match grant, loan, or other funding ("Cash Match") equal to the amount of the Loan shall have been unconditionally committed to the Project. All Cash Match funds shall be used exclusively for the purpose of the Project, and there

shall be no improper expenditures of Cash Match funds. All Cash Match funds shall be expended prior to or simultaneously with and at the same rate as the Owner's expenditure of Loan funds.

e) Upon the Governmental Unit's reasonable inquiry into and receipt of supporting evidence from the Owner, both the Owner and any Business are authorized to do business under North Carolina law and are not delinquent on any federal, state, or local taxes, licenses, or fees, every Business is solvent, is financially capable of performing its LBC and Project responsibilities (including, without limitation for the Business, creating and maintaining the New Jobs and, if required, maintaining the Baseline Number of jobs), and is a going concern, If it is subsequently found that a Business was not solvent, was not financially capable of performing its LBC or Project responsibilities, was delinquent on its federal, state or local taxes, licenses or fees or, if applicable, was not a going concern or was not duly authorized to do business under North Carolina law, Commerce may require repayment from the Governmental Unit of an amount of Grant funds to be determined in Commerce's sole discretion but not to exceed the amount of Grant funds the Governmental Unit has already received under this Grant Agreement, and this Grant Agreement may be terminated by Commerce effective upon notice.

2.2 Changes in the Project or Other Conditions.

a) There shall be no Project Changes unless approved by Commerce in a separate, prior written agreement stating, if applicable, the costs and schedule for completing the Project Change.

b) Notwithstanding the foregoing and wherever referred to in this Agreement, "cessation of business," "ceasing to do business" and "ceases to do business" shall not include (1) ceasing operations to maintain, service, or upgrade real or personal property of the Owner, (2) seasonal shutdowns of operations, as long as such cessation does not exceed a total of four (4) weeks in any calendar year (excluding time attributable to an event of force majeure, as described in Paragraph 6.15 of the LBC), and (3) under the circumstances of and for the period of time described in Paragraph 6.15 of the LBC.

c) Additionally, the Governmental Unit shall notify Commerce immediately of any change in conditions or local law, or any other event which may significantly affect its ability to oversee, administer, or perform as required under this Agreement, the LBC, or the Project. In its sole discretion, Commerce may deem such a change in conditions, local law, or other event a Project Change.

SECTION 3. TERMS AND CONDITIONS OF AGREEMENT

3.1 Project Records.

a) The Governmental Unit shall maintain full, accurate, and verifiable financial records, supporting documents, and all other relevant information for the Project in such a manner as to clearly identify and document the expenditure of the State funds provided under this Agreement. Such records shall be separate from accounts for other awards, monetary contributions, or other revenue sources for this Project.

b) The Governmental Unit shall retain all financial records, supporting documents, and all other pertinent records related to the Project for a period of five (5) years from the Termination Date. In the event such records are audited, all Project records shall be retained beyond the five-year period, until the audit is concluded and any and all audit findings have been resolved. Similarly, if any litigation or other action arising out of or related in any way to this Project is commenced before the end of such retention of records 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 record retentions period, whichever is later.

3.2 Monitoring, Reports, and Auditing.

a) The Governmental Unit agrees to ensure compliance and provide assistance with monitoring and auditing requirements requested by the State, including following the Termination Date of this Agreement. Additionally, the Governmental Unit shall monitor all performance of Grant-supported activities, including activities performed by the Owner and any Business, to ensure that time schedules are being met, New Jobs are being created and maintained, and other performance goals are being achieved.

b) The Governmental Unit shall furnish Commerce with detailed written progress reports according to the time periods specified below, or as otherwise requested by Commerce.

Progress reports are due on January 15th and July 15th for each year of the Grant Term. The final report and job verification documentation are due at the time of project completion or no later than thirty (30) days after the Termination Date, whichever is sooner. The reporting schedule remains in effect for the duration of the Agreement, including any time extensions.

Failure to submit progress reports as required:

1. Will result in non-payment of payment requests;
2. Can result in the immediate termination of the Grant and the Agreement;
3. Can result in the demand for immediate repayment of any funds paid by Commerce under the Agreement; and
4. Will negatively impact the grantee’s eligibility for future Commerce grants.

Such reports should describe the progress made by the Governmental Unit, the Owner, and any Business toward achieving the purpose(s) of the Project, including specifically the goals of New Job creation and maintenance. Such descriptions should include the successes and problems encountered during the reporting period. Failure to submit a required report by the scheduled submission date will result in the withholding of any forthcoming payment until Commerce is in receipt of the delinquent report and the report meets with Commerce's approval, in Commerce's sole discretion.

c) The Governmental Unit agrees that, with regard to the Grant funds, it will be subject to the audit and reporting requirements prescribed by N.C.G.S § 159-34, Local Government Finance Act - Annual Independent Audit; rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of funding received by the Governmental Unit and are subject to change from time to time.

d) Within thirty (30) days after the Termination Date, the Governmental Unit shall submit a final report to Commerce describing the activities and accomplishments of the Project. The final report shall include a review of performance and activities over the entire Grant Term. In the final report, the Governmental Unit should describe the Project, how it was implemented, to what degree the established Project objectives were met and the difficulties encountered, the impact of the Project on the Governmental Unit's community, and its cost.

e) The Governmental Unit grants the State and any of its related agencies, commissions, or departments (including Commerce, the North Carolina State Auditor, the North Carolina Office of State Budget and Management, and the Joint Legislative Commission on Governmental Operations) and any of their authorized representatives, at all reasonable times and as often as necessary (including after the Termination Date), access to and the right to inspect, copy, monitor, and examine all of the books, papers, records, and other documents relating to this Agreement, the LBC, or the Project. The Governmental Unit shall ensure that the Owner and any Business provide the same access. In addition, the Governmental Unit agrees to comply at any time, including after the Termination Date, with any requests by the State (including the Rural Authority or Commerce) for other financial and organizational materials to permit the State to comply with its fiscal monitoring responsibilities or to evaluate the short- and long-range impact of its programs.

SECTION 4. GRANT ADMINISTRATION

4.1 Availability of Funds.

a) The obligations of the Rural Authority and/or Commerce to pay any amounts under this Agreement are contingent upon the availability and continuation of funds for such purpose. If funds for the Grant (and therefore the Loan) become unavailable, Commerce has the right to terminate this Agreement and/or the LBC by giving written notice to the Governmental Unit. The effective date of such termination will be in Commerce's sole discretion and will be included in the written notice of termination. Upon such termination, the State shall have no responsibility to make additional Grant payments. Further, upon such termination, the Governmental Unit shall not expend any Grant funds (including Loan funds) without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.

4.2 Method of Payment.

a) After receipt of written requests for payment from the Governmental Unit certifying that the conditions for such payment under this Agreement have been met, as well as any other documentation that may be required by Commerce, Commerce shall pay the Grant funds to the Governmental Unit in accordance with the Payment Details as described below:

Eligible Expenditures:
Vacant Building Category: within the existing building footprint
Existing Business Building Category: within the existing building and/or additions
Rural Health Care Category: within the existing building, additions and/or new construction

b) Eligible costs under all funding categories include, but are not limited to materials and labor to install HVAC, electrical, plumbing, fire alarm/suppression systems, roofing, flooring, carpentry, drywall, paint, etc. This is not an exhaustive list; grantees should contact the Rural Economic Development Division for questions about whether a specific expense is eligible under the program.

c) The following costs are specifically prohibited under the program and may not be submitted for reimbursement or the matching funds requirement: building purchase, architectural costs, engineering costs, permit fees, surveys, legal fees, machinery and equipment, telephone hardware and software, computer hardware and software, furnishings, paving, fencing, kitchen equipment, and refrigeration equipment. This list is not exhaustive. Grantees should contact the Program Manager for the Rural Economic Development Division, listed in Section 6.10, for questions regarding the eligibility of a specific expense is eligible.

d) Any business in which any Project partner has an ownership or management interest may act as a contractor for the renovation project only if the business holds a valid North Carolina General Contractors license. Disclosure of and a copy of the business's license must have been included in the Application. Licensed contracting companies owned or operated by any Project partner that are used in the renovation project will be required to submit original invoices from the provider for all labor, materials, services, and subcontracted work, as well as proof that those invoices have been paid in full.

4.3 Reimbursement Requirements.

a) The Department of Commerce will reimburse fifty percent (50%) of eligible expenditures up to the total Grant amount upon receipt of the following:

1. A completed financial request form;
2. Evidence that the five percent (5%) local government match has been satisfied (included with the first payment request only);
3. Copies of eligible Project invoices in support of the requested amount;
4. Evidence that the invoices submitted for reimbursement have been paid-in-full. Such evidence may include copies of cleared checks, wire transfer or ACH receipts, and/or credit card receipts. Invoices paid in cash and those not paid in full will not be reimbursed; and
5. Satisfaction of reporting requirements according to Section 3.2(b).

b) Eligible expenditures may not be incurred prior to the Effective Date or subsequent to the Termination Date of the Agreement. Payments are subject to the availability of funds.

