

RESOLUTION NO.: R-2020-102

Authorizing the City Manager to execute a Community Development Block Grant - Disaster Recovery (CDBG-DR) Subrecipient Agreement between the City of Columbia and The St. Bernard Project, Inc. dba SBP, Inc.

ORIGINAL
STAMPED IN RED

BE IT RESOLVED by the Mayor and City Council this 17th day of November, 2020, that the City Manager is hereby authorized to execute the attached Community Development Block Grant - Disaster Recovery (CDBG-DR) Subrecipient Agreement, or in a form to be approved by the City Attorney, between the City of Columbia and The St. Bernard Project, Inc. d/b/a SBP, Inc., for the terms and conditions therein contained.

Requested by:

Assistant City Manager Gentry



Mayor

Approved by:



City Manager

Approved as to form:

T. A. Knox

City Attorney

ATTEST:



City Clerk

Introduced: 11/17/2020
Final Reading: 11/17/2020

SUBRECIPIENT AGREEMENT
AGREEMENT BETWEEN CITY OF COLUMBIA AND THE SAINT BERNARD PROJECT,
INC., dba SBP, Inc
FOR
COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR)
HOUSING REHABILITATION AND RECONSTRUCTION PROGRAM

THIS AGREEMENT is entered this 18th of November 2020 between the City of Columbia, South Carolina (the "City") and *The St. Bernard Project, Inc., dba SBP, Inc.*

I. RECITALS

WHEREAS, Pursuant to Public Law 114-113 (12/18/2015) and Public Law 115-31; The Consolidated Appropriations Act, 2016 and the Federal Register Notice 82 FR 36812, August 07, 2017 and 81 FR 39687, June 07, 2016 at DR-4241 that allocated CDBG-DR funds awarded to the City of Columbia, the U.S. Department of Housing and Urban Development ("HUD") has awarded \$26,155,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the City for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) and described in the City's Action Plan (the "Action Plan"); and

WHEREAS, the City wishes to engage the SBP to assist the City in utilizing such funds to carry out a part of the City's Federal award by committing \$8.9 million dollars of the City's Federal award, pursuant to this Subrecipient Agreement between the City and SBP (the "Agreement"); and

WHEREAS, the CDBG-DR funds made available for use by the SBP under this Agreement constitute a subaward of the City's Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of the City's Federal award; and

WHEREAS, SBP shall be engaged to provide single family (homeownership and rental) housing rehabilitation and reconstruction as deemed appropriate for qualified Low-to-Moderate Income and Urgent Need (UN) residents; and

WHEREAS, The SBP Chief Executive Officer is authorized to enter this agreement with the City, and by signing this agreement, to assure the City that SBP will comply with all the requirements of the subaward described herein.

NOW, THEREFORE, in consideration of the need for recovery from the 2015 Flood Disaster caused by Hurricane Joaquin and the premises and mutual covenants described herein, the parties mutually agree to the terms described in this Agreement.

II. GENERAL AWARD INFORMATION

The subaward from the City to SBP, which is described below, is for the purpose of carrying out a portion of a Federal award described in Section I of this agreement, and creates a Federal

assistance relationship with SBP as the Subrecipient. This agreement must be updated to reflect any changes to the federal award and the following award information.

Contact information:

City:

Teresa B. Wilson
City Manager
City of Columbia
1737 Main Street
Columbia, SC 29201
(803) 545-3026
Fax (803) 401-8800
Teresa.Wilson@columbiasc.gov

Subrecipient:

Zack Rosenburg
CEO
SBP
2645 Toulouse Street
New Orleans, LA 70119
(504) 236-1981
zack@sbpusa.org

Federal Award Identification Number: B-16-MH-45-001

CFDA Number and Name: 14-228 Community Development Block Grant Disaster Recovery (CDBG-DR) Amount: \$26,155,000.00

Federal Award Date: August 14, 2017

Indirect Cost Rate for the Federal Award: The City has elected not to use the 10 percent de minimis indirect cost rate as allowed under the Uniform Guidance. CDBG-DR grant funds will be used for payment of indirect costs pursuant to 2 CFR part 200, subpart E — Cost Principles if the subrecipient has an approved Indirect Cost Rate agreement with a federal agency which may be utilized.

Federal award project description: In October 2015, the City of Columbia, along with much of the State of South Carolina, experienced unprecedented and historical rainfall and flooding resulting from an upper atmospheric low-pressure system that funneled moisture from Hurricane Joaquin. In response to this presidentially declared disaster, Congress appropriated funding to the Community Development Block Grant Disaster Recovery (CDBG-DR) Program for the affected areas. The City of Columbia will provide CDBG-DR funds to qualified homeowners and landlords whose single-family dwellings were damaged or destroyed by Federal Disaster 4241. Projects include single-family homeowner and rental, repair and reconstruction located within the incorporated City limits of Columbia.

Is this award for research and development? *No*

Subrecipient's unique entity identifier: [insert FIN] **SBP's Tax ID is 26-2189665**

Subaward Period of Performance: 18 November 2020 until 31 December 2022

Total Amount of the Federal Award Committed to SBP by the City: \$8,898,594.33

Amount of Federal funds obligated by this agreement: \$6,243,070.33

Total Amount of Federal Funds Obligated to the Subrecipient: \$2,655,524.00

Any indirect costs charged must be within compliance of 2 CFR part 200, subpart E and Appendix IV to Part 200 and comply with the Indirect Cost Rate Agreement v the subrecipient already has in place with a federal agency and with 200.414. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost

III. SCOPE OF SERVICE

A. Eligible Use of Funds

As a condition of receiving this subaward, SBP shall administer the CDBG-DR Housing Rehabilitation, Reconstruction, and Rebuild Program, which includes performing all work described in this section. SBP shall complete the activities in a manner satisfactory to the City, consistent and compliant with the terms of conditions of this agreement and applicable Federal statutes and regulations.

SBP shall be responsible for ensuring that the program components are administered in a way that is completely consistent and compliant with all applicable city, state and federal statutes, regulations, and any other such guidance as may be issued by the city, a state or federal governmental agency with jurisdiction.

While neither the City nor SBP expect or anticipate delays in the execution of this program, given the COVID-19 operating environment, it is possible that applicants would not want their home disturbed. Additionally, the COVID-19 environment may also impact construction labor and supplies for the duration of this contract. Given this, the City and SBP will use FAR 52.249-14 concerning excusable delays.

Core Services

Core services are those listed within this agreement and those reasonably required by either the City or SBP to perform the standard services and scope of this agreement. SBP shall provide services as required by the City to meet Program policies and regulations if the additional services required are within the Scope of Work of this Subrecipient Agreement. Core Services provided by SBP may be expanded in negotiations with SBP.

