



# County of Lexington

212 South Lake Drive, Ste. 401, Lexington SC 29072 Phone: (803)785-8121 Fax: (803)785-8188

**THE COUNTY OF LEXINGTON**

**SUBRECIPIENT AGREEMENT**

**ST. BERNARD PROJECT, INC.**

**CDBG-DR Minor  
Rehabilitation Program**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of **August, 2017** by and between the **County of Lexington, South Carolina** (hereinafter referred to as "the County" or "Recipient"), and **ST. BERNARD PROJECT, INC.** (hereinafter referred to as "the Subrecipient").

**WHEREAS**, the County of Lexington has received Community Development Block Grant Disaster Recovery (CDBG-DR) Program funds from the United States Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974, as amended; and

**WHEREAS**, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the "Stafford Act"), that the State of South Carolina received a major disaster declaration related to the consequences of Hurricane Joaquin and adjacent storm systems and flood events; and

**WHEREAS**, the Community Development Department of the County of Lexington has the responsibility of administering CDBG-DR Program funds in conjunction with the October, 2015 Severe Storm and Flooding; and

**WHEREAS, ST. BERNARD PROJECT, INC.** a non-profit organization, shall assist Lexington County with the Minor Rehabilitation program in accordance with eligible Community Development Block Grant Disaster Recovery rules and assist Lexington County with the unmet needs of its citizens impacted by the storm.

**NOW THEREFORE**, in valuable consideration and mutual promises hereafter set forth between the parties hereto, the legal sufficiency of which is hereby acknowledged by the parties, it is agreed as follows:

## **National Objectives**

The Buyout program will meet one of three National Objectives

- Urgent Need (direct benefit) – if the activity addresses the serious threat to community welfare following the disaster and the household assisted is above 80% AMI.
- L/M Income Housing (direct benefit) if the household to be assisted is L/M and is occupying replacement housing.
- L/M Income Area Benefit – if the final use of the land is available for the use of an L/M Income area.



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## I. SCOPE OF PROJECT

a. **Statement of Work** – The project scope includes the subrecipient, in collaboration with Lexington County, Civitas, Tetra Tech, Inc. and Hearts and Hands, identifying properties which may qualify for the Minor Rehabilitation Program. Any housing intended for the Minor Rehabilitation Program will be approved by the County. The County's CDBG-DR Program agrees to Pay ST. BERNARD PROJECT, INC. according to the schedule of charges from ST. BERNARD PROJECT, INC.'s Proposal. The proposal is attached as "Exhibit A". These charges shall include all tariffs, taxes, fees and other assessments imposed from time to time by any federal, state, or local governments. The following provisions shall apply to the work carried out by the Subrecipient:

1. Funding provided by the County shall be exclusively used towards the minor home rehabilitation approved properties, project labor, materials, travel expenses, permits, public notices and any other expenses incurred during the acquisition, demolition and closeout activities.
2. The Subrecipient shall not begin Rehabilitation on any property until prior approval is given by the County.
3. All rehabilitation on properties must specifically allow for due-diligence for the completion of the Environmental Review Record (ERR), as stated in Section III, on the properties prior to final execution of the sales contract.
4. The Subrecipient is to enter into all contracts in its name and on behalf of the County. The contract will then be forwarded to the County of Lexington and signed by the Community Development Director on behalf the County. No contract with the seller will be valid until after the signature of the CD Director. All other costs of the project, which are not "approved costs", shall be the responsibility of the Subrecipient.

## II.

1. All inspections and assessments for the rehabilitation work on the properties will be conducted by the Subrecipient. The Subrecipient shall work in conjunction with the County to ensure the rehabilitation work is complete according to the work write-up.
2. All rehabilitation work shall be competitively bid out according to the County's Procurement procedures.
3. The Subrecipient will send to the County notice to recommend a project approval or deny projects depending upon the scope of work and estimate for the County to review.
4. The County will send a Notice to Proceed to the Subrecipient to proceed with the Rehabilitation for the homeowner. ~~Notice to Proceed is attached as "Exhibit C"~~
5. The Subrecipient shall be responsible for the obtaining the Homeowner Notice to Proceed and all necessary closing requirements, documents and procedures.
6. The Subrecipient will follow the policies and procedures for the Minor Rehabilitation Program. ~~The Policies and Procedures are attached as "Exhibit B"~~
7. The Subrecipient fees and rehabilitation budget will be based on the Subrecipient's Proposal. The Subrecipient's Proposal is attached as ~~"Exhibit A"~~.
8. The County will be invoiced monthly and the application for payment shall reflect services completed through the last day of the month. Payment of invoices shall be



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due within thirty (30) days after receipt of an accurate, undisputed, and properly submitted invoice to the County after acceptance of completed project.