4.3 Obligation of Funds.

a) The Governmental Unit shall not obligate Grant funds prior to the Effective Date or subsequent to the Termination Date of this Agreement. All obligations outstanding as of the Termination Date shall be liquidated within thirty (30) days.

SECTION 5. WAIVER

5.1 No Waiver by the State.

a) Failure of the State at any time to require performance of any term or provision of this Agreement or the LBC shall not affect the rights of the State to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions herein at a later date. No waiver by the State of any condition or the breach of any term, provision, or representation contained in this Agreement or the LBC, whether by conduct or otherwise, in any one or more instances, shall not operate as a continuing waiver of any such condition or of a future breach of any other term, provision, or representation.

5.2 Waiver of Objections to Timeliness of Legal Action.

a) The Governmental Unit waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the State (including the Rural Authority or Commerce) to enforce its rights under this Agreement. This waiver includes any objections the Governmental Unit may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.

SECTION 6. MISCELLANEOUS

6.1 Independent Status of the Governmental Unit.

a) The Governmental Unit is an entity independent from the Rural Authority and Commerce. This Agreement, the LBC, the Project, and any actions taken pursuant to this Agreement, the LBC, and the Project shall not create a partnership or joint venture with Commerce, the Rural Authority, the Governmental Unit, or any third party (including the Owner or any Business). This Agreement, the LBC, and the Project shall not be construed to make the Governmental Unit (including its employees, agents, members, or officials) or any third party (including the Owner or any Business) employees, agents, members, or officials of Commerce or the Rural Authority. Neither the Governmental Unit nor any third party (including the Owner or any Business) shall have the ability to bind Commerce or the Rural Authority to any agreement for payment of goods or services or represent to any person that they have such ability.

b) The Governmental Unit shall be responsible for payment of all of its expenses, including rent, office expenses, and all forms of compensation to employees. The Governmental Unit shall provide worker's compensation insurance to the extent required for its operations and shall accept full responsibility for payments of unemployment tax or compensation, social security, income taxes, and any other charges, taxes, or payroll deductions required by law in connection with its operations, for itself and its employees who are performing work pursuant to this Agreement.

6.2 Termination

a) If the Governmental Unit fails to fulfill its obligations in a timely or proper manner or violates any of the terms of this Agreement, if the Owner fails to fulfill in a timely and proper manner its obligations or violates any of its covenants or stipulations under the LBC, or if any Business fails to fulfill those requirements applicable to it in the LBC, Commerce has the right to terminate this Agreement and/or the LBC by giving, as applicable, the Governmental Unit or the Governmental Unit and the Owner written notice of termination. The effective date of such termination will be in Commerce’s sole

discretion and will be included in the written notice from Commerce to the Governmental Unit. Upon such termination, Commerce shall have no responsibility to make additional payments under the Agreement, and the Governmental Unit shall not expend any Grant funds (including Loan funds) without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.

b) If a breach of any of the requirements, covenants, or agreements in this Agreement or the LBC occurs, or if there are any representations or warranties which are untrue as to a material fact in this Agreement or the LBC or in relation to the LBC or the Project (including the performance thereof), the Governmental Unit agrees that Commerce has the sole discretion to require repayment from the Governmental Unit of an amount of Grant funds to be determined in Commerce's sole discretion but not to exceed the amount of Grant funds the Governmental Unit already has received under this Agreement.

c) Other than as provided for in Paragraph 6.4(a) of the LBC, if the Owner or any Business ceases to do business or becomes the subject of any bankruptcy, dissolution, or insolvency proceeding prior to the Termination Date, it shall be the sole responsibility of the Governmental Unit to (i) notify Commerce immediately and (ii) pursue any claim for Grant funds owed the State by the Owner or Business, including in any legal proceeding, to obtain the maximum payment allowed by law. To the extent the Governmental Unit fails to pursue repayment of the Grant funds in such a proceeding and obtain the maximum payment allowed by law, and without limitation, the Governmental Unit shall be liable to Commerce for all amounts that should have been awarded to the Governmental Unit in the proceeding had it taken the necessary action (notwithstanding whether such amounts would have actually been paid by the Owner or Business). Alternatively, if the Governmental Unit fails to pursue repayment of the Grant funds in such a proceeding and Commerce elects to do so instead, the Governmental Unit is responsible and agrees to reimburse Commerce for all legal costs and reasonable attorneys' fees that Commerce incurs in pursuing repayment.

d) If the Governmental Unit fails to provide Commerce notice of the Owner or any Business ceasing to do business or becoming the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall constitute a material default under this Agreement. If such a material default occurs, Commerce may terminate this Agreement upon written notice to the Governmental Unit. The effective date of such termination will be in Commerce's sole discretion and will be included in Commerce's written notice to the Governmental Unit. Upon such termination, the Governmental Unit, the Owner, and any Business shall not expend any Grant or Loan funds without Commerce's express written authorization and shall return all unspent Grant or Loan funds to Commerce upon demand and if permissible under applicable bankruptcy, dissolution, or insolvency law.

6.3 Liabilities and Loss.

a) The Governmental Unit hereby agrees to release, indemnify, and hold harmless the State (including the Rural Authority and Commerce), and their respective members, officers, directors, employees, agents, and attorneys (together, the "Indemnified Parties"), from any claims of third parties (including the Owner and the Business) arising out of any act or omission of the Governmental Unit or any third party (including the Owner and the Business) in connection with the performance of this Agreement, the LBC, or the Project, and for all losses arising from their implementation. The Governmental Unit hereby releases the Indemnified Parties from any and all liability or loss, cost, or expense, including reasonable attorneys' fees, fines, penalties, and civil judgments, resulting from any loss or damage to property, injury, or death of any person occurring in connection with the Project, whether arising out of acts, omissions, or negligence of the Governmental Unit or of any third party (including, without limitation, the Owner, and the Business, or of any of their agents, contractors, servants, employees, licensees, lessees, or assignees), including any claims and losses resulting from any and all subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the Project.

6.4 Non-discrimination.

a) The Governmental Unit will not discriminate based on age, race, religion, color, sex, national origin, or disability related to the activities of this Agreement.

b) The Governmental Unit will ensure that the Business and the Owner will not discriminate based on age, race, religion, color, sex, national origin, or disability related to the activities of this Agreement.

6.5 Conflict of Interest.

a) The Governmental Unit shall adopt and keep on file, along with the executed copies of this Agreement, a copy of its policy and any ordinance or resolution it has adopted addressing conflicts of interest that may arise involving the members of the Governmental Unit's governing body and/or any of its employees or officers involved in the Agreement, the LBC, or the Project. Such policy, ordinance, or resolution shall address situations in which any of these individuals may directly or indirectly benefit, other than through receipt of their normal compensation in their capacities as the Governmental Unit's employees, officers, or members of its governing body, from the Agreement, the LBC, or Project. Such policy, ordinance, or resolution also shall include actions to be taken by the Governmental Unit, the individual, or both, to avoid conflicts of interest and the appearance of impropriety. Additionally, the Governmental Unit certifies that, as of the Effective Date, no such individuals have such a conflict of interest or will directly or indirectly benefit, except in the capacities described above, from the Grant, LBC, or the Project. Throughout the Grant Term, the Governmental Unit has the

duty to inform Commerce promptly of any such conflict of interest or direct or indirect benefit of which it becomes aware.

6.6 Compliance with Laws.

a) The Governmental Unit shall at all times observe and comply with all laws, regulations, codes, rules, ordinances and other requirements (together, "Laws") of the state, federal and local governments which may in any manner affect the performance of this Agreement, the LBC or the Project. This includes compliance with environmental laws and regulations.

b) The Business and the Owner shall obtain all required environmental permits necessary for the Project prior to requesting funds and shall maintain those permits for the duration of the Grant Agreement. Failure to obtain and maintain any required environmental permits may result in repayment of funds in Commerce's discretion.

6.7 Non-Assignability.

a) The Governmental Unit shall not assign or transfer any interest in the Agreement without the prior written consent of Commerce; however, claims for money due to the Governmental Unit from Commerce under this Agreement may be assigned to any commercial bank or other financial institution without such approval.

6.8 Personnel.

a) The Governmental Unit represents that it has, or will secure at its own expense, all personnel required to monitor, carry out, and perform the scope of services of this Agreement. Such employees shall not be employees of Commerce. Such personnel shall be fully qualified and shall be authorized under State and local law to perform such services.