- A. The City and/or the designated Program Manager is responsible for all Action Planning, amendments, substantial amendments, and all other relevant CDBG-DR related correspondence with HUD associated with this program.
- B. The City's designated Program Manager will conduct eligibility determination on all applicants and provide SBP with eligible applicants which have met all requirements for service under this CDBG-DR program. Eligibility determination includes but is not limited to: income calculations, accordance with the City of Columbia Action Plan and amendments, HUD Federal Register Guidance, and Duplication of Benefits calculations.
- C. The City will provide the following core services in support of the program:
 1. The City will provide two public servants to sit on a weekly Special Case Panel which will adjudicate contractor cost cap overruns and change orders. SBP will schedule and conduct a weekly Special Case Panel which will adjudicate contractor cost cap overruns and change orders. SBP will bring to this panel any change orders which are above or below (+/-)10 percent of the Xactimate estimated cost of repair. While most decisions within this program are covered in policy, our experience informs us of the requirement to intensively manage

special cases and change order requests. SBP will facilitate a weekly Special Case Panel consisting of two-members of the City staff and one SBP member. The panel will adjudicate items ranging from cost overruns due to termite infestations to avoiding temporary homelessness directly resulting from required construction activities. All results of the panel will be forwarded to the Director of Community Development for decision and recorded and placed in the System of Record.

2. The City agrees to make payment to the designated construction building contractors as directed by SBP within 30 days of invoice.
 3. The City agrees to provide a workspace for SBP's operation team.
 4. The City will provide SBP personnel with administrative privileges for the execution of the SharePoint System of Record.
 5. The City will acknowledge and begin an active response to any Fraud, Waste, and/or Abuse Claim within 24 hours of notification.
- D. SBP will report to the Director of the Community Development Department and will coordinate with all other city service providers as required. SBP will coordinate with the designated Program Manager as required.
- E. SBP will provide an Xactimate based estimate for the repair and/or replacement of all homes designated eligible by the City's Program Manager. This includes rentals at the City's discretion. The Xactimate estimate will be non-intrusive and will not include the moving of furniture or intrusion into walls or foundations. If reconstruction is required, SBP will provide options for the City to make a final determination and begin construction.
- F. SBP will be responsible for selecting qualified building contractors through a Request for Qualifications procurement process compliant with 2 CFR 200. SBP will advertise work for general contractors to increase the building capacity and the overall amount of construction building contractors available to the program. SBP will update qualified building contractors list annually. Qualified building contractors may be added to vendors list throughout the course of the year. All construction building contractors must meet the City's standards.
- G. SBP will enter a contractual relationship contract with construction building contractors to conduct the repair and or replacement of homes and will invoice the City for payment directly to the construction building contractors.
- H. SBP will assign building contractors to repair and/or replace eligible applicant homes. SBP is responsible for the execution of all construction building contracts associated with this program. The assignment process will reward construction building contractors who provide timely and quality services to applicants.
- I. SBP will hold contractors accountable and establish incentives for high quality and timely work. SBP will conduct weekly inspections (to include photographs placed in the SharePoint System of Record) of homes that have received a notice to proceed and are in an active construction status.
- J. SBP will use the SharePoint System of Record designed by the City and will ensure all files are kept up to date and in compliance with established standards. SBP will ensure all Personally Identifiable Information protection requirements established by the City.
- K. SBP will provide construction management expertise and ensure compliance with all Federal, State, and Local building codes and regulations.
- L. SBP will include one-year of general warranty in all contracts and will manage the warranty program for the City.

- M. SBP will provide a Case Management capability and accept responsibility for all applicant interaction and the recording of applicant engagements into the System of Record. SBP will follow a disciplined process flow in all client engagements. As a minimum, SBP will contact and coordinate with applicants monthly prior to the signing event and on a weekly basis once the applicant completes the signing event.
- N. SBP will generally follow the below process flow:
 - 1. File Acceptance: SBP accepts applicant files declared eligible from the City's designated Program Manager. Should SBP find discrepancies with the eligibility of files, SBP will coordinate with the Program Manager to rectify and notify the City.
 - 2. Pre-Construction: Conduct Pre-Construction activities to include conducting an Xactimate non-intrusive estimated cost of repair, conducting a Tier II Environmental check, assigning a construction building contractor to complete the work.
 - 3. Construction Management: Manage and monitor client construction quality control and contractor timeliness.
 - 4. Post- Construction: Conduct Post-Construction activities to include warranty tracking.
 - 5. Finance Operations: Conduct Finance operations to ensure proper contractor and internal invoicing as well as all City coordination concerning expenditure of federal funds associated with this subrecipient agreement.
 - 6. Compliance and Audit: Conduct internal Compliance and Audit operations to ensure strict compliance with all HUD and all other Federal Cross Cutting requirements.
- O. SBP, as the designated sub-recipient, is given authority to attract and retain construction, building, and general contractors to this program. All contractors must be licensed, bonded, and properly insured. SBP has the authority to dismiss contractors who fail to perform the work in accordance with contractual and/or program standards.
- P. SBP is authorized to include reasonable moving costs into all invoices to account for furniture storage while the home is under construction.
- Q. SBP is authorized to provide invoices to the City concerning temporary lodging for applicants who may become temporarily homeless during the construction phase upon Special Case Panel Review and approval of the Director CDD.
- R. SBP will ensure cost reasonableness associated with all construction related activities and will provide the City with periodic assessments with respect to cost reasonableness and specifically as it relates to Xactimate pricing.
- S. SBP will train all contractors participating in the program on all construction and financial standards associated with the program. Specific emphasis will be placed upon local permitting requirements, quality construction standards, and invoicing requirements.
- T. SBP will coordinate, schedule, and execute appropriate Lead Based Paint testing and all regulatory LSHR paperwork associated with all eligible properties. SBP will complete all onsite inspections to ensure compliance with LSHR and EPA 40 CFR part 745.
- U. SBP will close all remaining operations and coordinate a handover to the City of any remaining work to the City at the conclusion of this agreement.
- V. SBP will coordinate with South Carolina Legal Services to provide program-related legal assistance to clients when required.
- W. SBP will withstand any internal Audit for any services related to this program given 24 hours advance notice.

- X. SBP will complete a final inspection of each project and will collect all required paperwork such as warranties, certifications, certificates of occupancy, etc. with original documents given to the Applicant, with written receipt, and copies placed in the System of Record. SBP will coordinate any inspections necessary to meet requirements of program [i.e. lead-based paint, asbestos, energy, etc. testing], and will utilize qualified, existing city vendors wherever possible.
- Y. SBP will respond to all requests from Applicants, Citizens and Clients. SBP will ensure that Program assistance is provided to Applicants in a manner that is fair, transparent, and expeditious.

Prohibited Activities

SBP, as the designated Subrecipient, may only carry out the activities described in this agreement. SBP is prohibited from charging to the subaward the costs of CDBG ineligible activities, including those described at 24 CFR 570.207, and from using funds provided herein or personnel employed in the administration of activities under this agreement for political activities and/or inherently religious activities.