9. Subrecipient, during the performance of services under this Agreement, shall maintain Professional Liability Insurance in the amount of \$1,000,000 as stated in Section "F" of this agreement.

**B. Specific Tasks** – The Subrecipient shall cause the preliminary activities and provide all necessary monitoring. This shall include selecting the contractor(s) through a competitive bid process that meets Federal, state, and county standards; and ensuring the work moves forward in a timely manner. The Subrecipient shall also submit requests for payment of CDBG-DR funds to the County for processing, with all necessary documentation to support said requests, in a timely manner.

**C. Quantifiable Level of Service** – By the end of the project, activities will have been carried out and completed as described in the Subrecipient's CDBG-DR Policies and Procedures. The Policies and Procedures are attached as "Exhibit B".

**D. Time of Performance** - Services of the Subrecipient shall start on the \_\_\_\_ day of August, 2017 and end on the 15<sup>th</sup> day of July, 2019. The term of this Agreement and the provisions herein may be extended upon written request subject to the County's approval to cover any additional time period during which the Subrecipient remains in contract of CDBG-DR funds.

### III. ENVIRONMENTAL REVIEW

Where applicable, the commitment of funds is conditioned on the satisfactory completion of an environmental review and receipt of the Request for Release of Funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58, if required. In accordance with 24 CFR Part 58, the Subrecipient or any third party partners cannot undertake any physical actions on a site, commit, expend, or enter into any legally binding agreements for this project that constitute choice-limiting actions for any CDBG-DR or non-CDBG funds before the environmental review process has been completed and the County has received a Release of Funds from HUD. Choice-limiting actions are defined by HUD as property rehabilitation prior to the environmental clearance. If you have any need to expend funds prior to the execution of the subrecipient agreement (costs to conduct environmental review, administration, etc.), please submit a written request to the County. All requests for pre-award costs are subject to the provisions of 24 CFR 570.200(h)(1). Any violation of this provision will result in the automatic denial of this funding request (or de-obligation of the CDBG-DR funds, if already awarded).

Any rehabilitation on a specific property must be contingent upon the completion of a HUD-required environmental review record (ERR). All offers on properties must specifically allow for due-diligence for the completion of the ERR on the properties prior home owners "Notice to Proceed".

### IV. USE OF FUNDS/REVERSION OF ASSETS



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Funds received pursuant to this agreement shall be used in accordance with the requirements under Title I of the Housing and Community Development Act of 1974 (as amended), 24 CFR Part 570, and other regulations governing the CDBG-DR Program.

## V. PAYMENT

- a. It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed as follows:
  - Rehabilitation (70 homes) \$2,156,400.00
  - Program Staff (1 DCM) \$97,600.00
  - Program Overhead (8%) \$196,000.00

The County will reimburse the Subrecipient funds based upon information submitted by the Subrecipient and consistent with the approved budget.

- b. Payment for services will be made within approximately thirty (30) days of receipt of an acceptable detailed invoice, supporting documentation, and Request for Payment form. If any items therein are questioned, payment will be withheld pending verification of the amount claimed and the validity of the claim. The Subrecipient shall provide complete cooperation during any such investigation.
- c. The Subrecipient agrees that it will commit and provide monies from its own resources for cost overruns that are not approved by the County.

## VI. REIMBURSEMENT OF FUNDS

- a. The Subrecipient shall be responsible for reimbursement to the County for any disbursed funds, which are determined by HUD to have been misused or misappropriated. In the case of Agreement violations by the Subrecipient, the County may request that some or all of the grant funds be returned even if the Subrecipient has expended the funds. Any reimbursement of funds which is required by the County shall be due within thirty (30) days after giving written notice to the Subrecipient.