6.9 Other Agreements.

a) The Governmental Unit understands and consents that, if it is a party to a separate grant agreement or loan with the State, then full compliance with that separate grant agreement or loan and with this Agreement is required. Similarly, the Governmental Unit understands that if the Business is a party to a separate grant agreement or loan with the State, then the Business's full compliance with that separate grant agreement or loan and with this Agreement is required. Any default under the separate grant agreement or loan during the term of this Agreement, as it may be extended, may be the basis for Commerce to deny payment under this Agreement or request repayment of any funds previous paid in Commerce's sole discretion.

6.10 Notice.

a) All notices required or permitted to be delivered hereunder and all communications in respect hereof shall be in writing and shall be deemed given when personally delivered or when deposited in the United States mails, certified, return receipt requested, first class, postage prepaid and addressed as follows:

If to the Rural Authority or Commerce:

Attn: **«Request_Staff_Person»**
Program Manager
North Carolina Department of Commerce
Rural Economic Development Division
301 North Wilmington Street
4346 Mail Service Center
Raleigh, North Carolina 27699-4346

If to the Governmental Unit:

Attn: **«Contact_Name_Full»**
«Contact_Title»
«Org_Name»
«Org_Address»

6.11 Entire Agreement.

a) This Agreement supersedes all prior agreements between or among the Rural Authority and/or Commerce and the Governmental Unit with regard to the Project and expresses their entire understanding with respect to the transactions contemplated herein, and shall not be amended, modified, or altered, except pursuant to a writing signed by both Commerce and the Governmental Unit.

6.12 Execution.

a) This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and such counterparts, together, shall constitute one and the same Agreement which shall be sufficiently evidenced by one of such original counterparts.

6.13 Construction, Jurisdiction, and Venue.

a) This Agreement shall be governed by the laws of the State of North Carolina.
b) The Governmental Unit agrees and submits, solely for matters concerning this Agreement, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purposes, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Agreement, and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract, tort, or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined.

6.14 Severability.

a) Each provision of this Agreement is intended to be severable and, if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

6.15 Acceptance.

a) If the Governmental Unit agrees to the Agreement terms as stated, the Governmental Unit will return the executed documents specified in the cover letter accompanying this Agreement. This Grant may be withdrawn if Commerce has not received such documents within thirty (30) days from the date of the cover letter from Commerce to the Governmental Unit.

b) As conditions of the Agreement:

1) The highest elected official of the Governmental Unit shall execute the Agreement in its exact form, unless Commerce approves a change to its terms in writing;

2) The Governmental Unit shall ensure that an authorized representative of each Business executes a Waiver of Confidentiality ("Waiver") located in the Application. The Governmental Unit shall also ensure that any additional Business which becomes involved in the Project after the Agreement is finalized executes a Waiver upon its involvement; and

3) After execution, the Governmental Unit shall scan quality copies of all the above listed documents and deliver them via email to the attention of reireports@commerce.nc.gov.

c) As conditions of the Legally Binding Commitment (LBC):

1) The highest elected official of the Governmental Unit and a duly authorized representative of the Owner shall execute the LBC in its exact form, unless Commerce approves a change to its terms in writing. After execution, the Governmental Unit shall scan a quality copy of the LBC and deliver it via email to the attention of reireports@commerce.nc.gov.

2) The Governmental Unit shall provide Commerce with any information obtained pursuant to the LBC and allow Commerce to execute any rights of the Governmental Unit under the LBC, including the Governmental Unit's rights of access, review, or monitoring and Commerce's rights as a third-party beneficiary thereunder.

3) The Governmental Unit shall exercise all of its rights and duties under the LBC in a prudent and timely manner to ensure the use of the Grant funds for the intended purposes and objectives and to preserve the rights of Commerce in this Agreement and the LBC.

4) The LBC specifies how many New Jobs the Business must create and maintain in the performance of the Project and, if the Business fails to do so, those Grant funds that the Owner must repay to the Governmental Unit for return to Commerce or else repay directly to Commerce, upon request and as directed. If such New Jobs are not created or maintained, then the Governmental Unit shall return to Commerce any Grant funds it has not already disbursed to the Owner, make a timely demand for repayment from the Owner, and, if such repayment is not forthcoming, initiate and fully litigate legal proceedings against the Owner to recover such repayment.

5) Without limitation, failure by the Governmental Unit to timely demand repayment from and, if necessary, initiate and fully litigate such legal proceedings against the Owner may affect the future consideration of the Governmental Unit for grant programs administered by Commerce. Further, and without limitation, if the Governmental Unit fails to timely initiate legal proceedings against the Owner for such repayment and Commerce elects to do so instead, the Governmental Unit is responsible and agrees to reimburse Commerce for all litigation costs and reasonable attorneys' fees that Commerce incurs in pursuing repayment.

6.16 Exhibits. The following Exhibits are hereby incorporated by reference as though set forth in their entirety herein:

a) Exhibit A – Grant Application
b) Exhibit B – Program Guidelines
c) Exhibit C – Legally Binding Commitment
d) Exhibit D – Limited Waiver of Confidentiality

Signature page follows.

IN WITNESSETH WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

«Org_Name»

Signature: _____ [SEAL]

Printed Name: _____

Title: _____

Date: _____

North Carolina Department of Commerce

Signature: _____ [SEAL]

Printed Name: Reginald Speight

Title: Assistant Secretary for Rural Economic Development

Date: 8/20/25

Application # _____
(For internal use only)

Vacant Building ☐ Existing Business Building ☐ Rural Health Care ☐ Rural Infrastructure ☐

Applicant Information

Local Government Name: _____ County: _____ Tier #: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Primary Telephone: _____ Federal Tax ID #: _____

Website: _____

Chief Elected Official Name: _____ Title: _____

Telephone: _____ Email: _____

Manager/Administrator Name: _____ Title: _____

Telephone: _____ Email: _____

Local Government Project Manager (If different than above):

Name: _____ Title: _____

Telephone(s): _____ Email: _____

Grant Administrator Company Name (if applicable): _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Name: _____ Title: _____

Telephone(s): _____ Federal Tax ID #: _____

Website: _____ Email: _____

Project Information

Project Title: _____ **Grant Amount Requested ($):** _____

Number of Businesses to be Assisted: _____ Number of Jobs to be Created: _____

Project Description (provide a summary of the project below):

Has any project participant ever benefitted from a grant with the Department of Commerce? Yes ☐ No ☐ If **Yes**, please explain ↴

Project Budget

List all expenses related to the project, the amount of each expense, and the corresponding funding source(s) in the table below. The table should include costs for acquisition, construction, infrastructure improvements, equipment, training, etc. The table should clearly show all planned expenditures and all funding sources for the project.

	Source Name:	Source Name:	Source Name:	Source Name:
Project Expense	**Amount**	**Amount**	**Amount**	**Amount**
Sub Total ($)				

Total Construction Cost: ($) _____

Total Project Cost: ($) _____

Project Narrative

1 Provide a detailed description of the project company and the jobs to be created.

2 Provide a listing of all the company's existing locations along with the number of current full-time and part-time jobs and whether any change in employment are planned for each location.

3 Provide a detailed description of the construction/renovation project.

4 Provide description of the project property/building and its significance.

Property Owner Information

Property Owner Legal Name: _____

Property Owner Representative Name (First and Last): _____
(Authorized to sign loan documents for Building Reuse)

Property Owner Rep. Mailing Address: _____ City: _____ State: _____ Zip: _____

Property Owner Rep. Phone: _____ Email: _____

Property Information

Property Address for Project: _____ City: _____ State: _____ Zip: _____

Year Building Was Constructed: _____ Number of Months Building Vacant: _____ Square Footage of Building: _____

Is the property listed on the National Register of Historic Places? ☐ Yes ☐ No

If you are unsure whether the property is listed on the National Register of Historic Places, you can check the address by accessing the following website: http://gis.ncdcr.gov/hpoweb/. If the property is listed, the provisions of NCGS 121-12(a) will be required.

Company Information

BUSINESS Name: _____ Federal ID Tax #: _____

Business Representative Name: _____ NAICS Code: _____

Business Mailing Address: _____ City: _____ State: _____ Zip: _____

Business Representative Phone: _____ Business Representative Email: _____

Check ONE box below for the Industry Type of the Business:

☐ Data & Call Services ☐ Healthcare ☐ Manufacturing ☐ Processing ☐ Warehouse/Distribution

☐ Professional ☐ Service ☐ Restaurant ☐ Retail ☐ Non-Profit

Is the proposed Business a startup? Yes ☐ No ☐ If no, how many years in business **in NC**? _____

Number of existing part-time employees **in NC**: _____ Will the business provide health benefits? Yes ☐ No ☐

Number of existing full-time employees **in NC**: _____ What % of health benefits are employer paid? _____ %

Number of new full-time jobs committed: _____ Average annual wage of the new jobs committed? _____

If more than one company will participate in the project, please copy this page and complete for each additional company.

