

NORTH CAROLINA HOUSING FINANCE AGENCY

**ESSENTIAL SINGLE-FAMILY
REHABILITATION LOAN POOL
(ESFRLP18)**

FUNDING and WRITTEN AGREEMENT for SUBRECIPIENTS

Member: Gaston County

Funding Agreement Number: ESFRLP1813

Service Area: Gaston County

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**NORTH CAROLINA HOUSING FINANCE AGENCY
2018 ESSENTIAL SINGLE-FAMILY REHABILITATION LOAN POOL
(ESFRLP18)**

FUNDING AGREEMENT

This is a subaward of a federal grant.

This Agreement is entered into this the 12th of February, 2018 by and between the North Carolina Housing Finance Agency (“Agency”) and Gaston County (“Subrecipient” or “Member”) for the performance of the services listed below. The Agency and the Subrecipient are sometimes referred to as the “Parties”.

This Agreement is funded by a federal grant from the HOME Investment Partnerships Program from the U.S. Department of Housing and Urban Development to the North Carolina Housing Finance Agency (“Federal Award”). Funds awarded under this Agreement are federal funds and must be used for the purposes for which they are intended. For the purposes of this Agreement the Agency is considered a “Pass Through Entity” as defined in 2 CFR Part 200. This Agreement is subject to the requirements in 2 CFR Part 200 and Subrecipient is required to comply with those sections specifically related to subawards to subrecipients therein.

Part I. Federal Award Identification:

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| Federal Award Identification: HOME Investment Partnerships Agreement | Subrecipient Name (which must match registered name in DUNS): Gaston County | Subrecipient’s DUNS number: 71062186 |
| Federal Award Identification Number (FAIN): M16-SG370100 | Federal Award Date (Date signed by Federal awarding Agency Official): September 22, 2017 | Subaward Period of Performance: Start Date: February 8, 2018 End Date: June 30, 2021 |
| Amount of Federal Funds Obligated by this Action: \$175,000 | Total Amount of Federal Funds Obligated to the Subrecipient: \$175,000 | Total Amount of Federal Award to Agency: \$175,000 |
| Federal Award Project Description (as required by FFATA): HOME Investment CPD | Name of Federal Awarding Agency: U.S. Department of Housing and Urban Development | Pass Through Entity: North Carolina Housing Finance Agency (referred to as “Agency” or “PTE”) |
| Contact Information for Awarding Official: Michael Handley Manager of Housing Rehabilitation NCHFA 3508 Bush Street Raleigh, NC 27609 Phone: (919) 877-5627 | CFDA Number and Name: 14.239 HOME Investment Partnerships Program | Is Award R&D: No |
| Subrecipient Indirect Cost Rate (or 10% de minimis): Not Applicable | Audit Verified: Yes | Subrecipient’s Cumulative Federal Awards >\$750,000: |

Part II. Agreement Documents.

This Agreement includes the following, all of which are identified by name as follows:

1. This Agreement;
2. Certifications and Assurances (Attachment 1); and,
3. ESFRLP Program Guidelines (Attachment 2).

These attachments are incorporated herein by reference, constitute the entire agreement between the Parties, and supersede all prior oral or written statements or agreements and are hereinafter referred to as the "Agreement Documents".

Part III. Definitions

1. **Agency.** The North Carolina State Housing Finance Agency, an instrumentality and public agency of the State of North Carolina.
2. **Agreement.** Refers to this Subaward Agreement and all attachments.
3. **Application.** The application submitted by the Subrecipient for Program funds.
4. **De-obligate or De-obligation of Funds.** Refers to the Agency's right to rescind its obligation to disburse funds awarded to Subrecipient based on a variety of factors, including but not limited to under performance, non-compliance, end of subaward period, breach of this Agreement, violation of state, federal, and/or local law, fraudulent or willful misconduct, or change in eligibility status.
5. **Federal Award.** Federal Award is the award identified in Section 1 of this Agreement.
6. **Funds.** The funds awarded to the Member under this Agreement
7. **HOME.** The HOME Investment Partnerships Program found at 24 C.F.R. Part 92.
8. **HUD.** The United States Department of Housing and Urban Development.
9. **Member.** The organization identified in Section 1 of this Agreement to which the Agency is making a subaward, and which is accountable to the Agency for the use of the funds provided.
10. **Program.** The Agency's Essential Single-Family Rehabilitation Loan Pool Program.
11. **Recapture.** Recapture means when the Agency takes back money awarded under this Agreement and already disbursed to Subrecipient based on such factors as, but not limited to, underperformance, non-compliance, end of subaward period, and/or fraud.
12. **ESFRLP.** The Agency's Essential Single-Family Rehabilitation Loan Pool Program.

13. **ESFRLP Funds or ESFRLP Pool.** The HOME funds awarded to Subrecipient under this Agreement.
14. **ESFRLP Program Guidelines.** The Agency's program guidelines for administering the Program applicable to the 2018 cycle which Member must adhere to in order to received funds under this Agreement.
15. **Services.** The eligible activities described in this Agreement.
16. **Subaward.** Subaward means the funds awarded to the Subrecipient under this Agreement. The Subaward consists solely of federal funds.
17. **Subrecipient.** Subrecipient the organization identified in Section 1 of this Agreement to which the Agency is making a subaward, and which is accountable to the Agency for the use of the funds provided.
18. **Supercircular.** Supercircular means 24 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Also referred to as Uniform Guidance.