Program Delivery (CDBG Eligible Activities)

SBP, as the designated subrecipient, will perform project management for single-family housing rehabilitation, reconstruction, and rebuilding for the Community Development Block Grant Disaster Recovery (CDBG-DR) Housing Activities. Project management shall include the following components as described below:

- A. Start-up
- B. Applicant Interaction
- C. Construction Management
- D. Personnel Requirements
- E. Quality Assurance/Quality Control
- F. Compliance and Monitoring
- G. Issue Tracking and Fraud, Waste, and Abuse Coordination
- H. Document Management & Records Retention
- I. Invoicing and Reporting

A. Activity #1 - Start Up

SBP will be responsible for startup operations, staffing, and logistics associated with this program and agreement. SBP will provide an Initial Operating Capability within 30 calendar days of the date of this agreement. SBP will provide Full Operational Capability within 75 days of the finalization of this agreement. SBP will, at a minimum:

- 1. Schedule a Kickoff Meeting (KM) virtually (due to current COVID-19 Pandemic City operational restrictions) with the Community Development Director within five (5) business days of this Agreement. This meeting shall include discussion of, at minimum:
 - a) Proper methods and channels of communication between SBP and the Community Development Director.

- b) Development and finalization of status reporting forms and mechanisms.
- 2. Finalize preliminary plans submitted with SBP's original application submission into the Operational Plan (OP), as specified by this Subrecipient Agreement. The OP shall incorporate the decisions and recommendations made to all preliminary plans during the kickoff meeting.
- 3. Additional topics deemed necessary by the Community Development Director.
- 4. Establish interface with the SharePoint System of Record for this program within one week of this signed agreement. SharePoint system of record administrative privileges will be provided to a designated SBP representative.
- 5. SBP will begin coordination for file transfer with the designated Program Manager.
- 6. SBP is responsible for completing a CDD approved Operational Plan (OP) within 60 days of this Agreement. The OP shall include, at a minimum:
 - a) Complete and comprehensive methods to implement the Core Services specified within this agreement
 - b) Complete and comprehensive set of operating procedures to meet all requirements of the Program policies
 - c) A comprehensive plan to achieve HUD Section 3 goals for hiring as required under 24 C.F.R. PART 135 and as modified by the HUD CDBG-DR Notice of March 5, 2013
 - d) A Program budget setting forth the amount of Program funds that will be expended each quarter for each of the major requirements of this Agreement
 - e) Financial and performance projections for the Program

B. Activity #2 - Applicant Interaction

SBP will provide Applicants with Program-related assistance, including, but not limited to, intervention on behalf of Applicants with Builders or municipalities, guidance as to Program policies, the disbursement of grant funds and notification of Applicant issues to CDD as appropriate. SBP will, at a minimum:

- 1. Provide a Disaster Case Management capability and assign all cases to a DCM. DCM's will contact and document all conversations with program participants. DCM's will contact eligible citizens a minimum of once per week after the formal signing event.
- 2. Provide information concerning Program policies and procedures and the construction process.
- 3. Update Applicants when relevant Program policies and procedures are revised.
- 4. Adjudicate issues that arise between applicants and all contractors.
- 5. As appropriate, communicate citizen issues to CDD.
- 6. Coordinate homeowner relocation process in compliance with all URA Regulations at 49-part CFR 24 and City of Columbia Relocation Policies and Procedures.
- 7. If unable to contact citizens after 3 attempts, provide written notice to the System of Record and notify CDD detailing contact attempts.
- 8. Prepare completed construction files for closeout.
- 9. Attend information sessions and conduct all required coordination.

C. Activity #3 – Construction Management

SBP will provide eligible applicants with construction-related assistance and guidance throughout the construction process. SBP will, at a minimum:

1. SBP, as the designated sub-recipient, is given authority to attract and retain construction, building, and general contractors to this program. All contractors must be licensed, bonded, and properly insured. SBP has the authority to dismiss contractors who fail to perform the work in accordance with program standards.
2. SBP will train all contractors participating in the program on all construction and financial standards associated with the program. Specific emphasis will be placed upon local permitting requirements, quality construction standards, and invoicing for payment requirements.
3. SBP will conduct validation on all contractors within the program. The contractor's validation shall contain, at a minimum: Documented confirmation that the Contractor has all required City/State/Federal permits, registrations, licenses, and insurance as required to conduct the work. SBP will also ensure documented confirmation that the selected contractor is not debarred by HUD or the City/State, and complies with all required City, State and federal regulations applicable to the Program.
4. SBP will upload Contractor validation checks into the System of Record.
5. SBP will review and submit contractors' requests for payment to CDD within five (5) business days of receipt for approval based on the below criteria. Upon approval, CDD will disburse contractor's funds as follows:
 - a. SBP will validate all work performed and note in the System of Record.
 - b. SBP will submit to CDD for reimbursement of completed work on their construction award.
 - c. In the event that the Request for Payment lacks adequate supporting documentation, the CDD shall return invoices to SBP with a detailed explanation of the rejection within two (2) business days after receipt of the request for payment.
6. SBP will respond to all Applicant and contractor technical and general construction questions within two (2) business days of receipt.
7. SBP will review and revise, as appropriate, an Applicant's construction project plan and cost estimate using Xactimate.
8. SBP will review, recommend, and implement approved changes to an Applicant's project plan on an as needed basis.
9. SBP, in conjunction with the City, will conduct a weekly Special Case Panel concerning major change orders and applicant issues that cannot be resolved quickly via existing policy.
10. SBP will identify Applicant files during the final year of the Subrecipient Agreement term that are unlikely to be completed within six (6) months of the Subrecipient Agreement expiration and notify the CDD in writing with relevant documentation.
11. SBP will conduct a site inspection after commencement of construction and/or after the contractor submits an invoice to verify the progress of construction progress.
12. SBP will conduct a final inspection to determine the work was completed according to the Program's construction standards, environmental remediations are complete, and energy efficiency/green building standards have been met so that the file can be documented to the System of Record. SBP will conduct the final inspection within five (5) days of contractor notification that they have completed the work.
13. SBP will provide re-inspection(s) as required.

D. Activity #4 - Personnel Requirements

SBP, upon signature of this agreement, is responsible for monitoring its staff, and all contractors working on this program. SBP will, as a minimum:

1. Ensure that all staff actions follow all CDBG-DR related regulatory guidance.
2. Supervise internal and contractor activities.
3. Review Contractor's deliverables and procedures regularly to ensure compliance with this Subrecipient agreement and CDBG-DR requirements.
4. Communicate potential issues and risks to the City.

