

AGREEMENT
Between the
High Country Council of Governments and Ashe County
For the Provision of
GRANT ADMINISTRATION ASSISTANCE
CDBG - NEIGHBORHOOD REVITALIZATION PROGRAM

April 1, 2021– December 1, 2023

This Agreement, entered into by and between the High Country Council of Governments (hereinafter called the "Planning Agency") and Ashe County, North Carolina (hereinafter called the "Local Government"), WITNESSETH THAT:

WHEREAS, the Planning Agency is empowered to provide planning assistance by the North Carolina General Statutes. Planning assistance shall consist of the provision of grant administration assistance regarding Ashe County's CDBG Neighborhood Revitalization Project Number **19-C-3123**, more fully described on Attachment A to this Agreement; and

WHEREAS, the Local Government has requested the Planning Agency to provide such grant management assistance to the Local Government; and

WHEREAS, the Planning Agency desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

- 1) *Scope of Services* – Detailed in Attachment A of this Document
- 2) *Compensation* - The Local Government will pay the Planning Agency a maximum sum of **\$27,333** (Twenty-seven Thousand Three Hundred thirty-three dollars), which includes **\$3,500** (Three Thousand Five Hundred dollars) for grant preparation and **\$23,833** (Twenty-three Thousand Eight Hundred thirty-three dollars) for the satisfactory performance of all services related to the administration of the project as described in the attached scope of services (Attachment A). It is expressly understood that the total compensation shall not exceed the maximum sum specified without prior approval of both agencies.

- 3) *Time of performance* - The Planning Agency shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning April 1, 2021 – December 1, 2023.
- 4) *Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials* - no member, officer, or employee of the Planning Agency, or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Planning Agency shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
- 5) *Nondiscrimination Clause* - No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.
- 6) *Age Discrimination Act of 1975, as amended* - No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 7) *Section 504, Rehabilitation Act of 1973, as amended* - No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 8) *Access to Records and Record Retainage* - All official project records and documents must be maintained during the operation of this project and for a period of three years following closeout, in compliance with 15 NCAC 13L Rule .0911, Record keeping. The North Carolina Department of Commerce, the North Carolina Department of Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Planning Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examination, excerpts, and transcriptions in compliance with 15 NCAC 13L Rule .0911, Record keeping.

- 9) *Termination of Agreement for Cause* - If, through any cause, the Planning Agency shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the Local Government shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the Local Government, become its property, and the Planning Agency shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.
- 10) *Grantee Assurances* - In the performance of this Agreement, the Planning Agency shall comply with all applicable Federal rules and procedures outlined on the attached pages as E.O. 11246 Clause and the Section 3 Clause (Attachment B)
- 11) *Legal Remedies Provision* - As stated in 24 CFR Part 85.36, Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. Examples of legal remedies could be liquidated damages, consequential damages, arbitrations and others not listed.
- 12) *Remedies/Sanctions or Breach of Contract Terms* - In accordance with 24 CFR 85.36, upon written notice, the Local Government may withhold payments to the Planning Agency if the Planning Agency shall fail to fulfill in a timely and proper manner its obligations to the Local Government under this contract, or if the Planning Agency shall violate any of the conditions of this contract. The Local Government shall in its written notice to the Planning Agency fully describe the nature of failure or violation by the Planning Agency, the corrective action required of the Planning Agency, and the Local Government shall allow the Planning Agency thirty (30) days from the date of the notification to correct such failure and/or violation. If such failure or violation is corrected by the Planning Agency within thirty (30) days from the date of notification, then the Local Government shall process payment(s) to the Planning Agency. If such failure or violation is not corrected within thirty (30) days from the date of the notification, then the Local Government may proceed to terminate this contract.

IN WITNESS WHEREOF, the Planning Agency and the Local Government have executed this Agreement as of _____, 2021.