Part IV. Purpose

The Agency has received a grant of federal HOME funds from HUD which the Agency uses, in part, to fund its Single-Family Rehabilitation Loan Pool Program. The ESFRLP provides an interest free, deferred-forgiven loan to Program-eligible homeowners to pay for certain rehabilitation costs of a homeowner's house. The Agency provides subawards to local organizations to utilize them in assisting in the administration of the ESFRLP. The Agency has advertised the availability of funding under the ESFRLP and the application of the Member was received, evaluated, and approved by the Agency. The Agency and the Member now wish to enter into this Agreement to provide a subaward to Member under the ESFRLP.

Part V. SubAward

The Agency hereby awards a Subaward, as described above, to Subrecipient subject to the provisions of this Agreement and any attachments hereto. The Agency shall pay the Subrecipient in the manner and in the amounts specified in the Agreement Documents. The total amount paid by the Agency to the Subrecipient under this Agreement will not exceed \$175,000 and consists entirely of federal funds. Although the Agency has approved a set-aside for a specific amount to the Member, the Member also has the opportunity to access additional funds from the ESFRLP pool (depending upon fund availability) once they have met the threshold requirements outlined in ESFRLP Program Guidelines 3.2.2.

Part VI. Subrecipient Duties (Scope of Work)

The Subrecipient will provide the services as described in this Agreement in accordance with the terms and conditions of the Agreement Documents. The Subrecipient will be responsible for all activities and responsibilities as defined by the ESFRLP Program Guidelines.

Part VII. Time of Performance

- (a) The Member shall begin performance of this Agreement on the 1st day of July, 2018 and shall complete performance no later than June 30, 2021.
- (b) The Agency has approved a set-aside of up to \$175,000 of ESFRLP funds for the Member. The Member may reserve funds from this set-aside on a unit-by-unit basis in accordance with Program Guidelines (PG) 3.2.2 & 3.2.3, until December 31, 2019. Any funds from this set-aside not reserved by that date shall be de-obligated and remain in the ESFRLP pool for reallocation to those Members seeking funding for additional units.
- (c) Funds for additional units may be reserved from the ESFRLP pool, depending on availability, on a unit-by-unit, first come, first served basis in accordance with PG 3.2 up until December 31, 2020. Any funds, not committed under contract (pursuant to Section 3.12 of the Program Guidelines) to a unit as of December 31, 2020, must be withdrawn from deposit and returned to the Agency; or, de-obligated from the Member's IDIS master account. All units must be completed and closed out by June 30, 2021.
- (d) De-obligation of Funds. Upon expiration of the agreement on June 30, 2021, the Member must transfer to the Agency any HOME funds not under contract for a specific unit and any accounts receivable attributable to the use of HOME funds.

Part VIII. Program Funding; Management of Funds

Section 1: Subaward

The Agency has made a Subaward to the Member in the amount identified in Part V of this Agreement.

Section 2: Use of Funds

- (a) ESFRLP funds shall be used to provide assistance to low-income homeowners for: the repair and rehabilitation of their principle residence; the installation of energy-efficiency measures to decrease energy use in the unit; temporary relocation of households to standard housing, at reasonable cost, if in accordance with an Agency-approved written relocation policy; and lead-based paint evaluation and remediation. ESFRLP funds shall pay for eligible hard and soft costs associated with housing rehabilitation of single-family owner-occupied dwelling units; making the units safe, decent and sanitary. ESFRLP assistance shall be in the form of a loan to the homeowner, which covers the eligible hard costs associated with the rehabilitation of the unit. ESFRLP assistance used to pay eligible soft costs associated with the rehabilitation of the unit shall be in the form of a grant to the homeowner. In order to ensure each Member is conveying certain HOME Program requirements to the eligible homeowners, the Member must use the Agency-provided loan documents listed in the ESFRLP Program Guidelines. Failure to do so shall constitute a material breach of this Agreement.
- (b) The Member must identify eligible units in accordance with the ESFRLP Program Guidelines. The budget for each unit assisted can be found on the Settlement Data Sheet which is referenced at PG 2.3.2 and is a part of the unit workbook.
- (c) The Member must repay the Agency for any costs deemed ineligible by the Agency in the Agency's sole discretion. The Member must also repay the Agency for any expended funds for units that do not meet the ownership and property requirements as stated in PG 4.1.3 & 4.1.4 (24CFR92.254(b)), "Qualification as affordable housing: homeownership". Any funds repaid to the Agency shall be subject to imputed interest.

Section 3: Disbursement of Funding

- (a) The Member cannot request disbursement of ESFRLP funds until funds are needed for actual payment of eligible costs as defined in the ESFRLP Program Guidelines (PG 2.2.4). The amount of the request must be limited to the actual amount needed. Any interest earned on ESFRLP funds held by the Member must be spent prior to using any other ESFRLP funds.
- (b) ESFRLP funds will be disbursed to the Member through electronic payments from the Agency and in accordance with PG 3.2.
- (c) The Member is eligible to request Program funds from the Agency only after the Agency has received this executed Agreement and a completed *Signatory Form and Certification* card ("Signatory card").
- (d) The Member must complete all work under this Agreement and disburse all ESFRLP funds in accordance with the Program Guidelines, specifically Sections 3.3 and 3.4.