E. Activity #5 – Quality Assurance/Quality Control

SBP will perform routine quality checks of the files to ensure quality assurance. The results must be reported to the CDD Quality Assurance Quality Assurance Analyst weekly in writing. The City's QA/QC Plan is found at:

https://dr.columbiasc.gov/wp-content/uploads/2020/04/QAQC_Plan_and-QAQC-Checklist-04062020.pdf

SBP will, at a minimum:

1. Develop and adapt internal operations to ensure that policies and procedures are followed
2. Ensure that operational processes have adequate controls in place to comply with all applicable federal and City/State requirements
3. Review all documentation for accuracy and completeness and assist Citizens in obtaining missing information by giving specific direction on where to find or how to obtain the information
4. Correct and re-submit all documentation when errors are identified
5. Coordinate with the City to ensure that proper controls are set forth in the Program policies and procedures to prevent fraud, waste, and abuse
6. Perform other quality assurance or quality control tasks or reviews required by policies and procedures and/or CDD
7. Gather feedback from the CDD and Internal Auditor as to potential problems and potential inefficiencies and take necessary actions to correct noted items
8. Conduct a final review for closeout of construction files that includes:
 - a. Reviewing status of any open issues
 - b. Resolving all issues before completing the final review, which may include coordination with the Citizen and/or the Contractor
 - c. Researching files and provide documentation to CDD as required

F. Activity # 6 – Compliance and Monitoring

SBP will provide compliance and monitoring as follows:

1. Furnish Program information in the manner or format requested by the City on a timely basis, as necessary for the City to evaluate Program performance, including the following:
 - a. Construction progress
 - b. Payments
 - c. Projections for expenditures and applicant project construction completion
2. Conduct internal audits as necessary to ensure compliance with all requirements

3. Identify operational compliance issues associated with the compliance reviews of Program policies and procedures and report findings to the City
4. Perform data analysis to detect or confirm trends
5. Establish a subject matter expert point person(s) to work with CDD compliance staff
6. Meet in person or virtually with CDD on a monthly basis to conduct a holistic program review

G. Activity # 7 – Issue Tracking and Fraud/Waste and Abuse Coordination

SBP will assist with obtaining and providing all relevant information to the City regarding fraud, waste and abuse coordination and shall be fluent with CDD's Detection of Fraud, Waste and Abuse Policy within 30 calendar days of this agreement. The policy is found below. https://dr.columbiasc.gov/wp-content/uploads/2020/07/Columbia-CDBG-DR-PP-Handbook_072020.pdf

SBP will, at a minimum:

- Determine the scope and extent of any potential fraud/abuse/waste concerns regarding either the citizen or the contractors involved in this program.
 - Direct citizens to contact CDD and other law enforcement agencies, as appropriate.
1. Identify and report to the CDD potential fraud/abuse/waste activity in the Program as soon as discovered
 2. Cooperate with City Internal Auditor, external auditors such as HUD, the HUD Office of the Inspector General, and integrity monitors
 3. Assist the CDD with relevant investigations
 4. Assist the CDD with: Open Public Records Act (OPRA) and Freedom of Information Act (FOIA) requests, subpoenas, and prosecutorial requests. Upon any such request to SBP directly, immediately notify and forward the request and supporting documentation to the CDD.

H. Activity #8 - Document Management and Records Retention

SBP will store and retrieve physical documents and electronic images of all paper documents, applicant-related emails, correspondence, construction documents, training material, and policy and procedures associated with the Program in a secure environment and in accordance with federal requirements.

Documents and images must be stored and archived according to City, State, and federal guidelines for record retention, file documentation, document management, quality control, and reporting. The City, at its discretion, may elect to adopt uniform document management and records retention policy to which SBP will be compliant.

SBP will, at a minimum:

1. Retain files according to federal requirements (24 CFR 570.503(b)(2)) and the Public Records Act of 1990, Code of Laws of South Carolina 1976, Sections 30-1-10 through 30-1-180, as amended.
2. Use the designated System of Record to:
 - a. Upload all Citizen eligibility and construction related documentation
 - b. Enter all eligible applicant interactions
 - c. Submit all completed files upload into the System of Record.
3. SBP will adhere to City system of Record Management which can be found at the following web address: <https://www.columbiasc.net/records-management>

4. Receive and process incoming Program-related documents according to Program requirements.
5. Identify and classify all files within the System of Record.
6. Store application files (physical and electronic) in a secure environment
7. Develop a disaster recovery plan to prevent destruction of the files from natural disasters, flood, fire, sabotage, or theft within 75 calendar days of this executed agreement.
8. Research inquiries regarding missing documents or any pertinent information required.
9. Maintain an inventory of all documents and records and monitor for accuracy and completeness.
10. Ensure documents are processed according to Program deadlines.
11. Maintain financial source documents within the System of Record.
12. At the termination of this Agreement term, return to the City all records, documents, and files associated with the Program and the performance of this agreement. This includes, but is not limited to, electronic and paper files, drawings, plans, storage devices, and any other record pertaining to the Program.

I. Activity # 9 – Reporting Program

1. SBP will report in a timely and accurate manner. In addition to the scheduled reports, SBP will provide CDD with interim reports as requested by the CDD.

SBP will, as a minimum:

- A. Ensure compliance with this Agreement
 - B. Interface with the City staff as appropriate
 - C. Review all files and invoices for completeness and accuracy before submission to CDD
 - D. Conduct quality checks for all files on a quarterly basis and report, in writing, all findings to the CDD, for the duration of this Agreement
 - E. Provide the CDD, on a weekly basis, a written update of work completed
 - F. Meet in-person or virtually monthly with the CDD to discuss the status of the Program
 - G. Provide a Monthly Project Management Summary
2. Monthly Project Management Summary shall be provided to CDD with a comprehensive status report on all Applicants remaining in the Program. The report shall be delivered to the CDD on the fifteenth business day of each month. The report shall include, at a minimum:
 - A. Milestones and Deliverables – Provide a holistic briefing consisting of tasks, milestones, and the relevant dates including:
 - i. Projected Project Plan start and completion date
 - ii. Current percentage of Project Plan completed
 - iii. Project Plan actual start and completion date
 - B. Team Progress - Provide specific scope/tasks with a summary of expected progress for each:
 - i. Tasks scheduled/completed during the previous month
 - ii. Tasks scheduled for the upcoming month.
 - C. Issue, Risk, and Change Management - Provide detailed summary for each of the below:
 - i. Open issues
 - ii. Risks

- iii. Mitigation Plan - Provide a summary of planned corrective actions for any presented issue and/or risk.
- D. Funding Status - Summary of current pool of funding that includes:
 - i. Funding to date
 - ii. Funding remaining
 - iii. Percentage invoiced
 - iv. Total contract value/cumulative total invoiced to date
 - v. Current cumulative remaining funding.

Pre-Award Costs

Reimbursement for pre-award costs is not permitted under this Agreement.