## VII. MONITORING

- a. The County shall review the performance of the Subrecipient on an ongoing basis to ensure compliance with this Agreement, the provisions of the Community Development Block Grant Disaster Recovery (CDBG-DR) Program, and other applicable Federal, state, and local laws, regulations, and policies. Any identified instances of non-compliance will be communicated to the Subrecipient in writing along with a plan of correction. No payments shall be made until the Subrecipient is in compliance with the plan of correction.
- b. The Subrecipient shall submit a monthly progress report to the County.
- c. The Subrecipient shall submit a completed audit certification form provided by the County at the end of its fiscal year. If the Subrecipient exceeded \$500,000 in federal expenditures, it will submit the required audit to the County within nine (9) months of the end of the audited fiscal year.



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## VIII. GENERAL ADMINISTRATIVE CONDITIONS

### a. General Compliance

When applicable, the Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the United States Department of Housing and Urban Development (HUD) regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

### b. Independent Subrecipient

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "Independent Subrecipient" with respect to the services to be performed under this Agreement. The County shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent subrecipient.

### c. Hold Harmless

The Subrecipient shall hold harmless, defend, and indemnify the County from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the Subrecipient performance and nonperformance of the services or subject matter called for in this Agreement. If HUD determines that funds were not spent properly and pursues collection from the County, the Subrecipient will indemnify the County for the funds allocated and all costs (attorney fees etc.) associated with the collection from the Subrecipient.

### d. Worker's Compensation

The Subrecipient shall provide Worker's Compensation Insurance coverage in accordance with South Carolina law for all of its employees involved in the performance of this Agreement.

### e. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect assets associated with this Agreement from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall have a blanket fidelity bond covering all employees.

f. The subrecipient shall maintain liability insurance with an approved insurance company in a minimum amount of \$1,000,000. Evidence of Insurance will be required on any and all Property in such amounts, with such companies and against such risk as may be satisfactory to the County. All such policies shall name the County of Lexington as an insured mortgage or an additional loss payee, as appropriate and as acceptable to County, and shall contain an agreement by the insurer that the policy shall not be cancelled without at least thirty (30) calendar days prior written notice to the County.

g. The Subrecipient shall comply with the bonding and insurance requirements of 2 CFR



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200.310 and 2 CFR 200.325.

**h. County of Lexington Recognition**

The Subrecipient shall insure recognition of the role of the County of Lexington in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

**i. Amendments**

The County or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release the County or Subrecipient from its obligations under this Agreement.

- j.** The County may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of project, 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 County and Subrecipient.

**k. Suspension and Termination**

- l.** The County may terminate this agreement, in whole or in part, upon days' notice, whenever it determines that the Subrecipient 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 the Subrecipient to fulfill in a timely and proper manner its obligations under this agreement;
  3. Ineffective or improper use of funds provided under this agreement; or
  4. Submission by the Subrecipient to the Grantee reports that are incorrect or incomplete in any material respect.

The County shall promptly notify the Subrecipient, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect. Upon termination, the County retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient shall return to the County any improper expenditures no later than thirty (30) days after the date of termination. The County may, at its sole discretion, allow Subrecipient 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



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agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations or requirements.

## IX. ADMINISTRATIVE REQUIREMENTS

### a. Financial Management

#### 1. Accounting Standard

The Subrecipient agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation of all costs incurred as defined in 2 CFR 200.

#### 2. Cost Principles

Costs incurred, whether charged on a direct or an indirect basis must be in conformance with 2 CFR 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.

#### 3. Duplication of Benefit

The Subrecipient shall not carry out 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. The Subrecipient must comply with HUD's requirements for duplication of benefits, imposed by Federal Register notice. The Subrecipient shall carry out the activities under this agreement in compliance with the County's procedures to prevent duplication of benefits.

### b. Records and Reports

#### 1. Federal Funding Accountability and Transparency Act (FFATA)

The Subrecipient shall comply with the requirements of 2 CFR Part 25 Universal Identifier and System for Award Management (SAM). The Subrecipient must have an active registration in SAM in accordance with 2 CFR Part 25, Appendix A, and must have a Data Universal Number System (DUNS) number. The Subrecipient 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.

#### 2. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken

b. Records demonstrating that each activity undertaken meets one of the



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## National Objectives of the CDBG-DR program

- c. Records required to determine the eligibility of activities
- d. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG-DR assistance
- e. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG-DR program
- f. Financial records as required by 24 CFR Part 570.506
- g. Financial records as required by 24 CFR 502 and 2 CFR Part 200, including records necessary to demonstrate compliance with all applicable procurement requirements
- h. Other records necessary to document compliance with 24 CFR 570.