Section 4: Deposit of Funds

- (a) The Member shall establish a master account in an FDIC-insured banking institution to hold all Program funds. All interest earned on ESFRLP funds shall be utilized in accordance with this Agreement.
- (b) All Program funds must be expended for eligible costs within twelve days of receipt. Any interest earned within the twelve-day period shall be retained as Program funds. Any interest earned on Program funds not expended for eligible costs within twelve days must be returned to the Agency.
- (c) The Agency reserves the right to require that all deposits made in the master account be available for withdrawal by the Member and the Agency. If the Agency chooses to exercise this option, an agreement for custodial accounts will be provided by the Agency.

Section 5: Establishment and Maintenance of Accounting Records

- (a) The Member agrees to establish an account in its own general ledger for funds received under this Agreement, and ESFRLP funds, including interest earned, shall be accounted for separately from all other monies.
- (b) The Member's financial management system shall provide for:
 - (1) Accurate, current and complete disclosure of the financial results of the Program in accordance with the reporting requirements.
 - (2) Records that identify adequately the source and application of funds for activities supported by the Program.
 - (3) Effective control over and accountability for all funds received under this Agreement.
 - (4) Comparison of actual outlays with budgeted amounts for the Program.
 - (5) Accounting records that are supported by source documentation.
 - (6) Systematic methods to assure timely and appropriate resolution of audit findings and recommendations.
- (c) The Member agrees that its records, as they relate to this agreement, shall be accessible to HUD and the Agency and their respective agents or representatives, including the North Carolina State Auditor's Office in accordance with N.C.G.S. §147.64.7(4).

Section 6: Procurement Procedures

The Member will have written procurement procedures that reflect the procurement standards found at 2 C.F.R. §200.318- §200.326. The Member will use written contracts with all firms providing services for rehabilitation work or professional services under the Program.

Section 7: Recapture of Funds.

The Agency reserves the right to recapture the Subaward from the Subrecipient. Events of recapture include, but are not limited to, Subrecipient's failure to comply with the terms and conditions of this Agreement and the Agreement Documents or if the Agency deems, in its sole discretion, that Subaward funds were misused or misapplied by the Subrecipient.

PART IX. Program Management

Section 1: Program Guidelines

The terms of the Agreement are subject, in all respects, to the ESFRLP Program Guidelines, and all defined terms used in this Agreement shall have the same meanings as used in the ESFRLP18 Program Guidelines. The Agency shall have the right from time to time, in its sole discretion, to amend all or any portion of the Program Guidelines for the purpose of providing for any and all modifications, updates, changes, amendments or supplements to applicable laws, regulations or Program changes. The Agency shall give the Member notice of such amendment not less than 30 days before the effective date of such amendment unless the Agency is obligated by law or regulation to implement such amendment in a shorter time period.

In the event the Program Guidelines are revised, the Agency will forward such revisions to the Member and, thereby, make them a part of this Agreement. Failure of the Member to comply with the terms and conditions of the ESFRLP Program Guidelines, as supplemented or amended shall be an event of default by the Member under this Agreement.

Section 2: Program Documents

Members must use loans to finance eligible repairs for participants. Each ESFRLP loan shall be evidenced by a promissory note. In order to secure the note, the Member shall require the execution and recordation of a lien (i.e. Deed of Trust) against a property being improved. The Agency shall provide prepared-standard deeds of trust and promissory notes and other ancillary loan documents to the Member. The Member is required to facilitate the loan closing, record the Deeds of Trust and submit the documents to the Agency in accordance with PG 4.5 & 4.6.

Additionally, Members must use grants to fund the soft costs (work write-ups, cost estimates, lead-based paint inspections, energy audits, pre-rehab unit inspections, etc.) associated with housing rehabilitation. The Member is responsible for facilitating the execution of the Agency-prepared Grant Agreement.

Section 3: Member Responsibility

- (a) Members are responsible for Project Financial Administration as outlined in Section 3 of the ESFRLP Program Guidelines for compliance with the Loan Processing Requirements in Section 4 of the ESFRLP Program Guidelines. The Agency expects the Member to be active in the management and monitoring of the activity funded with the ESFRLP funds including ensuring Program eligibility of homeowners, facilitating loan closings, and inspecting work performed and training and supervising

its staff adequately. The Agency has received and reviewed information that describes the Member's operating plan for staffing and administering its Project. The Agency has relied on the information provided by the Member in the Member's original ESFRLP Application for Funding in making its decision to approve the grant and execute this Agreement. The Member must notify the Agency about any material changes in its operating plan, any events that may have a significant impact on the Project, or any other changes to information provided in the Members original ESFRLP Application for Funding.

- (b) The Member shall execute a Written Agreement (the "Homeowner Written Agreement") with each Homeowner to be assisted, prior to disbursing any funds for the unit. The Written Agreement is provided by the Agency and complies with 24 CFR 92.504(5) (ii). The Agency will enforce the terms of the Written Agreement through a deed of trust recorded against the property using any legal remedy available, including possible foreclosure of the project, and/or any other remedy specified for breach in the loan documents.
- (c) If the Member is monitored by the Agency or an authorized representative and if a lack of proper financial or project controls is observed, the Agency reserves the right to consider this agreement breached and may hold disbursement requests from the Member until such issues are resolved.