General Administration of Subaward

No Administrative Services Costs will be granted in this agreement. All costs are identified as activity delivery costs (ADCs).

National Objectives

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives.

SBP certifies that the activities carried out under this agreement shall meet the following national objectives and satisfy the following criteria:

Activity #1 – Activity #9

National Objective: Low- to moderate-income Housing - LMI

Activity Criteria: Single-Family Residential Housing, 24 CFR 570.202, 24 CFR 507.201

Subrecipient must satisfy 24 CFR 570.208(a)(3) and maintain records necessary to demonstrate compliance with that criteria; and must follow (24 CFR 570.606) for Displacement, relocation, acquisition, and replacement of housing.

B. Levels of Accomplishment – Performance Goals and Timelines

SBP will complete the activities required under this agreement. SBP will conduct a seven phased approach:

1. Pre-Award: SBP will assemble the required staff to complete this mission. It will develop and train an Operational Plan, develop internal Standard Operating Procedures, standardize workflows and processes. SBP is currently in this phase.

2. Post Award: SBP will conduct required meetings with the City and begin operations. Key aspects of this phase include hiring additional staffing, conducting training on the System of Record, CDBG-DR policies, City Policies, and preparing for operations. SBP anticipates this phase will continue until mid-January 2021 when it will achieve full operational capabilities.

3. File Transfer: SBP will accept eligible files from the Program Manager. SBP anticipates this beginning in January 2021.

4. Pre-Construction: SBP will conduct an environmental assessment on all required files to ensure compliance. Once this step is complete, SBP will host a formal signing event to include a subrogation agreement and conduct expectations management with the applicant and the contractor.

5. Construction: SBP will coordinate and execute the repair and/or replacement of approximately 177 homes. SBP will monitor all aspects of the construction program and conduct final inspections to ensure quality workmanship.

6. Construction Closeout and Transfer: SBP will close out cases as required and transfer any remaining construction cases to the City upon conclusion of this agreement. SBP will close out its use of the CDBG-DR funds and its obligations under this agreement by complying with the closeout procedures in 2 CFR 200.343 for all construction related items.

C. Staffing

SBP will supervise and direct the completion of all activities listed within this agreement.

IV. PERFORMANCE MONITORING & REPORTING

A. Monitoring

The City shall monitor the performance of SBP as necessary and in accordance with regulations on Subrecipient Monitoring and Management, 2 CFR 200.330 – 2 CFR 200.332, to ensure Subrecipient compliance with all of the requirements of this agreement, including the timeframes and performance goals associated with the activities. Substandard performance as determined by the City will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by SBP within ten (10) days after being notified by the City, the City may impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 CFR 200.207, suspend or terminate this agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 CFR 200.338.

B. Reporting

SBP will submit regular monthly progress and financial reports to the City in accordance with the terms listed within this agreement.

V. PERIOD OF PERFORMANCE AND TERM

The period of performance for SBP, meaning the time during which the SBP may incur new obligations to carry out activities under this agreement, shall start upon the signing of this agreement and end on the 31st day of December 2022.

This agreement and its terms and conditions shall remain in effect during any period that the SBP has control over CDBG-DR funds provided through this agreement, including program income as defined in 24 CFR 570.500(a) as amended; and as defined in Federal Register Notice 5938-N-01 and 2 CFR 200.302(b)(2)(3)(4).

VI. BUDGET

SBP will complete all activities in this agreement in accordance with the budgetary allocations outlined by the City. Any amendments to the budget must be approved in writing by both the City and SBP.

B. Indirect Costs

Indirect costs may be charged to this subaward under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E.

Any indirect costs, as defined in 2 CFR part 200, that are included in the budget shall only be charged to CDBG-DR funds to the extent that the costs are consistent with the conditions of this agreement.

C. Program Income

Program income is defined in 24 CFR 570.500(a) as gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds. All program income generated shall be returned to the City.

VII. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this agreement shall not exceed [**\$ 2,655,524 (or ~\$1,327,762 per year)**]. The city will make payments on a reimbursement basis. The city shall not be obligated to satisfy SBP's payment request where such requests are inconsistent with this agreement, federal statutes, regulations (including Cost Principles in 2 CFR part 200, subpart E), or the terms and conditions of the City's Federal award, or that would otherwise result in the City charging improper, unauthorized, or otherwise unallowable costs to the City's Federal award.

SBP will submit to the City monthly requests for payments of activities under this agreement and consistent with the approved budget (the "Request for Payment"). Each Request for Payment will be submitted against specific line items within the budget.

The City shall pay SBP CDBG-DR funds available based upon information submitted by SBP for allowable costs permitted under this agreement and consistent with the approved budget. Payments will be made for eligible expenses incurred by SBP.

Payment will be processed within fifteen (15) days upon submission by SBP of a properly executed Request for Payment, together with all supporting invoices, bills, time sheets, and other documents necessary to justify the payment. The Request for Payment form must also be accompanied by documentation from SBP demonstrating that all procurements for which payment is requested have been made in accordance with this agreement.

VIII. AMENDMENT AND TERMINATION

A. Amendments

The City or SBP may amend this agreement at any time provided that such amendments make specific reference to this agreement, are approved by the City's governing body, and are signed

in writing by a duly authorized representative of the City and by SBP. Such amendments shall not invalidate this agreement, nor relieve or release the City or SBP from its obligations under this agreement. Amendments will generally be required when any of the following are anticipated: i) revision to the scope or objectives of the Program, including purpose or beneficiaries; ii) need to extend the availability of Grant Funds; iii) revision that would result in the need for additional funding; and iv) expenditures on items for which applicable cost principles require prior approval (see 24 CFR 570.200h for pre-award/pre-agreement costs).

The City may, in its discretion, amend this agreement to conform with Federal, state, or local governmental guidelines, policies and available funding amounts. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this agreement, such modifications will be incorporated only by written amendment signed by both the City and SBP.

B. Suspension or Termination

The City may terminate this agreement, in whole or in part, upon 30 days' notice, whenever it determines that SBP has failed to comply with any term, condition, requirement, or provision of this agreement. Failure to comply with any terms of this agreement, include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time
2. Failure, for any reason, of SBP to fulfill in a timely and proper manner its obligations under this agreement
3. Ineffective or improper use of funds provided under this agreement
4. Submission by SBP reports that are incorrect or incomplete in any material respect.

The City shall promptly notify SBP, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect as subject to 2 CFR part 200, subpart D, and any other notifications required under 2 CFR part 200, subpart D". Upon termination, the City retains the right to recover any improper expenditure from SBP and SBP shall return to the City any improper expenditures no later than thirty (30) days after the date of termination.

The City may, at its sole discretion, allow SBP to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations or requirements.

This agreement may also be terminated in whole or in part by either the City or SBP, or based upon agreement by both the City and SBP in accordance with the requirements in 2 CFR part 200, subpart D."