Average Annual Wage Computation Work Sheet

Number of New Employees	Position Type	Gross Annual Wages

Total [ ] **(A)**

Total Annual Wages		**(B)**
Divide Total Wages (B) by the Total Number of New Employees (A) for the **Average Annual Wage**		**(B/A)**
Percent Employer-Paid Health Insurance		**%**

Company Certifications

1 **Overdue Tax Debts** — Does the Company or the Related Member(s) currently have any overdue tax debts with any City, Town or County in, or with the State of North Carolina?

☐ Yes ☐ No

2 **Occupational Safety and Health Act Violations** — Does the Company, or the Related Member(s) have any citation under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations?

☐ Yes ☐ No

3 **Loan Defaults** — Is the Company, or the Related Member(s) currently in default on any loan or grant previously made by the State of North Carolina?

☐ Yes ☐ No

4 **Incentive History** — Has the Company, or Related Member(s) ever defaulted on an economic development grant or inventive or been sued by a grantor with respect to an economic development grant or incentive?

☐ Yes ☐ No

5 **Creditor Losses, Litigation, Government Investigations** — Has any member of management or any principal of the Company, or the Related Member(s) been involved in a financial reorganization, a bankruptcy, or other situation that led to losses by creditors or bond buyers, investor lawsuits, or government investigation alleging fraud or impropriety?

☐ Yes ☐ No

6 **Pending or Threatened Litigation** — Is the Company, or Related Member(s) subject to any claim, suit, action, proceeding, or government investigation that is pending or threatened that, individually or in the aggregate, would reasonably be expected to have a material adverse effect on the proposed grantee's finances or operations or the ability to conduct the proposed project, or that would reasonably be expected to impact the Rural Infrastructure Authority's decision to award a grant?

☐ Yes ☐ No

If you answered YES to any of the questions above, please provide a detailed description:

If more than one company will participate in the project, please copy this page and complete for each additional company.

Local Government Certifications

The attached statements and exhibits are hereby made part of this application, and the undersigned representative of the applicant certifies that the information in this application and the attached statements and exhibits are true, correct, and complete to the best of the signatory's knowledge and belief. The signatory further certifies:

1 as Authorized Representative, the signatory has been authorized to file this application by formal action of the governing body;
2 that the governing body or agrees that if a grant is awarded, the applicant will provide proper and timely submittal of all documentation requested by the Grantor Agency;
3 that the applicant has substantially complied with or will comply with all federal, state, and local laws, rules, regulations, and ordinances as applicable to this project;
4 that the applicant has analyzed the participating companies' financial and organizational strength regarding the ability to successfully meet the terms of the job creation and maintenance requirements, carry out the renovation project, as well as, the ability to meet the potential for repayment of loan funds; and
5 that the project is in accordance with the applicant's economic development plan and that the applicant has investigated any impact that the project may have on existing businesses within the applicant's jurisdiction.

_____

Signature of Local Government Chief Elected Official

_____ , _____

Typed Name **Typed Title**

_____

Date

_____

Signature of Property Owner Representative

_____ , _____

Typed Name **Typed Title**

_____

Date

_____

Signature of Company CEO/CFO/COO/President

_____ , _____

Typed Name **Typed Title**

_____

Date

NC DEPARTMENT of COMMERCE
RURAL ECONOMIC DEVELOPMENT

Exhibit B: Program Guidelines
Rural Building Reuse and Infrastructure

The Rural Economic Development Division, as authorized under N.C.G.S. 143B-472.127, provides grants to local government units to support economic development activity that will lead to the creation of new, full-time jobs. The program gives priority to projects located in the 80 most distressed counties in the state; and resident companies as defined in N.C.G.S. 143B-472 (a) 4.

PROGRAM CATEGORIES

Rural Building Reuse—Three categories of funding are available for 1) the renovation of vacant buildings, 2) the renovation or expansion of a building occupied by an existing North Carolina company wishing to expand in their current location and 3) the renovation, expansion or construction of health care facilities that will lead to the direct creation of new, full-time jobs.

Rural Infrastructure—Funding is available for publicly-owned infrastructure including water, sewer, electric, broadband, rail, and road improvements that will lead to the direct creation of new, full-time jobs.

HOW TO APPLY

Funding Availability and Target Industry Projects

The potential funding available for each project will be assessed though analysis of the project and will be based upon the project's location, the quantity and quality of jobs committed, the overall economic impact of the project, and at the discretion of the Rural Infrastructure Authority.

Projects that meet all the criteria below may receive the highest priority consideration:

- Located in a Tier 1 or Tier 2 county,*
- Meet or exceed the county average annual wage,*
- Identified as a Target Industry (see table below),
- Offer at least 50% employer-paid health insurance
- Will create a significant number of new, full-time jobs

*Check County Tier Designations and County Average Private Sector Wages:: County Tier Designation and County Average Wages

Target industries are identified in the table below. The first step in assisting target industry projects begins with the developers at the Economic Development Partnership of North Carolina (EDPNC). EDPNC Representatives will guide the local government and business through the initial information gathering phase of the project and EDPNC will refer the project to Commerce. Applicants may find more information about the EDPNC at www.edpnc.com.

Target Industries
Aerospace/Aviation/Defense
Automotive/Truck/Heavy Equipment
Agriculture/Forestry/Food
Biotech/Life Sciences
Business and Financial Services
Energy
Information Technology
Manufacturing (Chemical/Furniture/Metals/Plastics/Textiles)
Other Headquarters

Conference Call

The application process requires a pre-application conference call. For a target industry projects, the conference call will be conducted after the project's referral to Commerce is complete.

- To request a pre-application conference call, submit pages 6-10 of this application package along with at least two proposed dates/times for the call to the appropriate program manager.
- The local government, business owner, and property owner (Building Reuse) are required to be on the call. Other project partners may also participate.
- Once the conference call is complete, eligible applicants should submit the full application package—pages 6-10 of this including any revisions discussed in the pre-application conference call, along with the documents requested in Tabs 1-5 on pages 4-5 of this application package.

ELIGIBLE APPLICANTS

- **Rural Building Reuse**—Eligible applicants are units of local government located in Tier 1 or Tier 2 counties, and rural census tracts in Tier 3 counties. As authorized in N.C.G.S. 143B-472.127(a)(2), a rural census tract† is an area having a population density of less than 500 people per square mile in accordance with the most recent decennial federal census.
- **Rural Infrastructure**—Eligible applicants are units of local government with priority given to the Tier 1 and Tier 2 counties.

†Check census tracts at: Rural Census Tract Map

BUILDING REUSE ELIGIBLE PROJECTS AND EXPENSES

Vacant Building Category

- renovation of buildings that have been vacant for at least three months prior to application deadline
- initial upfit of a shell building is eligible if the building is at least 5 years old and has never been occupied
- only renovations within the existing footprint are eligible

Existing Business Building Category

- buildings occupied for at least 12 months by one of a business identified as a target industry (see table on page 1)
- jobs are required to meet the county wage standard and provide 50% paid health insurance
- renovation within the existing footprint and connected additions are eligible

Rural Health Category

- new construction, renovation, or expansion or of health care facilities
- NC licensure required for participating health care companies

Eligible Expenses – Building Reuse, All Categories

- improvements to real property, including, but not limited to: materials and labor to install HVAC, electrical, plumbing, fire alarm/suppression system, roofing, flooring, carpentry, drywall, paint, etc.
- a company owned or operated by any project partner may not be used as a contractor for the renovation project unless the company holds a valid NC General Contractors license. A copy of the company's NC General Contractor's license must be included in Tab 3 of the application materials

Ineligible Expenses – Building Reuse, All Categories

- the following are examples of prohibited expenses and may not be submitted for reimbursement or to meet the matching funds requirement: building purchase, design costs, engineering costs, permit fees, surveys, legal fees, machinery & equipment, cranes, security, telephone, and computer hardware and software, solar panels, signage, landscaping, silo and other ancillary structures, furnishings, paving, fencing, kitchen equipment, and refrigeration equipment. This list is not comprehensive and specific items of concern should be discussed with program staff.
- renovations for housing or government uses are not eligible

INFRASTRUCTURE ELIGIBLE PROJECTS AND EXPENSES

- construct public infrastructure improvements
- upgrade or repair of public drinking water or wastewater treatment plants
- upgrade, extensions, or repair of public water or sewer lines
- publicly owned natural gas lines (requires an executed Pipeline Construction, Operating and Resale Agreement)
- installation or extension of public broadband infrastructure
- construction of publicly owned access roads not funded or owned by the Department of Transportation
- construction of public rail spur improvements

Eligible Expenses – Infrastructure

- eligible expenses include planning, materials, labor, and administration to complete public infrastructure improvements

Ineligible Expenses – Infrastructure

- privately owned infrastructure improvements
- projects that address building construction
- land acquisition costs or fees with the exception those associated with public easements for the project

JOB CREATION REQUIREMENTS

- Applicants must show that the improvements will result in the creation of new, full-time jobs in the private sector within 18 months of the grant award. Part-time, Full-Time Equivalents (FTE) positions, or contract and consulting jobs are ineligible.
- Each position must be filled with one full-time employee. Full-time employment is defined as one person working at least 35 hours per week, whose wages are subject to withholding, and who is employed in a permanent position.
- Priority will be given to projects that offer higher salaries/wages and provide at least 50% employer-paid health benefits to employees.
- The company must pay North Carolina Unemployment Insurance on each employee for whom a job is committed.
- The company will be expected to maintain all existing full-time jobs in North Carolina reported at the time of application (baseline) plus create the new, full-time jobs committed.
- The baseline will be established using the most recently filed NCUI 101 Form filed with the NC Department of Commerce Division of Employment Security at the time of application submittal.
- To meet the terms of the grant the company must maintain the baseline number plus the new, full-time jobs concurrently for at least six consecutive months.
- All participating companies must agree to provide the local government and the Department of Commerce access to company employment records necessary to verify the creation of new jobs.