Section 4: Right to Inspect

The Agency, HUD and the Comptroller General of the United States, or their authorized representatives or agent, shall have the right to inspect the housing rehabilitation work performed with ESFRLP funds provided under this Agreement for the purpose of determining if work is being carried out in accordance with the ESFRLP Program Guidelines and the HOME regulations. All dwelling units rehabilitated under ESFRLP must meet the Essential Rehabilitation Criteria in accordance with PG 2.6.

Part X. Reporting and Audit Requirements

Section 1: State Requirements.

- (a) If the Member is a non-profit organization or otherwise meets the definition of a "Subgrantee" in N.C.G.S. §143C-6-23(a)(4) then it is subject to the State reporting requirements mandated by N.C.G.S. § 143C-6-23, as may be amended from time to time. Therefore, the Member is required to file annual electronic reports with the Agency. A "Subgrantee" that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year (from any source) must have an audit in accordance with 09 NCAC 03M .0205. The amounts and requirements listed in the statute may change from time to time and it is the Member's responsibility to periodically check the statutes for any amendments or changes thereto.
- (b) If the Member is a unit of local government then it must comply with N.C.G.S. § 159-34, as may be amended from time to time, as referenced in the ESFRLP Program Guidelines, Section 3.8 *Financial Audit Requirements*.

Section 2: Audit

- A. The Subaward is funded with federal funds and as such any requirements applicable to recipients of federal funds will be required of Subrecipient. Note: 2 CFR Part 200.110 states, in part, that 2 CFR Part 200 supersedes the following OMB Guidance documents and regulations under Title 2 of the Code of Federal Regulations: A-87 (Cost Principles for State, Local and Indian Tribal

Governments), A-102 (Grants and Cooperative Agreements with State and Local Governments), A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profits), A-122 (Cost Principles for Non-Profit Organizations), and A-133 (Audits of States, Local Governments and Non-Profit Organizations). The Subrecipient is required to review and comply with 2 CFR Part 200 requirements related to units of local government or non-profit organizations, as may be applicable, that were previously found in the OMB Circulars.

- i. Subrecipient must permit the Agency's auditors to have access to the Subrecipient's records and financial statements as necessary, in the discretion of the Agency, to meet the requirements of 2 CFR §§200.300 Statutory and national policy requirements through 200.309 Period of performance, and 2 CFR 200 Subpart F – Audit Requirements.
- ii. The Subrecipient will comply with 2 CFR Subpart F – Audit Requirements, as may be amended from time to time, which states, in part:
 - a. A Subrecipient that expends \$750,000 or more in federal awards during its fiscal year from any source, including federal funds passed through the State or other grantors, must obtain a single audit or program-specific audit conducted for that year in accordance with 2 CFR 200 Subpart F- Audit Requirements. (§200.501 (a))
 - b. A Subrecipient that expends \$750,000 or more during its fiscal year in Federal awards must have a single audit conducted in accordance with 2 CFR 200.514 Scope of audit expect when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section. (2 CFR §200.501 (b))
 - c. An auditee that expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with 2 CFR §200.507 Program-specific audits. (2 CFR §200.501(c))
 - d. A Subrecipient that expends less than \$750,000 during its fiscal year in Federal awards is exempt from Federal Audit requirements for that year, except as noted in 2 CFR §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal Agency, Pass Through Entity, and Government Accountability Office. (2 CFR 200.501(d)).
 - e. The Subrecipient is required to submit the audit to the Agency within nine months of the end of its fiscal year.

Section 3: Reports

- (a) The Member shall submit to the Agency Unit Completion Reports in accordance with PG 3.10.2
- (b) The Member shall submit a Certification of Completion and Final Cost form to the Agency not later than June 30, 2021.
- (c) The final certification shall contain a summary of the use of funds provided under this Agreement.
- (d) The Member shall submit to the Agency such revisions and updates of reports as may be necessary as a result of project audits or reporting errors.

- (e) All reports and audit confirmations shall be sent to:
North Carolina Housing Finance Agency
Attention: Mark Lindquist, Senior Program Compliance Coordinator
PO Box 28066
Raleigh, NC 27611-8066
or
Email Address: mwlinquist@nchfa.com

Section 4: Close Out:

- (a) The Member must initiate close-out procedures when the Date of Completion identified in the Funding Agreement is reached.
- (b) No new rehabilitation contracts obligating any ESFRLP funds may be executed after the Date of Completion. Contracts executed prior to the Date of Completion may be amended after that date by no more than ten percent (10%) of the original contract amount in order to accommodate necessary changes to the scope of work.
- (c) Members will be required to submit the Certification of Completion and Final Cost form (CCFC) to the Agency no later than 6 months following the Date of Completion. The Member will also be required to submit revisions and updates of the Certification that may be necessary as a result of audits or reporting errors.
- (d) All ESFRLP funds not disbursed for eligible costs associated with rehabilitation contracts executed prior to the Date of Completion, including all net Program income/interest earned, must be remitted to the Agency with the CCFC.
- (e) Members are required to submit a minimum of one (1) human interest story, with photographic documentation of before and after rehabilitation, focusing on one of the households assisted under ESFRLP.