### 3. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

### 4. Disclosure

The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited by this Agreement unless written consent is obtained from such person receiving service.

### 5. Property Records

The Subrecipient shall maintain inventory records of all real property associated with this Agreement. Records should clearly identify all properties that have been rehabilitated through the Minor Rehabilitation Program.

### 6. Close-Outs

The Subrecipient's obligation to the County shall not end until all closeout requirements are completed. The Subrecipient shall closeout its use of the CDBG-DR





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funds and obligations under this agreement by complying with the closeout procedures in 2 CFR 200.343. Activities during this closeout period shall include, but are not limited to, making final payments, disposing of program assets and determining the custodianship of records.

## 7. Access to Records

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the County, the United States Department of Housing and Urban Development (HUD) or their representatives, at any time during normal business hours, as often as the County or HUD deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. As required by 2 CFR 200.331(a)(5), the Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statement as necessary for the Grantee to meet its audit requirements under the Federal Award.

## 8. Client Data and Other Sensitive Information

The Subrecipient is required to maintain data demonstrating client eligibility for activities provided under this agreement. Such data may include, but not limited to, client name, address, income level or other basis for determining eligibility, and must comply with 2 CFR 200.303 and take reasonable measures to safeguard protected personally identifiable information as defined in 2 CFR 200.82.

## b. Procurement

The Subrecipient shall comply with the procurement standards in 2 CFR 200.318 – 200.326 when procuring property and services under this Agreement. The Subrecipient shall procure all goods and services in conformance with the terms and conditions of other Federal, State, and County laws and Procurement policies, and good purchasing practices. All goods and services will be competitively procured. Each procurement action will be fully documented and will be subject to review by the Lexington County Procurement Department. Procurement records will be made available to auditors of the County. All procurement records will be kept for a minimum of five (5) years after completion of the contract.

## X. PERSONNEL AND PARTICIPANT CONDITIONS

### a. Civil Rights

#### 1. Compliance

The Subrecipient agrees to comply with South Carolina Human Affairs Law and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

#### 2. Relocation and Real Property Acquisition

The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC



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4601-4655, 49 CFR Part 24, 24 DFR Part 42, and 24 DFR 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".

### 3. Nondiscrimination

The Subrecipient 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.

The Subrecipient 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, the Subrecipient 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.

### 4. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease, or rental, or in the use of or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the County and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

### 5. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 United States Code 706). The Subrecipient agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or



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be subjected to discrimination including discrimination in employment, or in any program or activity that receives benefits from federal financial assistance.

## b. Affirmative Action

### 1. Approved Plan

The Subrecipient agrees that it shall be committed to an Affirmative Action Program in keeping with the notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA 4241-DR), dated October 5, 2015.

### 2. Women and Minority Owned Business Enterprises

The Subrecipient 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 are firms are used when possible when the Subrecipient procures property or services under this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation..

### 3. Access to Records

The Subrecipient shall furnish and cause each of its own Subrecipient's or sub-Subrecipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the County, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

### 4. Labor Unions

The Subrecipient 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 advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

### 5. EEO/AA Statement

The Subrecipient will, 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.

### 6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs IV-A, Civil Rights, and IV-B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Subrecipients or Sub-Subrecipients.

## c. Employment Restriction

### 1. Prohibited Restrictions

The Subrecipient is prohibited from charging to the subaward the costs of CDBG



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ineligible activities including those described at 24 CFR 570.207 and from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

## 2. Labor Standards

The Subrecipient 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.

The Subrecipient agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. 874) and it's implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the Grantee for review upon request.

## 3. Section 3 of the Housing and Urban Development Act of 1968 (12 United States Code 1701 u)

The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 United States Code 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The Subrecipient agrees to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the Subrecipient certifies that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

The Subrecipient agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Subrecipient's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Subrecipient agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take



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appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Subrecipient will not subcontract with any subcontractor where the Subrecipient has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The Subrecipient will certify that any vacant employment positions including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

The Subrecipient agrees to submit such reports as required to document compliance with Part 135.

Noncompliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

## d. Conduct

### 1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without prior written consent of the County thereto; provided, however, that claims for money due or to become due to the Subrecipient from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

### 2. Subcontracts

#### a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the County prior to the execution of such subcontracts.

#### b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

#### c. Content

The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

#### d. Selection Process

The Subrecipient shall ensure that all subcontracts in the performance of this Agreement be awarded to contractors with the lowest, reasonable and most responsible bid. Executed copies of all subcontracts shall be forwarded to the County along with documentation concerning the selection process.



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### 3. Hatch Act

The Subrecipient agrees 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 Title 5 United States Code, Chapter 15.

### 4. Drug-Free Workplace

Subrecipients must 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).

### 5. Conflict of Interest

The following provisions regarding "conflicts of interest" apply to the use and expenditure of CDBG-DR funds by the Subrecipient.

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

In cases not governed by the above, such as acquisition and disposition of real property and the provision of CDBG-DR assistance to individuals, businesses, and other private entities, the following provisions shall apply.

Except for eligible administrative or personnel costs, generally no person who is an employee, agent, consultant, officer, or elected or appointed official of the County or Subrecipient receiving CDBG-DR funds who exercise or have exercised any function or responsibilities with respect to CDBG-DR activities assisted herein or are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter. Exceptions may be considered by the County on a case by case basis as requested upon full disclosure in writing.

### 6. Lobbying

The Subrecipient hereby certifies that:

- a. 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.



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- b. 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 instruction.
- c. It will require that the language of Section 5, paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.
- d. **Lobbying Certification**  
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, United States 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.

## 7. Copyright

If this Agreement results in any copyrightable material or inventions, the County and/or grantor agency reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the work or materials for government purposes.

## 8. Religious Organizations

### a. Construction or Rehabilitation of Facilities

The Subrecipient shall not use any CDBG-DR funds to construct, rehabilitate, maintain, or restore religious structures (including those which may be historic properties) currently used for religious purposes. CDBG-DR funds shall not be used to construct, rehabilitate, maintain, or restore structures or other real property owned by "pervasively sectarian" organizations. CDBG-DR funds shall not be used to assist a religious organization in acquiring property for religious activities. These prohibitions apply whether or not the property is used for religious services or instruction or is used in any other way for religious activities.

### b. Public Services

CDBG-DR funds may be used for the provision of public services under the following conditions:

- (1) The public services provided are exclusively non-religious in nature and scope.
- (2) There are no religious services, proselytizing, instruction, or any other religious influences in connection with the public services;



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(3) There is no religious discrimination in terms of employment or benefits under the public services;

(4) CDBG-DR funds may be used only for the provision of public services and not for construction, rehabilitation or restoration of any facility owned by a religious organization where the services are to be provided.

## XI. ENVIRONMENTAL CONDITIONS

### a. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42, United States Code, 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 United States Code 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued there under.
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### b. Flood Disaster Protection

The Subrecipient 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, the Subrecipient 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.

### b. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.





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The Subrecipient 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 of 24 CFR Part 35.

**c. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 United States Code 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, 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 (50) years old or older or that are included in a Federal, state, or local historic property list.

**XII. SEVERABILITY**

If any term or provision of this contract shall be found to be illegal or unenforceable, then notwithstanding any such illegality or unenforceability, the remainder of said contract shall remain in full force and effect and such term or provision shall be deemed to be deleted and severable there from.

**XIII. NOTICES**

Communication and details concerning this Agreement shall be directed to the following:

**Recipient**

**Charles Garren**  
Community Development Director  
The County of Lexington  
212 South Lake Drive, Suite 401  
Lexington, South Carolina 29072

**Subrecipient**

**Reese May**  
National Director of Recovery  
ST. BERNARD PROJECT, INC.  
6904 N. Main Street, Suite 105  
Columbia, SC 29203

**XIV. ATTACHMENTS**

Attached hereto and hereby incorporated by reference and made a part of this Agreement as fully as if set forth herein:

- Exhibit A: ST. BERNARD PROJECT, INC. Proposal
- Exhibit B: St. Bernard Policies and Procedures

**IN WITNESS WHEREOF**, the parties hereto have set their hands and affixed their seals on the day and year above written.

**COUNTY OF LEXINGTON**



# County of Lexington

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**Charles Garren, Community Development Director**

**ST. BERNARD PROJECT, INC.**



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**Reese May, National Director of Recovery**