LOCAL GOVERNMENT REQUIREMENTS & LIABILITIES

- The local government will coordinate and oversee all aspects of the project, including the application process, contracting process, reporting requirements, payments, job verification, and loan repayment if required.
- The local government is required to analyze the participating company's financial and organizational strength regarding its ability to successfully meet the terms of the job creation and maintenance requirements, and the ability to meet the potential for repayment of loan funds.
- In the event the company defaults on the job commitment, the local government is required to repay the loan to Commerce irrespective of whether the funds are collected from the property/business owner.
- When the improvements are owned by the local government, state regulations regarding procurement, including N.C.G.S.14-234 are required.
- Local governments are subject to state audit and reporting requirements.

MATCH REQUIREMENTS

- A cash match equivalent to at least 5% of the grant amount is required for all projects.
- The cash match shall come from local resources and may not be derived from other State or federal grant funds.
- Costs that are ineligible for grant funding may not be considered for the match. The only exception is paid grant administration when paid to an organization separate from the applicant organization.
- In-kind match is not allowable.
- In addition to the 5% match described above, the building reuse program requires a dollar for dollar match up to the total grant amount.

REPAYMENT REQUIREMENTS

- If job creation goals are not met, a pro-rata share of funds for each job not created must be repaid to the Department of Commerce by the local government.
- For Building Reuse projects, the local government will secure the funds through a Legally Binding Commitment executed between the local government and the property owner.
- For Infrastructure projects, the local government will secure the funds through a Legally Binding Commitment executed between the local government and the company owner.
- Repayment forgiveness is offered upon the successful verification of the required job creation by the Department of Commerce.

APPLICATION CHECKLIST

Submit a complete application package **including the application form and the documents listed within the checklist below. Please submit one complete pdf (pages 6-10 of this document and all materials required for Tabs 1-5) to reireports@commerce.nc.gov.**

Tab 1

☐ **Application Form.** The form should be signed by local government chief elected official.

☐ **Local Government Resolution**. Submit a signed resolution adopted by the governing board in support of application submission to the Department of Commerce. The resolution must state the purpose of the project, indicate the local government's support for the project, and commitment to provide a cash match of at least 5% of the grant request amount toward the project.

Tab 2

☐ **Job Commitment Letters.** Submit a signed letter of job commitment from each company that will participate in the project. The letter should include **(1)** the number of existing full-time and part-time employees (listed separately) at all company locations in North Carolina, and **(2)** the number of new, full-time jobs to be created by the company and maintained concurrently for six-consecutive months within two years of the grant award date. The letter must be printed on the company's letterhead and signed by the company's Chief Executive Officer, Chief Financial Officer or President.

☐ **Employer's Quarterly Tax and Wage Report—NCUI 101 Form(s).** Submit a copy of the of the *Employer's Quarterly Tax and Wage Report* (NCUI 101 form) for each company that will commit jobs to the project. The form must have been filed with the North Carolina Department of Commerce Division of Employment Security for the quarter ending closest to the application deadline. The entire Social Security Number for each person should be redacted (blacked out). The name and wages must remain readable. Any discrepancy in the number of employees listed on the NCUI 101 form(s) for the last month of the quarter and the number reported in the Job Commitment letter must be thoroughly explained in the narrative section of this application.

***NOTE:** If any company has more than one location in North Carolina, a NCUI-101 multi-site report or forms for each company location must be provided.*

☐ **Business Financial Documents.** Submit a copy of the most recent three years of certified or CPA prepared financial statements that include Balance Sheet, Income Statement and Statement of Cash Flows for each non-start-up company participating in the project.

Tab 3 – *Building Reuse Projects Only*

☐ **Line Item Budget.** Submit a line item budget that lists the proposed renovation/construction expenses and the cost for each expense (example expenses include, but are not limited to: HVAC, electrical, plumbing, roofing, flooring, painting, etc.).

☐ **Cost Estimates.** Submit cost estimates for each expense identified in the line item budget. The estimates must be prepared by a contractor, sub-contractor or architect and provided on that company's letterhead. A company owned or operated by any project partner may not provide estimates or be used as a contractor for the renovation project unless the company holds a valid NC General Contractors license. A copy of the company's valid NC General Contractor's license must be included in this section of the application materials.

☐ **Site Control Documents.** Submit a copy of the property deed. Also, if the job creating company does not own the building, submit a copy of an executed lease agreement. If the property ownership will change, provide a detailed explanation of the real estate transaction that will occur with the legal names of the seller and buyer and date that the sale will close. Once the transaction is complete, a copy of the new deed must be submitted. The project will not be placed under contract until all correct, complete site control documents are received.

Tab 3 – *Infrastructure Projects Only*

☐ **Preliminary Engineering Report (PER).** The PER should detail the proposed improvements and the current infrastructure that supports the proposed improvements. The PER should be sealed and dated and include an opinion of cost that is not more than six months old at the time of the application. The PER should include a map that shows the location of the business(es) as well as the location of the current infrastructure serving the project area and the proposed infrastructure improvements that will be supported through the project assistance.

☐ **Line Item Budget.** Submit a line item budget that lists the expenses associated with the proposed infrastructure improvements and the cost for each expense.

☐ **Proof of Funding Availability.** Submit a signed letter of funding availability from each source of funds committed for the project. The total of all funding commitment letters must meet or exceed the total project cost. If loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

Tab 4

☐ **Photographs.** Submit photographs representative of the proposed project. Include digital copies on a flash drive along with printed copies.

Tab 5 – *Start-Up Businesses Only*

☐ **Business Plan**. A complete and detailed Business Plan that includes three years of financial projections (including balance sheets, cash flow statements and income statements) along with a Source and Use of Funds statement, with detailed assumptions upon which the financial projections were built. The Business Plan must also include a marketing plan that details what the company plans to sell and how they will market the product or service. The Business Plan should also provide a thorough description of the management team and the members' background that support the success of the venture. A description of the company's competitors should be provided, with an explanation of how the company will garner its expected share of the market.

☐ **Capital Plan.** Details and evidence regarding the capital that has been or will be raised. This must include where the capital is currently on deposit and the total amount that is required to launch the business and sustain it in the early years. A letter from the depository holding the funds in escrow can serve as proof of the available capital.

- Evidence of initial capitalization (loans, private investor commitments), as well as the ability to meet working capital needs must be provided.
- A commitment letter from a bank for an operating line of credit needed to fund the "cash cycle" of the business and provide for unforeseen needs. In addition, the source of the funding for any machinery and equipment required for the project.

☐ **Articles of Incorporation**. For each start-up company submit a copy of the company's "Articles of Incorporation" filed with the NC Department of the Secretary of State.