PART XI: Representations, Warranties and Covenants

The Member hereby warrants, represents and covenants that:

- (a) It is a unit of local government that reports to the Local Government Commission or it is a non-profit entity duly organized and in good standing in the State of North Carolina.
- (b) All Subaward funds must be used for purposes and activities described in this Agreement.
- (c) Housing assisted with HOME funds is subject to 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 the implementing regulations at 24CFR35, subparts A,B,J,K,M and R.
- (d) If the Member is a governmental body, it will comply with OMB Circular A-87 as amended or superseded by 2 C.F.R. 200, related to certain principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts and other agreements with State and local governments.
- (e) It will comply with the sections regarding financial management and procurement standards for the HOME program found at 24 C.F.R. §§ 85.6, 85.12, 85.20, 85.22, 85.26, 85.32-85.34, 85.36, 85.44, 85.51 and 85.52, as may be amended from time to time. If the Member is a not-for-profit organization it will comply with OMB Circular A-122, as amended or superseded by 2 C.F.R. 200, which established principles for determining costs of grants, contracts and other agreements with non-profit

organizations as well as the following sections regarding standards for financial management and procurement standards: 24 C.F.R. §§84: 84.2, 84.5, 84.13 - 84.16, 84.21, 84.22, 84.26 - 84.28, 84.30, 84.31, 84.34 – 84.37, 84.40 – 84.48, 84.51, 84.60 – 84.62, 84.72 and 84.73.

- (f) The Member must comply with 24 C.F.R. §92.351 with regards to actions taken to assure MBE/WBE are utilized when possible in the procurement of goods and services.
- (g) The Member must maintain sufficient records of affirmative marketing and MBE/WBE activity in accordance with 24 C.F.R.9§2.508 (7) (ii).
- (h) Debarred, suspended or ineligible contractors and/or participants cannot be involved in the activities of the Member for which funds are provided under this agreement.
- (i) The Member will make a good-faith effort to, on a continuing basis, maintain a drug-free workplace per the requirements of 24 C.F.R. §21 (B).
- (j) The Member and its activities must comply with all of the following Federal laws, executive orders and regulations pertaining to fair housing and equal opportunity. They are: Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.), found in 24CFR Part 1; The Fair Housing Act (42 U.S.C. 3601-3620), found in 24CFR Part 100-115; Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259), found in 24CFR Part 107; Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), found in 24CFR Part 146. The Member must describe the actions it will take in the areas of enforcement, education, and removal of barriers and impediments to affirmatively further fair housing according to applicable state and federal law. The Member certifies that it will affirmatively further fair housing, including the following: conducting an analysis to identify the effects of any impediments identified through that analysis and maintaining records reflecting the analysis and actions in this regard.
- (k) In order to assure that each Member is conveying certain HOME Program requirements to the eligible homeowners, the Member must comply with the following Program Guidelines: PG 4.1.4.2 (Homeownership Affordability). PG 2.6.1 Property Standards; and Section 15(a) of this Agreement.
- (l) It will provide a written statement completed by the Member's board of directors or other governing body stating that the Subrecipient does not have any overdue tax debts, as defined by N.C.G.S. §105-243.1, at the federal, State or local level. The written statement shall be made under oath and returned to the Agency in order for program disbursements to be made (Certification example included in Attachment 1, unless already submitted and approved).
- (m) It will sign and provide the Certification and Assurances document attached here to as Attachment 2.
- (n) It will comply with N.C. E-Verify which means the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. If Subrecipient employs 25 or more employees in the State of North Carolina, then Subrecipient must comply with the provisions of N.C. Gen. Stat. §64-26 including verifying the work authorization of its employees through E-Verify and retaining the records of verification for a period of at least one year. All subcontractors engaged by or to be engaged by Subrecipient have or will have likewise complied with the provisions of N.C. Gen. Stat. §64-26.
- (o) None of the funds provided under this Agreement shall be used in the performance of this Agreement for any partisan political activity (24 C.F.R. §91.225), or to further the election or defeat of any candidate for public office per the requirement of 24 C.F.R. §87.
- (p) There will be no religious activities conducted in connection with the performance of this Agreement or the use of ESFRLP funds.
- (q) The Member will not discriminate against any person employed in the performance of this

Agreement, or against any applicant for assistance under this Agreement because of race, sex, age, creed, color, physical handicap or national origin. The Member will ensure that applicants for ESFRLP assistance are processed, and that employees are treated during employment, without regard to race, sex, age, creed, color, physical handicap or national origin.

- (r) No employee, officer or agent of the Member shall participate in the selection, or in the award or administration of a contract funded by this Agreement if a conflict of interest, real or apparent, would be involved.
- (s) Before ESFRLP funds may be disbursed, any Member that is a non-profit organization must be in compliance with General Statute 143C-6-23(b). This statute requires that the Member submit to the Agency a notarized copy of the Member's policy addressing conflicts of interest that may arise involving any Member's management staff, board of directors or other governing body. The policy shall address situations where any of these individuals may directly or indirectly benefit, except in their official capacity, from the disbursement of State funds, and shall include actions to be taken to avoid conflicts of interest or the appearance of impropriety.
- (t) Before ESFRLP funds are disbursed, any entity of local government will adopt, by resolution of its board of directors, or other governing body, a notarized copy of the Member's Conflict of Interest Policy. The policy must address situations that may arise involving any Member's employees, management staff, board of directors, or other government body, where any of these individuals may directly or indirectly benefit, except in their official capacity, from the disbursement of Subaward funds, and shall include actions to be taken to avoid conflicts of interest or the appearance of impropriety.
- (u) No person providing consulting services in an employer-employee type relationship shall receive more than reasonable compensation for personal services paid with ESFRLP funds. In no event, however, shall such compensation exceed the limits in effect under the provisions of any applicable statute. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards and compensation.
- (v) ESFRLP funds may not be used to pay for administrative expenses (PG 2.2.4.3). The Member is prohibited from charging servicing, origination, processing, inspection, or other fees for administering the ESFRLP, HOME-funded program, except as permitted by §92.214(b)(1).