IX. OTHER REQUIREMENTS TO COMPLY WITH FEDERAL STATUTES, REGULATIONS AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD

The CDBG-DR funds available to SBP through this agreement constitute a subaward of the City's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes terms and conditions of the City's Federal award that are imposed on the Subrecipient, and SBP agrees to carry out its obligations in compliance with all of the obligations described in this agreement.

A. General Compliance

SBP, as the subrecipient, will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this agreement. These Federal Register notices include, but are not limited to currently published, applicable Federal Register notices. Notwithstanding the foregoing, (1) SBP, as the designated the Subrecipient does not assume the any of City's responsibilities for environmental review, decision-making, and action, described in 24 CFR part 58 and (2) SBP, as the subrecipient, does not assume any of the City's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. SBP will also comply with all other applicable Federal, state and local laws, regulations, and policies that govern the use of the CDBG-DR funds in complying with its obligations under this agreement, regardless of whether CDBG-DR funds are made available to SBP on an advance or reimbursement basis.

B. Duplication of Benefits

SBP will not conduct any of the activities under this agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5155) and described in Appropriations Act. SBP will comply with HUD's requirements for duplication of benefits for Public Law 114-113 and Public Law 115-31 and imposed by Federal Register Notice Citations on the City, which are 81 FR 39687 and 82 FR 36812. This includes all waivers and alternate requirements for the CDBG-DR Grantees. [Waivers and Alternative Requirements for CDBG-DR Grantees.](#)

C. Drug-Free Workplace

SBP will comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

D. Insurance & Bonding

SBP will comply with the bonding and insurance requirements of 24 CFR §200.325 and §200.310.

E. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

SBP will follow the subparts of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200, that are applicable to this agreement. SBP is versed in the portions of 2 CFR part 200 that are applicable. SBP is versed in 24 CFR 570.502(a) and (c), 24 CFR 570.489(d), and any applicable Federal Register Notices as they apply to this agreement.

SBP will comply with the applicable provisions in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200 and Grantees and will comply with 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", except that 200.305 "Payment" is modified for lump sum drawdown for financing of property rehabilitation activities, in accordance with § 570.513, 200.306 "Cost sharing or matching" does not apply, 200.307 "Program income" does not apply. Program income is governed by § 570.504. Except also, 200.308 "Revisions of budget and program plans" does not apply and 200.311 "Real property" does not apply, except as provided in § 570.200(j). Real property is governed by § 570.505. Except also, 200.313 "Equipment" applies, except that when the equipment is sold and the proceeds shall be program income. Equipment not needed by SBP for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient.

Refer to 2 CFR Part 200.333 "Retention requirements for records" applies except that the retention period for individual CDBG activities shall be the longer of 3 years after the expiration or termination of the subrecipient agreement under § 570.503, or 3 years after the submission of the annual performance and evaluation report, as prescribed in § 91.520 of this title, in which the specific activity is reported on for the final time and records for individual activities subject to the reversion of assets provisions at § 570.503(b)(7) or change of use provisions at § 570.505 must be maintained for as long as those provisions continue to apply to the activity; and records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.

1. Financial & Program Management

SBP shall expend and account for all CDBG-DR funds received under this agreement in accordance with 2 CFR part 200 Subpart D—Post Federal Award Requirements and in accordance with Public Law 114-113 (12/18/2015) and Public Law 115-31; The Consolidated Appropriations Act, 2016 and the Federal Register Notice 82 FR 36812, August 07, 2017 and 81 FR 39687, June 07, 2016 at DR-4241.

2. Cost Principles

Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 CFR part 200, subpart E. All items of cost listed in 2 CFR part 200, subpart E, that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this agreement, except for the following:

- (i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.
- (ii) Fines penalties, damages, and other settlements are unallowable costs to the CDBG program.
- (iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445);
- (iv) Organization costs (2 CFR 200.455); and
- (v) Pre-Award Costs, as limited by this agreement.

F. Documentation and Record Keeping

1. Records Maintained

SBP will establish and maintain records sufficient to enable the City to:

- a. Determine whether the SBP has complied with this agreement, applicable Federal statutes and regulations, and the terms and conditions of the City's Federal award, and
- b. Satisfy recordkeeping requirements applicable to the City. These records include the records described in Section III. of this agreement, Scope of Service.

At a minimum, SBP shall maintain records required by 24 CFR 570.506, "as if the requirements in 24 CFR 570.506 were directly imposed upon the Subrecipient" and additionally include any additional recordkeeping requirements imposed by Federal Register notice governing the use of the funds.

§570.506 Records to be maintained. Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed and SBP, as the Subrecipient must maintain, in order meet recordkeeping requirements imposed by Federal statute, regulation, and the terms and conditions of the City's Federal award, and to assist the City in meeting its recordkeeping and reporting requirements. This list is not exhaustive, but such records may include:

- Records providing a full description of each activity undertaken
- Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR program
- Records required to determine the eligibility of activities
- Records required to determine the compliance of procurement requirements
- Records required to support corrective actions taken when determined necessary by the City
- Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance
- Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG program regulations; Financial records as required by 24 CFR 570.502, and 2 CFR part 200, including records necessary to demonstrate compliance with all applicable procurement requirements
- Other records necessary to document compliance with this agreement, any other applicable Federal statutes and regulations, and the terms and conditions of City's Federal award

2. Access to Records

§ 570.502 Applicability of uniform administrative requirements. (a) the City and SBP shall comply with 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, except that complies with 2 CFR 200.331(a)(5), 2 CFR 200.336 and 24 CFR 570.508.

As required by 2 CFR 200.331(a)(5), SBP will permit the City and auditors to have access to the records and financial statements as necessary for the City to meet its audit requirements under the Federal award. Should the City incur costs because of delay in access to records, these costs will be reimbursed by SBP to the City.

3. Record Retention and Transmission of Records to the City

Prior to completion of this agreement, SBP will transmit to the City records sufficient for the City to demonstrate that all costs under this agreement met the requirements of the Federal award.

SBP will retain financial records, supporting documents, statistical records, and all other records pertinent to this agreement and SBPs subaward for the longer of 3 years after the expiration or termination of this agreement, or 3 years after the submission of the City's annual performance and evaluation report, as prescribed in § 91.520 of this title or in the applicable Federal Register notices governing the use of the funds, in which the specific activity is reported on for the final time.