☐ **Contracts with potential customers or letters of intent to buy from the company when it begins operations.**

☐ **Copies of the bylaws, shareholder agreement or operating agreement of the business.**

☐ **Copies of any certifications by regulatory bodies necessary to operate the business.**

☐ **An understanding with the principal owners that they may be required to sign a personal guarantee of the performance of the grant and provide complete personal financial statements for each guarantor.**

APPLICATION SUBMISSION

Applicants should submit pages 6-10 of this application package including any revisions discussed in the pre-application conference call, along with the documents requested in Tabs 1-5 on pages 4-5 of this application package. Full applications should be emailed by 5:00 p.m. on the selected full-application deadline. The full list of application deadlines can be found on the Commerce website at www.commerce.nc.gov/ruralgrants

E-Mail Application Materials:
reireports@commerce.nc.gov
Rural Engagement & Investment Programs
Rural Economic Development Division
North Carolina Department of Commerce

«Org_Name» (the "Governmental Unit") enters into this Loan Agreement and Legally Binding Commitment (the "LBC," including the "Loan") with **«Request_Property_Owner_Legal_Name»** (the "Owner" and, together with the Governmental Unit, the "Parties"). The effective period of this LBC shall commence **«Request_Project_Start_Date»** ("Effective Date") and shall terminate **«Request_Project_End_Date»** ("Termination Date") unless terminated on an earlier date under the terms of this LBC or unless extended for an express term in writing by the Governmental Unit (such period of time running from the Effective Date to the applicable Termination Date described above shall constitute the "LBC Term"); and

The North Carolina Rural Infrastructure Authority (the "Rural Authority") of the State of North Carolina (the "State") has awarded a grant (the "Grant") to the Governmental Unit, and the North Carolina Department of Commerce ("Commerce"), an agency of the State, will administer the Grant; and

The Grant is memorialized in an agreement (the "Agreement") between Commerce and the Governmental Unit, which is included as Exhibit A, and the Agreement includes this LBC; and

The Rural Authority awarded the Grant: (1) based on the Application filed by the Governmental Unit and any subsequent materials supporting the Application that have been approved of by Commerce in writing, all of which are incorporated into the Agreement by reference; (2) based on the representation in the Application that the Owner owns certain real property located at:

«Request_Property_Address_for_Proj»

in **«Codes_County_Request»** County, North Carolina (the "Property"); (3) based on Commerce's Grant requirements and guidelines, which are incorporated herein and may be amended, modified or supplemented and applied accordingly to the Agreement and this LBC by Commerce in its sole discretion; and for (4) the creation and retention of certain jobs in the course of completing certain renovations and/or construction work at the Property (altogether, the "Project," as summarized in the Agreement); and

The Governmental Unit and the Owner are required to enter into this LBC as a condition of the Governmental Unit loaning the Grant funds to the Owner.

In consideration of the mutual promises and such other valuable consideration set out herein, the Parties mutually agree to the following terms and conditions:

SECTION 1. OBLIGATIONS

1.1 Loan.

a) The Governmental Unit loans to the Owner the sum of **$«Request_Grant_Amount»** (the "Loan"), which consists entirely of State Grant funds, to fund the Project. The Agreement refers to the entity (or entities, as applicable) required to create and maintain certain New Jobs, as defined in Paragraph 1.2 of this LBC, to complete the Project under this LBC as the "Business," the "Employer" and the "Business" (collectively, the "Business"). The Owner acknowledges that the Owner must repay the Loan in accordance with the terms of this LBC if the Business does not create and maintain the new jobs required by Paragraph 1.2 below.

1.2 New Job Creation, Maintenance of New Jobs and Baseline Number of Jobs.

a) A "New Job" means any job or jobs filled by employees hired for the Project on or after the Effective Date who work for at least thirty-five (35) hours per week, are eligible for all benefits generally available to all full-time employees of the Business, and whose wages are subject to withholding under Article 4A of Chapter 105 of the North Carolina General Statutes, and shall be over and above the **«Request_Bus_1_No_of_Baseline_Jobs_Prese»** full-time jobs in North Carolina that the Business reported having at the time of the Application for the Project (the "Baseline Number"). The Owner agrees that the Business shall be required to create and maintain in existence for six (6) consecutive months **«Request_Jobs_Created_TOTAL»** New Jobs prior to the Termination Date, unless this term is extended pursuant to Subsection 1.10 of the Agreement. Separate from these New Jobs, the Owner agrees that the Business shall be required to maintain in existence its Baseline Number of jobs for as long as it takes the Business to create and maintain its required number of New Jobs.

1.2 Verification of New Jobs.

a) When the New Jobs required by Subsection 1.2 of this LBC have been created and maintained for six (6) consecutive months, the Owner shall notify the Governmental Unit so that it and/or Commerce can verify the creation and maintenance of New Jobs, as well as the maintenance of the Baseline Number of jobs and the satisfaction of all other conditions and terms of this LBC and the Project. The Owner shall cause any Business to provide to the Governmental Unit and Commerce, or their respective designees, full and complete access to all records of the Business necessary to verify the number and types of jobs created and maintained, the wages paid to employees, and the satisfaction of all other conditions and terms of this LBC and the Project. Additionally, the Business must certify its performance by submitting a certification form at closeout (the Job Certification Form can be accessed at www.commerce.nc.gov/ruralgrants . Failure of any Business to provide access to records upon request, or failure to certify to its performance, shall constitute a

material default by the Owner under the terms of this LBC and, in the sole discretion of the Governmental Unit and/or Commerce, may subject the Owner to repayment in an amount calculated under Paragraph 1.4(b)(i) below.

1.4 Repayment Requirements and Remedies

a) The repayment requirements and remedies addressed in this Subsection 1.4 are in addition to those repayment requirements and other remedies set forth elsewhere in this LBC, including the requirements to repay unspent Loan funds. No remedy conferred or reserved by or to the State or the Governmental Unit is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this LBC or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.

b) The Owner acknowledges that the Grant by the Rural Authority and the Loan by the Governmental Unit are predicated upon the creation and maintenance of the New Jobs and maintenance of the Baseline Number of jobs required by Paragraph 1.2 and that failure to create and/or maintain them will constitute a material default of this LBC.

i. If the Business fails to create and maintain such New Jobs, then the Owner shall repay to the Governmental Unit or Commerce, as directed, an amount equal to the product of (i) (the amount of Loan funds granted by Commerce to the Governmental Unit divided by the number of New Jobs required to be created in Paragraph 1.2) and (ii) (the number of New Jobs required to be created in Paragraph 1.2, minus the number of New Jobs actually created, above the Baseline Number reported, that have been in existence for six (6) consecutive months).

ii. Additionally, in the event that the Business fails to maintain its Baseline Number of jobs as required under Paragraph 1.2, the Business shall lose credit for any qualifying New Jobs under this LBC by the same number of jobs that the Baseline Number is short. For example, if the Baseline Number of jobs falls short by three (3) jobs as of the date the Business has created and maintained all required New Jobs, the number of New Jobs deemed created and maintained shall be reduced by three (3). The amount the Business must repay shall then be calculated in accordance with Paragraph 1.4 (b)(i). Any modification to the amount calculated for repayment in accordance with Paragraph 1.4 (b)(i) must be approved by Commerce in writing.

iii. Either Commerce or the Governmental Unit shall notify the Owner in writing of the amount to be repaid and direct the Owner whether to repay such amount to the Governmental Unit for return to Commerce or repay the amount directly to Commerce. All such amounts shall be due immediately upon demand by the Governmental Unit or Commerce. Upon default in such payment, the Governmental Unit or Commerce may employ an attorney to enforce their respective rights and remedies, and the

Owner hereby agrees to pay the legal costs and reasonable attorneys' fees of the Governmental Unit and Commerce plus all other reasonable expenses incurred by such party in exercising any of its rights and remedies upon such defaults.

c) If there is a breach of any of the requirements, covenants, or agreements in this LBC (including, without limitation, a failure to repay the amount required under Paragraph 1.4(b)(i) within the time required), or if there are any representations or warranties which are untrue as to a material fact in this LBC or in relation to the LBC or the Project (including the performance thereof), the Owner agrees that the Governmental Unit or Commerce may require repayment from the Owner of an amount of Loan funds to be determined in their sole discretion but not to exceed the amount of Loan funds the Owner has already received under this LBC. Such requirements, covenants, or agreements include but are not limited to Paragraphs 1.1, 1.2, 1.5, 2.2, 5.3 and 5.4 of this LBC.

1.5 Changes in the Project or Other Conditions.

a) A "Project Change" is any material alteration, addition, deletion or expansion of the Project, including (without limitation) material changes to construction or rehabilitation, the terms or conditions of the LBC, the required number of New Jobs, the Baseline Number of jobs, the preliminary engineering report, any cessation of business by the Business and any filing of bankruptcy by the Business. There shall be no Project Changes, unless expressly approved of by Commerce and the Governmental Unit in a separate, prior written agreement stating, if applicable, the costs and schedule for completing the Project Change.

b) Additionally, the Owner shall immediately notify the Governmental Unit of any change in conditions or local law, or any other event, which may significantly affect the ability of it or any Business to perform the LBC or the Project. In their sole discretion, the Governmental Unit or Commerce may deem such a change in conditions, local law, or other event to constitute a Project Change.

SECTION 2. REPRESENTATIONS AND WARRANTIES

2.1 Loan Funds. The Owner hereby represents and warrants that all Loan funds shall be utilized exclusively for the purpose of the Project and that it shall not make or approve of any improper expenditures of Loan funds. The improper expenditure of Loan funds may result in repayment of those funds by the Owner to the Governmental Unit or Commerce.