For the Local Government

For the Planning Agency

COUNTY OF ASHE

**HIGH COUNTRY
COUNCIL OF
GOVERNMENTS**

**By: _____
Chairman, Ashe County
Board of Commissioners**

**By: _____
Executive Director**

Attest

Attest

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE
MANNER REQUIRED BY THE LOCAL GOVERNMENT
BUDGET AND FISCAL CONTROL ACT

Ashe County Finance Officer

ATTACHMENT A

Scope of Services Ashe County CDBG – Neighborhood Revitalization Project

Scope of Services/Staff Assignment

The Scope of Services includes activities associated with the project administration and service delivery. The High Country Council of Governments will assign Michelle Ball, High Country Regional Planner, the responsibility of administering the Ashe County CDBG – Neighborhood Revitalization Project CDBG Number 19-C-3123. Phillip Trew, Director of Planning and Development will provide overall supervision of this project.

The scope of services will include the following:

- 1) Maintain on file all correspondence, agreements, and documentation relating to project administration activities.
- 2) Maintain documentation on the use of all project funds.
- 3) Process the Requisition for CDBG funds as necessary.
- 4) Complete all environmental review procedures.
- 5) Prepare all required public notices for publication, including request for Release of Funds.
- 6) Prepare necessary CDBG compliance documents required by the Department of Commerce including, but not limited to: Fair Housing Plan, Fair Housing Analysis of Impediments, Section 3 Plan, Language Access Plan, Citizen Participation Plan, and 504/ADA Documents.
- 7) Conduct quarterly Fair Housing activities outlined in Fair Housing Plan.
- 8) Prepare project amendments, if needed.
- 10) Submit quarterly progress reports to the local government which would include a list of all project activities, expenditures, description of work in progress, and information of any problems with the project.
- 11) Assist the Local Government with required Annual Performance Reports.
- 12) Assist the Local Government in closeout procedures.

Responsibilities of the County

- 1) Coordinate with local health department to obtain well and septic permits as necessary.
- 2) Coordinate lead-based paint inspections of pre-1978 homes in compliance with CDBG regulations as necessary.
- 3) Perform initial rehabilitation inspections, interim inspections and final inspections.
- 4) Perform work write-ups on the homes scheduled for rehabilitation or reconstruction.
- 5) Prepare bid documents and solicit bids from area contractors for rehabilitation and reconstruction assistance.
- 6) Coordinate bid openings.
- 7) Review program documents, legal documents, and rehabilitation contracts with homeowner and arrange for documents to be signed by *all* owners of the property.
- 8) Coordinate the rehabilitation work with the contractor *and* homeowner.
- 9) Prepare change orders as necessary.
- 10) Coordinate reconstruction activities including clearance of existing home, set up of new home, and arrangement of temporary relocation for homeowner if necessary.
- 11) Maintain complete files on each rehabilitation and relocation job with all documentation required by program regulation

Time of Performance

The High Country Council of Governments proposes to complete all activities involved in administration of the Ashe County CDBG Neighborhood Revitalization Project in a 32-month period beginning April 1, 2021 through December 1, 2023.

Cost

Administrative Budget

The High Country Council of Governments will provide the above services, which includes project administration and services associated with the housing rehabilitation and relocations for a fee of \$27,333. The budget is broken down as follows:

Administration*	\$23,833
<u>Grant Preparation</u>	<u>\$3,500</u>
<i>Total</i>	<i>\$27,333</i>

* includes salaries, fringe benefits, and indirect costs

Amendments

This scope of services and budget may be amended as desired by mutual consent of the Local Government and Planning Agency.

ATTACHMENT B

Assurances of Compliance

Executive Order 11246

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

- 1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to the following: recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex age, or national origin.
- 3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulation, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Section 3 Clause

"Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities.

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulation.
- C. The contractor agrees to send each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 2 clause, and will post copies of the notice in conspicuous places at the worksite where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violations of the regulations in 24 CFR part 135.

- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogations of compliance with section 7(b).

Lobbying Clauses

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

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

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