The preceding requirement is however, subject to the following exceptions:

- (i) Records for activities subject to the reversion of assets provisions at 24 CFR § 570.503(b)(7) or change of use provisions at 24 CFR § 570.505 must be maintained for as long as those provisions continue to apply to the activity, otherwise, records for real property and equipment acquired under this agreement must be retained for 3 years after final disposition;
- (ii) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied;
- (iii) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
- (iv) When the Subrecipient is notified in writing by HUD, the cognizant agency for audit as defined in 2 CFR 200.18, the oversight agency for audit as defined in 2 CFR 200.73, the cognizant agency for indirect costs as defined in 2 CFR 200.19, or the City, the Subrecipient shall extend the retention period consistent with the notification;
- (v) When records are transferred to or maintained by HUD or the City, the 3-year retention requirement is not applicable to the Subrecipient;
- (vi) (If the City is required to report on program income after the period of performance) The retention period for the records pertaining to the earning of the program income (as defined in this agreement) starts from the end of the City's fiscal year in which the program income is earned; and
- (vii) For indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates), and their supporting records:

- a. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the City) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

- b. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the City) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

4. Client Data and Other Sensitive Information

SBP is required to maintain data demonstrating client eligibility for activities provided under this agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided.

SBP must comply with 2 CFR §200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR 200.82, and other information HUD or the City designates as sensitive or that SBP considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

G. Close-out

SBP will close out its use of the CDBG-DR funds and its obligations under this agreement by complying with the closeout procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this agreement, SBP shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds, further, any real property under SBPs control that was acquired or improved in whole or in part with CDBG funds

SBP's obligation to the Grantee shall not end until all close-out requirements as set forth in 24 CFR 570.509 are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

H. Audits, Inspections, and Monitoring

1. Single Audit

SBP must be audited as required by 2 CFR part 200, subpart F when it is expected that the SBP's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

2. Inspections and Monitoring

SBP shall permit the City and auditors to have access to its records and financial statements as necessary for the City to meet the requirements of 2 CFR part 200.

SBP will submit to monitoring of its activities by the City as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement. This review must include: (1) reviewing financial and performance reports required by the City; (2) following-up and ensuring that the SBP takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to SBP from the City detected through audits, on-site reviews, and other means; and

(3) issuing a management decision for audit findings pertaining to this Federal award provided to SBP from the City as required by 2 CFR §200.521.

3. Corrective Actions

The City may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. The City may require SBP to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to SBP from the pass-through entity detected through audits, on-site reviews, and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, City may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

SBP shall be subject to reviews and audits by the City, including onsite reviews of the Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2).

I. Procurement and Contractor Oversight

SBP shall comply with the procurement standards in 2 CFR §200.318 - §200.326 when procuring property and services under this agreement.

SBP shall impose its obligations under this agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

SBP must comply with CDBG regulations regarding debarred or suspended entities at 24 CFR 570.609. CDBG funds may not be provided to excluded or disqualified persons.

SBP shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this agreement.

SBP must adhere to 2 CFR 200.317 through 200.326 and 24 CFR 570.489(g) to ensure all contracts and agreements clearly state the period of performance or date of completion, incorporate performance requirements and liquidated damages into each procured contract or agreement, or other similar contract oversight provisions. Also, must maintain an accurate and current list of all procurements, and provide it to the City to ensure that all procurements are posted on the City's website.

J. Property Standards

Real property acquired by SBP under this agreement shall be subject to 24 CFR 570.505.

SBP shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314 through 2 CFR 200.316. SBP shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income, and equipment not needed by SBP for activities under this agreement shall be transferred to the City for its CDBG-DR program or shall be retained after compensating the City.

The City reserves the right to require a license agreement if the activity results in patentable inventions. 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small

Business Firms Under Government Awards, Contracts and Cooperative Agreements," may affect ownership in inventions.

K. Federal Funding Accountability and Transparency Act (FFATA)

SBP shall comply with the requirements of 2 CFR Part 25 Universal Identifier and System for Award Management (SAM). The City must have an active registration in SAM in accordance with 2 CFR Part 25, appendix A, and must have a Data Universal Numbering System (DUNS) number. The City must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

L. Relocation, Real Property Acquisition, and One-for-one Housing Replacement

SBP shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [URA] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act". A waiver of Section 414 requirements has not been requested or obtained for the October 2015 Severe Storms and Flood. Therefore, tenants permanently displaced as a result of the disaster may be eligible for relocation assistance and must be identified during the application and intake process for each program so that assistance can be provided to eligible tenants. One-for-one replacement requirements at Section 104(d)(2)(A)(i)(ii) and (d)(3) and 24 CFR 42.375 are waived in connection with funds allocated Public Law 114-113 for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. This waiver exempts disaster damaged units that meet the grantee's definition of not suitable for rehabilitation from the one-for-one replacement requirements. The City of Columbia defines 'not suitable for rehabilitation' as: dwelling units where substandard conditions threaten the health and safety of its occupants and it is not financially or structurally feasible for rehabilitation.

It is important to note that the one-for-one waiver does not apply to projects using CDBG and/or HOME funds for the demolition of residential units. In addition, this waiver does not apply to Public Housing Authority projects utilizing 221 (d) funds for Multifamily Affordable Housing Program projects. In accordance with 24 CFR 42.375 (c), grantees administering projects triggering one-for-one replacement requirements must make project information available prior to the execution of contracts committing funds for any activity that will result in the demolition of lower-income dwelling units or the conversion of lower income dwelling units to another use.

M. Nondiscrimination

1. 24 CFR Part 6

SBP will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national

origin, religion, 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 Federal financial assistance.

SBP will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, SBP shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

2. Architectural Barriers Act and the Americans with Disabilities Act

SBP shall ensure that its activities are consistent with requirements of the Architectural Barriers Act and the Americans with Disabilities Act.

The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature, in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

SBP shall comply with the laws, regulations, and executive orders referenced in 24 CFR 570.607 regarding employment and contracting to the extent they are applicable.

3. Local Nondiscrimination Provisions

SBP will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, nation origin, sex, disability, age, marital/familial status, or status regarding public assistance. SBP will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SBP agrees to post

in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

4. Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

(i) General Compliance:

SBP shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended [if the City is subject to 24 CFR part 570, subpart K, insert: "and 24 CFR 570.601 and 570.602". No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 applies to the use of these funds. SBP shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR Part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 CFR Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(ii) Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, SBP assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, SBP's assurance herein shall obligate SBP or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the SBP for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives the City and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to SBP Under this Agreement, the instrument affecting any disposition by SBP of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If SBP receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

5. Affirmative Action

(i) Approved Plan

SBP agrees that it shall carry out pursuant to the City's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1966, as amended and implementing regulations at 42 CFR Chapter 60.

The City shall provide Affirmative Action guidelines to SBP to assist in the formulation of such a program.

SBP shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

(ii) Women- and Minority-Owned Businesses (W/MBE)

SBP shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when SBP procures property or services under this agreement.

(iii) Notifications

SBP will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the SBPs commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(iv) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

SBP shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

N. Labor and Employment

Labor Standards

SBP shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, *et seq.*), and 29 CFR part 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

SBP agrees to comply with the Copeland Anti- KickBack Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. SBP shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the City for review upon request.