2.2 Owner Representations and Warranties. The Owner hereby represents and warrants that:

a) The Owner and every Business are duly authorized to do business under North Carolina law and are not delinquent on any federal, state, or local taxes, licenses, or fees.

b) This LBC has been entered into and executed on behalf of the Owner by an individual with full actual and apparent authority to bind the Owner to the terms, and the execution and delivery of this LBC have been authorized by all necessary action, and are not in contravention of law nor in contravention of any certificate of authority, bylaws or other applicable organizational documents of the Owner, nor are they in contravention of the provisions of any indenture, agreement, or undertaking to which the Owner is a party or by which it is bound.

c) To the Owner's knowledge, there is no action, suit, proceeding, or investigation at law or in equity before any court, public board or body pending, or threatened against or affecting the Owner that could or might adversely affect the Project, the creation of the New Jobs, or any of the transactions contemplated by this LBC, or the validity or enforceability of this LBC or the Owner's ability to discharge its obligations under this LBC.

d) Upon the Owner's reasonable inquiry of any Business, there is no action, suit, proceeding, or investigation at law or in equity before any court, public board, or body pending, threatened against, or affecting any Business that could or might adversely affect the Project, the creation of the Jobs, or any of the transactions contemplated by this LBC, or the validity or enforceability of this LBC, or the ability of any Business to create the Jobs specified herein.

e) No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this LBC by the Owner or the performance of any of its obligations hereunder, or else all such requisite governmental consents or approvals have been obtained. The Owner shall provide the Governmental Unit or Commerce with evidence of the existence of any such necessary consents or approvals at the time of the execution of this LBC.

f) The Owner is solvent and has inquired of and received reasonable evidence from any Business of the solvency of that Business.

g) A cash match grant, loan, or other funding ("Cash Match") equal to the amount of the Loan shall have been unconditionally committed to the Project. The Governmental Unit shall have procured and contributed at least five percent (5%) of this Cash Match, but no part of this 5% contribution can have been derived, either directly or indirectly, from any other State or federal source. The Owner hereby represents and warrants that all Cash Match funds shall be utilized exclusively for the purpose of the Project and that it shall not make or approve of improper expenditures of Cash Match funds. The Owner shall expend all Cash Match funds prior to or simultaneously with and at the same rate as its expenditure of Loan funds.

SECTION 3. TERMS AND CONDITIONS OF AGREEMENT

3.1 Project Records.

a) The Owner shall maintain and cause any Business to maintain full, accurate, and verifiable financial records, supporting documents, and all other pertinent data for the Project in such a manner as to clearly identify and document the expenditure of the State funds provided under this LBC separate from accounts for other awards, monetary contributions, or other revenue sources for this Project.

b) The Owner shall retain and cause any Business to retain all financial records, supporting documents, and all other pertinent records related to this LBC, the Loan, and the Project for a period of five (5) years from the Termination Date. In the event such records are audited, all such records shall be retained beyond the five-year period until the audit is concluded and any and all audit findings have been resolved. 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 such retention of records 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 record retentions period, whichever is later.

3.2 Monitoring, Reports and Auditing.

The Owner agrees to generate and to cause any Business to generate such reports regarding the LBC or the Project as may be requested by the Governmental Unit or the State in such form as they may request, including after the Termination Date. The Owner grants and shall cause any Business to grant the Governmental Unit or the State and any of its authorized representatives, at all reasonable times and as often as necessary (including after the end of the LBC Term), access to and the right to inspect, copy, monitor and examine all of the books, papers, records and other documents relating to the LBC or the Project. Additionally, the Owner agrees to comply and to cause any Business to comply at any time, including after the end of the LBC Term, with any requests by the State for other financial and organizational materials to permit the State to comply with its fiscal monitoring responsibilities or to evaluate the short- and long-range impact of its programs.

3.3 Termination.

a) If the Owner fails to fulfill in a timely and proper manner its obligations or violates any of its covenants or stipulations under the LBC, or if any Business fails to fulfill those requirements applicable to it in the LBC, the Owner agrees that the Governmental Unit or Commerce has the right to terminate the LBC by giving the Owner written notice to the Owner. The effective date of such termination will be in Commerce's or the Governmental Unit's sole discretion and will be included in the written notice of termination. Upon such termination, neither the State nor the Governmental Unit shall have any responsibility to make Loan payments under this

LBC or the Agreement. Further, upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and Commerce and shall return all unspent Loan funds to either the Governmental Unit or Commerce, upon request and as directed.

b) If the Governmental Unit fails to fulfill in a timely and proper manner its obligations or violates any of the covenants or stipulations under its Grant Agreement with Commerce, the Owner agrees that Commerce has the right to terminate its Grant Agreement with the Governmental Unit and/or terminate this LBC by giving, as applicable, the Governmental Unit or the Governmental Unit and the Owner written notice. Notice of such termination will specify the Termination Date, which Commerce may determine in its sole discretion. Upon such termination, neither the State nor the Governmental Unit shall have any responsibility to make Loan payments under this LBC or the Agreement. Further, upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and Commerce and shall return all unspent Loan funds to either the Governmental Unit or Commerce, upon request and as directed.

3.4 Availability of Funds.

The obligations of the State (including the Rural Authority and/or Commerce) to pay any Grant funds to the Governmental Unit and for the Governmental Unit to pay any Loan amounts to the Owner under this LBC are contingent upon the availability and continuation of funds for such purpose. If funds for the Grant and therefore the Loan become unavailable, the Owner agrees that either Commerce or the Governmental Unit has the right to terminate this LBC by giving written notice to the Owner. The effective date of such termination will be in Commerce's or the Governmental Unit's sole discretion and will be included in the written notice of termination. Upon such termination, neither the State nor the Governmental Unit shall have any responsibility to make Loan payments under the LBC or the Agreement. Further, upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and Commerce and shall return all unspent Loan funds to the Governmental Unit or Commerce, upon demand and as directed.

SECTION 4. WAIVER

4.1 No Waiver by Governmental Unit or the State.

a) Failure of the Governmental Unit or the State (including the Rural Authority and Commerce) at any time to require performance of any term or provision of this LBC shall in no manner affect the rights of the Governmental Unit or the State at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions hereof. No waiver of the Governmental Unit or the State of any condition or the breach of any term, provision, or representation contained in this LBC, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or

construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision, or representation.

4.2 Waiver of Objections to Timeliness of Legal Action.

a) The Owner knowingly waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the Governmental Unit or the State (including Commerce) to enforce their rights under this LBC. This waiver includes any objections the Owner may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.

SECTION 5. MISCELLANEOUS PROVISIONS

5.1 Third-Party Beneficiary. The Parties agree that the State (including Commerce and the Rural Authority) is an intended third-party beneficiary of this LBC (including the Loan) and may, at its option, enforce the terms of this LBC or appear as a party in any litigation concerning the LBC.

5.2 Independent Status of the Parties.

a) The State and the Governmental Unit are independent entities from one another and from the Owner and any third party (including any Business). The Agreement, the LBC, the Project, and any actions taken pursuant to the Agreement, the LBC, and the Project shall not be deemed to create a partnership or joint venture between the State and the Governmental Unit or between or among either of them and the Owner or any third party (including, without limitation, any Business) nor shall they be construed to make any employees, agents, or members of the Owner or any third party (including any Business) into employees, agents, members, or officials of the Governmental Unit or the State. Neither the Owner nor any third party (including any Business) shall have the ability to bind the Governmental Unit or the State to any agreement for payment of goods or services or represent to any person that they have such ability. Nor shall the Governmental Unit have the ability to bind the State to any agreement for payment of goods or services or represent to any person that it has such ability.

b) The Owner and any third party (including any Business) shall be responsible for payment of all their expenses, including rent, office expenses, and all forms of compensation to their employees, including worker's compensation insurance to the extent required for their operations, and shall accept full responsibility for payments of unemployment tax or compensation, social security, income taxes, and any other charges, taxes, or payroll deductions required by law in connection with their operations, for themselves and their employees who are performing work pursuant to this LBC or the Project.

5.5 Liabilities and Loss.

a) The Owner hereby agrees to release, indemnify, and hold harmless the Governmental Unit and the State (including the Rural Authority and Commerce), and their respective members, officers, directors, employees, agents, and attorneys (hereinafter collectively referred to as "Indemnified Parties"), from any claims of third parties (including, without limitation, any Business) arising out of any act or omission of the Owner or any third party (including, without limitation, any Business) in connection with the performance of this LBC or the Project, and for all losses arising from implementation of this LBC or the Project. Without limiting the foregoing, the Owner hereby releases the Indemnified Parties from, and agrees that such Indemnified Parties are not liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any and all liability or loss, cost, or expense, including, without limitation, reasonable attorneys' fees, fines, penalties and civil judgments, resulting from or arising out of or in connection with or pertaining to, any loss or damage to property, or any injury to or death of any person occurring in connection with the Project, or resulting from any defect in the fixtures, machinery, equipment, or other property used in connection with the Project or arising out of, pertaining to, or having any connection with, the Project or the financing thereof (whether or not arising out of acts, omissions, or negligence of the Owner or of any third party (including, without limitation, any Business), or of any of their agents, contractors, servants, employees, licensees, lessees, or assignees), including any claims and losses accruing to or resulting from any and all subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the Project.