Part XII. Termination

Should Member breach or fail to comply with any or part of the provisions or terms of this Agreement, continue as a going concern, become insolvent, defunct, or commence bankruptcy proceedings, or should any employee, agent, director officer or senior manager of Subrecipient engage in fraud, misconduct or negligence or misappropriate any Funds, the Agency may terminate this Agreement, and all of its obligations hereunder, immediately upon written notice, and the remaining Program Funds shall revert immediately to the Agency. This applies to all terms and conditions of the Agreement at the time the

Agreement is signed and at any subsequent point if the status of the Subrecipient changes, including but not limited to, the provisions that Subrecipients receiving these Funds shall not have been indicted or employ those that have been indicted for a violation under Federal Law relating to an election for Federal office.

- A. The Subrecipient hereby agrees to remain fully informed of all laws and regulations that apply to the Subrecipient, and will give the Agency prompt notice of any action or event that may be cause

for suspension or termination of this Agreement and recapture Funds and/or rescind its obligation to awarded Funds to Subrecipient in the event of Subrecipient's non-compliance with the terms and conditions of the grant, as outlined in the Agreement and the Agreement Documents.

- B. The Agency may terminate, in its sole discretion, this Agreement and all of its obligations hereunder immediately upon written notice to Subrecipient, and recapture Program Funds from Subrecipient and/or rescind its obligation to disburse Funds to Subrecipient in the event Subrecipient is not in compliance with the terms and conditions of this Agreement.
- C. Either the Member or the Agency may terminate this Agreement at any time for any reason by providing 30 days prior written notice to the other party. In the event of said termination by the Member, the Agency will require the return of any disbursed, but unused funds and may require completion of any current units being rehabilitated at the time of the notice.
- D. Upon termination of this Agreement all of the Subrecipients work product, including files pertaining to this Agreement, shall become the property of the Agency if requested.
- E. In the event of termination, the Member shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of the Agreement by the Member. The Agency may withhold any reimbursement to the Member for the purpose of a set-off until such time as the exact amount of damages due the Agency from the Member is determined.
- F. In the event of a termination of this Agreement, Subrecipient must continue to comply with record retention requirements and provisions regarding confidentiality and indemnification.

Part XIII. Default, Remedy, Suspension and Termination of Subaward

- A. Each of the following may be deemed an Event of Default under this Agreement:
 - 1. Any material failure by Subrecipient to comply with the terms and conditions of this Agreement whether stated in this Agreement, a federal statute or regulation, North Carolina statute or regulation, the Agreement Documents or any warranty or assurance by Subrecipient.
 - 2. Subrecipient fails to expend Funds in accordance with Program requirements.
 - 3. Subrecipient fails to return Funds, subject to recapture, to the Agency within the requested time frame.
 - 4. Subrecipient becomes the subject of a federal, state, or local investigation related to the use of federal or state funds.
 - 5. Subrecipient fails to continue as a going concern; becomes insolvent, defunct, or commences bankruptcy proceedings; or should any director, officer, or senior manager of Subrecipient engage in fraud, willful misconduct, and gross negligence or misappropriate any Funds.
 - 6. Subrecipient's acts or omissions, in the sole determination of the Agency, may cause significant reputational harm to the Agency or the Program.

7. Any Subrecipient misrepresentation in its application or supporting material which, if known by the Agency, would have resulted in the Subaward not being made.
- B. Discovery of Events
- The Agency may become aware of Events of Default in any number of ways, including but not limited to:
1. Third party compliance reviews;
 2. Random file reviews;
 3. Reports of noncompliance by third parties such as media, government agencies, Subrecipient's clients, and/or whistle blowers; or
 4. Reviews of audited financial statements and other Uniform Guidance audits.
- C. Notice of Events of Default. If the Agency becomes aware of an Event or Events of Default, the Agency will give Subrecipient written notice of the occurrence and a reasonable opportunity to respond to notification or take corrective action as appropriate, if, in the discretion of the Agency the default is capable of being cured. The Agency reserves the right to send notification to Subrecipient's Board of Directors, the State of North Carolina and HUD.
- D. Failure to Remedy an Event of Default. In the event of default or non-compliance with this Agreement, the Agency may exercise the remedies for noncompliance in accordance with 2 CFR 200.338 (a-f). If Subrecipient is unable to cure the Event of Default to the satisfaction of the Agency, then the Agency may
1. Recover misspent or unspent Funds;
 2. De-obligate awarded but undisbursed Funds;
 3. Terminate the Agreement for cause. Upon termination of the Agreement, all unspent Funds (as determined by the Agency) shall revert immediately to the Agency, in either the form of recapture or de-obligation;
 4. Use information learned in the process of consideration of future funding actions;
 5. Recapture Funds; or
 6. Take other legally available remedies.