O. Section 3 of the Housing and Urban Development Act of 1968

Compliance

SBP shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, and implement its regulations at 24 CFR part 135.

SBP shall include the "Section 3 clause" at 24 CFR 135.38 in every "Section 3 covered contract" (as defined in 24 CFR 135.5).

P. Conduct

1. Hatch Act

SBP shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

2. Conflict of Interest

In the procurement of supplies, equipment, construction, and services pursuant to this agreement, SBP shall comply with the conflict of interest provisions in 2 CFR 200.317 and 200.318. In all cases not governed by 2 CFR 200.317 and 200.318, SBP shall comply with the conflict of interest provisions in 24 CFR 570.611.

3. Lobbying Certification

SBP hereby certifies that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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;

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(iii) It shall require that the language of paragraph (a) through (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

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

Q. Religious Activities

SBP agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

R. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

SBP must comply with the limitations in 24 CFR 58.22 even though SBP is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision-making, and action (see 24 CFR part 58) and is not delegated the City's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR 58.22 imposes limitations on activities pending clearance, and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity.

2. Air and Water

SBP shall comply with the following requirements insofar as they apply to the performance of this agreement:

- Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93).
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder;

3. Flood Disaster Protection

SBP shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, SBP shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award.

4. Lead-Based Paint

SBP shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, J, K, and R, which apply to activities under this agreement including the HUD Lead Safe Housing Rule, 24 CFR 35, subparts B through R.

5. Historic Preservation

SBP shall comply with the City of Columbia Designated Historic Districts and Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

X. OTHER REQUIREMENTS IMPOSED BY CITY

A. Hold Harmless

SBP, to the extent permitted by law, shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of SBP's performance or nonperformance of the services or subject matter called for in this Agreement. Any contract entered into by SBP under this Agreement shall contain a provision that the contractor and/or subcontractor shall hold SBP and the Grantee harmless and defend and indemnify SBP and the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the contractor and/or subcontractor's performance or nonperformance of the services.

B. Workers' Compensation

SBP shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

C. Insurance

SBP shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage. SBP shall comply with insurance requirements of 2 CFR 200.325 and the bonding requirement at 2 CFR 200.310.

D. Grantor Recognition

SBP shall insure recognition of the role of the grantor agency and of the U.S Department of Housing and Urban Development in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, SBP will include reference to the support provided herein in all publications made possible with funds available under this contract.

E. Severability

The terms and provisions of this Agreement are severable. Unless the primary purpose of this Agreement would be frustrated, the invalidity or unenforceability of any term or condition of this Agreement shall not affect the validity or enforceability of any other term or provision of this agreement. The Parties intend and request that any judicial or administrative authority that may deem any provision invalid, reform the provision, if possible, consistent with the intent and purposes of this Agreement, and if such a provision

cannot be reformed, enforce this Agreement as set forth herein in the absence of such provision.

F. Entire Agreement

This Agreement constitutes the entire understanding and reflects the entirety of the undertaking between the Parties with respect to the subject matter hereof superseding all negotiations, prior discussions, and preliminary agreements. There is no representation of warranty of any kind made in connection with the transactions contemplated hereby that is not expressly contained in this Agreement.

G. No Authorship Presumptions

Each of the Parties has had an opportunity to negotiate the language of this Agreement in consultation with legal counsel prior to its execution. No presumption shall arise, or adverse inference be drawn by virtue of authorship. Each Party hereby waives the benefit of any rule of law that might otherwise be applicable in connection with the interpretation of this Agreement, including but not limited to any rule of law to the effect that any provision of this Agreement shall be interpreted or construed against the Party who (or whose counsel) drafted that provision. The rule of no authorship presumption set forth in this paragraph is equally applicable to any person that becomes a Party by reason of assignment and/or assumption of this Agreement and any successor to a signatory Party.

H. Applicable Law and Venue

This Agreement shall be governed by and construed in accordance with all applicable Federal, State and local laws. Any legal action resulting from the implementation of this Agreement shall be brought and adjudicated in the State of South Carolina.

I. No Personal Liability of Individual Representatives

No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, trustee, officer, agent, or employee of any corporate party in his or her individual capacity, and neither the officers of any Party nor any official executing this Agreement shall be personally liable with respect to this Agreement or be subject to any personal liability or accountability under this Agreement by reason of the execution a delivery of this Agreement.

J. Delay or Omission

No delay or omission in the exercise or enforcement of any right or remedy accruing to a Party under this Agreement shall impair such right or remedy or be construed as a waiver of any breach theretofore or thereafter occurring. The waiver of any condition of the breach of any term, covenant, or condition herein or therein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or any other term covenant or condition herein or therein contained.

K. Safety

SBP shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all property or damages, either on or off the worksite which occur as a result of its performance of the Program's work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by 29 CFR 1926 (OSHA Laws & Regulations), shall be observed and Subrecipient shall take or cause to be taken such additional safety and health measures as the Subrecipient may determine to be reasonably necessary.

L. Grant Fund Use

SBP agrees not to use proceeds from this Agreement to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such grant Funds be used to lobby for or against any proposition or matter having the effect of law being considered by the South Carolina Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the South Carolina Legislature or any local governing authority.

M. Subcontractors

SBP may enter into contracts with third parties for the performance of any part of SBPs duties and responsibilities. In no event shall the existence of a contract operate to release or reduce the liability of SBP or the Grantee for any reach in the performance of SBP or any third party's duties.

N. Copyright

The ownership rights of any materials, including but not limited to reports, maps or documents produced as a result of this Agreement, in whole or in part shall be retained by the Party that created it, except as otherwise provided for in writing agreed to by the Parties. A Party seeking to use the intellectual property of the other, may request a license for the use of said property, which will not be unreasonably denied.

Software and other materials owned by SBP prior to the date of this Agreement and not related to this Agreement shall be and remain the property of SBP.

Grantee shall where necessary, provide specific Project information to SBP necessary to complete the services described herein. All records, reports documents, and other material delivered or transmitted to SBP by the Grantee shall remain the property of the Grantee and shall be returned by SBP to the Grantee, upon request, at termination expiration, or suspension of this Agreement.

[Remainder of page left blank.]

THE UNDERSIGNED, as authorized officials on behalf of the parties, have executed this Subrecipient Agreement for the Community Development Block Grant Disaster Recovery (CDBG-DR) Program as described in Federal Award Notice B-16-MH-45-001, which shall be effective as of the date of execution hereof on behalf of the Grantee.

GRANTEE:


By: 
(signature)

Name: Teresa Wilson

Title: City Manager

Date: 11-24-2020

SUBRECIPIENT SBP

By: 
(signature)

Name: Zack Rosenberg

Title: CEO

Date: 12/1/2020

APPROVED AS TO FORM



Legal Department City of Columbia, SC

Approved: 11/9/2020