5.4 Cessation, Bankruptcy, Dissolution, or Insolvency.

a) The Owner shall at all times preserve its legal existence, except that it may merge or consolidate with or into or sell all or substantially all of its assets to any entity that expressly undertakes, assumes for itself, and agrees in writing to be bound by all of the obligations and undertakings of the Owner contained in this LBC. If the Owner so merges, consolidates, or sells its assets without such an undertaking being provided, it agrees to repay to the Governmental Unit or Commerce, upon request and as directed, all Loan funds. Further, any merger, consolidation, or sale without such an undertaking shall constitute a material default under this LBC, and the Governmental Unit or Commerce may terminate the LBC upon written notice to the Owner and hold the Owner liable for any other repayment provided for under this LBC.

b) Other than as provided for in Paragraph 5.4(a), if the Owner or any Business ceases to do business or becomes the subject of any bankruptcy, dissolution, or insolvency proceeding prior to the end of the LBC Term, the Owner shall give the Governmental Unit immediate notice of the event, shall not expend any Loan funds without the express written authorization of the Governmental Unit, and shall return all unspent Loan funds to the Governmental Unit or Commerce, upon demand and as directed and if permissible under applicable bankruptcy, dissolution, or insolvency law.

c) If the Owner fails to provide the Governmental Unit notice of the Owner or any business ceasing to do business or becoming the subject of any bankruptcy, dissolution, or insolvency proceeding prior to the end of the LBC Term, it shall constitute a material default under this LBC. If there is such a cessation or such a proceeding, the Governmental Unit or Commerce may terminate the LBC upon written notice to the Owner. Upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and shall return all unspent Loan funds to the Governmental Unit or Commerce upon demand and as directed and if permissible under applicable bankruptcy, dissolution, or insolvency law.

d) Notwithstanding the foregoing and wherever referred to in this LBC, "ceases to do business" shall not include (1) ceasing operations to maintain, service, or upgrade real or personal property of the Owner; (2) seasonal shutdowns of operations, as long as such cessation does not exceed a total of four (4) weeks in any calendar year (excluding time attributable to an event of force majeure, as described below); and (3) under the circumstances for the period of time described in Subsection 5.16 below.

5.5 Nondiscrimination.

a) The Owner agrees that it will not, and will ensure that the Business will not, discriminate by reason of age, race, religion, color, sex, national origin, or disability related to the activities of this LBC or the Project.

5.6 Compliance with Laws.

a) The Owner shall at all times, and shall cause any Business at all times to, observe and comply with all laws, regulations, codes, rules, ordinances, and other requirements (together, "Laws") of the state, federal, and local governments which may in any manner affect the performance of the LBC or the Project. This includes compliance with all applicable federal, state, and local environmental laws and regulations.

b) The Business and the Owner shall obtain all required environmental permits necessary for the Project prior to requesting funds and shall maintain those permits for the duration of the LBC Term. Failure to obtain and maintain any required environmental permits may result in repayment of funds in Commerce's or the Governmental Unit's sole discretion.

5.7 Non-Assignability.

a) The Owner shall not assign or transfer any interest in the LBC without the prior written consent of the Governmental Unit and Commerce; however, claims for money due to the Owner from the Governmental Unit under this LBC may be assigned to any commercial bank or other financial institution without such approval.

5.8 Personnel.

a) The Owner represents that it and any Business have, or will secure at their own expense, all personnel required to monitor, carry out, and perform the scope of services of this LBC and the Project. Such employees shall not be employees of the State (including the Rural Authority or Commerce) or the Governmental Unit. Such personnel shall be fully qualified and shall be authorized under State and local law to perform such services.

5.9 Other Agreements.

a) The Owner warrants that, if it is a party to a separate grant agreement or a loan with the State, then it shall remain in full compliance with that separate grant agreement or loan and with this Agreement. Any default under the separate grant agreement or loan during the term of this Agreement, as it may be extended, may be the basis for Commerce to deny payment under this Agreement or request repayment of any funds previous paid in the discretion of Commerce.

5.10 Notice.

Unless Commerce approves an alternate method of delivery, notices, reports, and certifications under this Agreement shall be sent by certified mail, return receipt requested; hand delivery; or by overnight courier; or email, or other method approved by the Parties, as follows, unless the relevant Party provides prior written notice of a change in the following contact information:

If to the Governmental Unit: Attn: _____

_____

_____

_____

_____

To the Owner: Attn: _____

_____

_____

_____

_____

or addressed to such other address or to the attention of such other individual as either party above shall specify in a notice pursuant to this subsection.

5.11 Entire Agreement.

a) This LBC supersedes all prior agreements between the Governmental Unit and the Owner with regard to the Loan and the Project and expresses their entire understanding with respect to the transactions contemplated herein and shall not be amended, modified, or altered, except pursuant to a writing signed by both Parties.

5.12 Execution.

This LBC may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same LBC, which shall be sufficiently evidenced by one of such original counterparts.

5.13 Construction, Jurisdiction, and Venue.

a) This LBC shall be construed and governed by the laws of the State of North Carolina.

b) The Parties agree and submit, solely for matters concerning this Agreement, to the exclusive jurisdiction of the courts of North Carolina and agree, solely for such purposes, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this LBC, and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract, tort, or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined.

5.14 Severability.

a) Each provision of this LBC is intended to be severable and, if any provision of this LBC is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this LBC, but this LBC shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

5.15 Force Majeure.

If (a) during the LBC Term, the real or personal property located on or constituting the Property suffers damage or destruction caused by acts of God, fires, floods, storms, insurrection, riots, acts of the public enemy, national catastrophe, or similar unexpected events; (b) such damage or destruction was not principally caused by the Owner's negligence, willful misconduct, or violation of applicable law; (c) the Owner uses reasonable efforts to repair, or to work around, such damage or destruction reasonably

promptly; and (d) as a direct result of such damage or destruction, the Owner cannot satisfy the requirements and obligations of Sections 1 of this Agreement as and when this Agreement requires, then the Owner will be entitled to an extension of time not to exceed sixty (60) days to satisfy the requirements and obligations of Section 1 of this Agreement, provided that the Governmental Unit in its sole discretion with respect to the obligations it is owed by the Owner, may elect to extend that sixty-day period to allow the Owner additional time to satisfy those requirements.

IN WITNESS WHEREOF, the parties hereto have executed this LBC as of the date first above written.

Governmental Unit Name: _____

Signature: _____ [SEAL]

Printed Name: _____

Title: _____

Owner Name: _____

Signature: _____ [SEAL]

Printed Name: _____

Title: _____

Limited Waiver of Confidentiality
Unemployment Tax and Wage Records
BUILDING REUSE PROGRAM

EXHIBIT D

«Request_Reference_Number»

Name of Taxpayer _____

Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

NC Unemployment Insurance Acct #: _____ Fed Tax ID #: _____

I hereby waive any right to confidentiality, as found in N.C.G.S. 96-4 or otherwise, for the limited purpose of authorizing disclosure of certain information contained in the quarterly unemployment insurance tax records of the above-named taxpayer (hereinafter, "Company") filed with the Division of Employment Security ("DES") of the North Carolina Department of Commerce to the **«Org_Name»** ("Governmental Unit") and to the employees of the Rural Economic Division of the North Carolina Department of Commerce ("Rural Division") and members of the North Carolina Rural Infrastructure Authority ("Rural Authority") for the limited purpose of evaluating the issuance of and, in the event of such issuance, administering and ensuring compliance with, a grant and loan pursuant to N.C.G.S. 143B-472.127 and .128.

I recognize that DES is authorized to provide this information to the public officials of the Governmental Unit, the Rural Division and the Rural Authority in the performance of their public duties and that the verification of employment information for the purpose of administering the grant and loan at issue is within the scope of the public duties of the Governmental Unit, the Rural Division and the Rural Authority. I hereby authorize DES to disclose information contained in the Company's quarterly unemployment insurance tax records (the NCUI-101 or successor form) to the Governmental Unit, the Rural Division and/or the Authority for these purposes.

I recognize that unemployment insurance tax information provided in the aggregate to DES and disclosed to the Governmental Unit, the Rural Division and/or the Authority, and the Company's aggregated tax and wage information provided to or otherwise in possession of the Governmental Unit, the Rural Division and/or the Authority, may be treated as public information. This waiver is not intended to release the Governmental Unit, the Rural Division and/or the Authority from any obligation they may have under North Carolina law to maintain the confidentiality of any and all information which could reveal or permit someone to ascertain the identity of any individual employee or that employee's line-item unemployment insurance tax or other tax or wage information.

_____
Signature Chief Financial Officer or Other Authorized Company Official

_____ , _____
Print Name Title

_____
Date