Part XIV. General Terms and Conditions

Section 1: Publicity

The Member may publicize its participation in the Program and the conduct of activities under this Agreement without prior review by the Agency, provided that all communications contain the following language: *"This program was sponsored by Gaston County, with funds provided by the N.C. Housing Finance Agency."* Copies of publications or news releases shall be furnished to the Agency.

Section 2: Records Retention Policies

1. The Subrecipient shall establish and comply with a records retention policy. This policy shall be made available to the Agency at its request.

2. Financial records, supporting documentation, statistical records, and all records pertinent to the subaward shall be retained for a period of five (5) years from the date of the project close out letter (PG 3.6.1). The only exceptions are as follows:
 - a. If any litigation, claim or audit is started before expiration of the five (5) year period, the records shall be retained until the litigation, claims or audit findings involving the records have been resolved and final action taken.
 - b. Records for real property and equipment acquired with grant Funds shall be retained for three (3) years after final disposition.
 - c. When the Subrecipient is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or the Agency to extend the retention period.
 - d. If Subrecipient must report program income after the period of performance then it must comply with 2 C.F.R. §200.333(e).
 - e. Subrecipient will comply with 2 C.F.R. §200.333 (f) as it relates to retention of records for indirect cost rate proposals and cost allocations plans. Under this section the following types of documents and their supporting records shall be retained: indirect cost rate computations or proposals, cost allocations plans, and any similarly accounting computations of the rate at which a particular group of costs is chargeable: 1) if submitted for negotiation see 2 CFR §200.333(f)(1); if not submitted for negotiation see 2 CFR §200.333(f)(2).
3. Notwithstanding the foregoing retention policy, or any other provision of this Agreement, the Agency, the Federal Awarding Agency, and their authorized representatives, agents' and third-party contractors' will have access and a right to inspect Subrecipient's site, documents, records and personnel access for evaluation purposes for as long as records are retained.

Section 3: Confidentiality

The Member must maintain the confidentiality and security of records in compliance with the North Carolina Identity Theft Protection Act, the Gramm-Leach-Bliley Act and other federal and state privacy laws ("Applicable Laws"). The Applicable Laws pertain to the security and privacy of personal and financial information along with identifying information such as social security numbers. The Member is responsible for compliance with the Applicable Laws. In the course of providing services hereunder, the Member may have access to an individual's confidential information. Confidential Information includes, but is not limited to, names, personal addresses, credit reports, social security numbers and other personal identifying information. Confidential Information shall be used by the Member only in conjunction with the provision of services hereunder and shall not be disclosed to any third party. The Member agrees to hold harmless and indemnify the Agency for any cost, legal actions, or disputes of any nature whatsoever incurred if the Member violates this provision or any Applicable Law. The Member shall keep all Confidential Information secure, including without limitation, implementing physical security measures and operating procedures.

Section 4: Mandatory Disclosures

The Member must disclose to the Agency, in a timely manner, in writing, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Subaward of the Federal Award. Failure to make required disclosures can result in any of the remedies for noncompliance listed in 2 C.F.R. §200.338 including suspension or debarment (See also 2 C.F.R. part 180).

Section 5: Laws and Regulations

The Member agrees to remain fully informed of all laws and regulations that apply to the Subrecipient, and will give Agency prompt notice of any action or event that may be cause for suspension or termination of this Agreement. Failure to provide such notice will constitute a breach of this Agreement. Any and all information regarding this Subaward should be forwarded to your auditors when organizing your annual audit.

Section 6: Notices

All legal notices, reports, requests, demands and other communications under this Agreement shall be in writing and referred to each party's point of contact as listed below. All such notices under this Agreement sent to the other party shall be considered received: (a) when personally delivered; (b) when delivered by commercial overnight courier with verification receipt; or (c) three (3) days after having been sent, postage prepaid, via certified mail, return receipt requested.

To the Agency: North Carolina Housing Finance Agency
 Attn: Michael Handley, Manager of Housing Rehabilitation
 PO Box 28066
 Raleigh, NC 27611-8066

To the Subrecipient: Gaston County
 Attn: Earl Mathers, County Manager
 PO Box 1578
 Gastonia, NC 28053

Section 7: Agreement Changes

Any proposed changes in this Agreement shall be in writing, submitted to and approved and executed by the Agency before the performance of any work involved in the proposed change.

Section 8: Assignment

This Agreement cannot be assigned.

Section 9: Indemnification

The Member agrees to hold harmless and indemnify the Agency from any and all claims, loss, cost or expense, including reasonable attorney's fees, for any injury or damage, whatsoever, which may arise in connection with work performed under this Agreement or pursuant to the Member's activity, errors or omissions in connection with this Agreement.

Section 10: Inconsistencies; No Waiver

In case any provision of this Agreement is held to be invalid, then such provision shall be amended by the parties only to the extent necessary to be enforceable consistent with the parties' intent, and the remainder of the provisions shall remain in full force and effect. No waiver by either party of any breach or failure of compliance with respect to any provision of this Agreement shall be deemed a continuing waiver, nor shall any delay or omission by either party to exercise any right hereunder impair in any manner the exercise of any such right.

Section 11: Governing Law

This Agreement shall be governed by, construed and enforced in accordance with the substantive laws of the State of North Carolina. Each party expressly consents to the jurisdiction of the State of North Carolina.

Section 12: Entire Agreement

This Agreement and all Attachments and/or Exhibits, specifically including the ESFRLP Program Guidelines, constitutes the entire Agreement between the Agency and the Member.


III. Authorization of Signature

By signing this Agreement, the Member certifies that all representations made in its ESFRLP application are true, and in the event of any misrepresentations, the Agency has the option to rescind any obligations to Member regarding the Funds or recapture any Funds awarded or intended to be awarded to the Subrecipient. The person signing this Agreement hereby certifies that he/she is authorized to execute this agreement on behalf of the Subrecipient.

Gaston County

By: 
Its: County Manager

Date: 2/20/18


Attest: Deputy Clerk
to the Board

North Carolina Housing Finance Agency

By: 
Its: Manager of Housing Rehabilitation

Date: 2/12/18

Jana J. Coleman
Attest

Attachment 1

CERTIFICATIONS AND ASSURANCES

By signing below, the authorized official of Member certifies, to the best of his/her knowledge and belief, that:

Certification Regarding Lobbying

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Member, 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 to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, or 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 Member will complete and submit a Standard Form –LLL, “Disclosure Form to Report Lobbying”, to the Agency.
- 3) The Member will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, or cooperative agreements) and that all subgrantees will certify and disclose accordingly.
- 4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Debarment, Suspension, and Other Responsibility Matters

The Member certifies by signing below that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

Audit and Access to Records

The Member certifies by signing below that it complies with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R 200), will provide notice of the completion of required audits and any adverse findings which impact this subaward as required by parts 200.501-200.521, and will provide access to records as required by parts 200.336, 200.337, and 200.201 as applicable.

English Language 2 CFR §200.111

The Member certifies by signing below that it will comply with 2 CFR §200.111 which states, in part, that all Federal financial assistance announcements and Federal award information must be in the English language and must be in the terms of U.S. Dollars. The Subrecipient may translate the Federal award and other documents into another language. In the event of inconsistency between any terms and conditions of the Federal award and any translation into another language, the English language meaning will control. Where a significant portion of the Subrecipient's employees who are working on the Federal award/Subaward are not fluent in English, the Subrecipient must provide the Federal award/Subaward in English and the languages with which the employees are more familiar.

Conflict of Interest 2 CFR §200.112

The Member certifies by signing below that it will disclose in writing to the Agency any potential conflicts of interest in accordance with applicable Federal Awarding Agency policy or Agency policy.

Mandatory Disclosures 2 CFR §200.113

The Member certifies by signing below that it agrees to comply with 2 CFR §200.113 which states that the Subrecipient must disclose, in a timely manner, in writing to the Agency all violations of Federal criminal law involving fraud, bribery, or gratuity violations, potentially affecting the Federal Award. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment.



Authorized Member Signature

Print Name: EARL MATHERS

Title: COUNTY MANAGER

Date: 2/20/18

North Carolina Housing Finance Agency
Four Factor Analysis
Gaston County, North Carolina

In order to avoid discrimination on the grounds of national origin, all programs or activities administered by Gaston County will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in benefits and services for which such persons qualify.

The 2011-2015 American Community Survey (ACS) 5-Year Estimates are the most recent estimates available for Gaston County, North Carolina. ACS estimates Gaston County's population to be 196,813; five percent of the county's total population is 9,840.65. None of Gaston County's LEP populations are greater than 5%. Figure 1 details the proportions of LEP persons eligible to be served in Gaston County based on 2011-2015 ACS estimates. This chart does not include LEP populations with 0% population estimates. The top five largest LEP populations are Spanish (2.5%), Vietnamese (.127%), Chinese (.084%), Japanese (.061%), and Tagalog (.06%).

During the 2015 Single Family Rehabilitation (SFR) program, zero LEP individuals came into contact with the program. However, Gaston County has a variety of resources available to program applicants and recipients at no cost. Gaston County's Department of Health and Human Services provides qualified interpreter services and Gaston County's Human Resources Department has a Spanish bilingual contact who is available to interpret or obtain an outside interpreter. Gaston County will regularly assess changes in demographics, types of services, and other needs that may require reevaluation of policies and procedures. Effective communication is crucial to the SFR program; these resources ensure that persons with LEP have meaningful access and an equal opportunity to participate in the program.

| LEP Population | Percentage of total population |
|-------------------------------|---------------------------------------|
| Spanish or Spanish Creole | 2.5% |
| French | .014% |
| Italian | .002% |
| Portuguese | .005% |
| German | .037% |
| Other West Germanic languages | .005% |
| Russian | .008% |
| Persian | .01% |
| Gujarati | .01% |
| Hindi | .018% |
| Urdu | .006% |
| Other Indic languages | .009% |
| Chinese | .084% |
| Japanese | .061% |

| | |
|-----------------------|-------|
| Korean | .024% |
| Mon-Khmer, Cambodian | .007% |
| Hmong | .025% |
| Laotian | .023% |
| Vietnamese | .127% |
| Other Asian languages | .026% |
| Tagalog | .06% |
| Arabic | .011% |
| African languages | .034% |

Figure 1. LEP populations and percentages of total population in Gaston County, North Carolina