



**NORTH CAROLINA OFFICE OF STATE BUDGET & MANAGEMENT
(DISASTER RECOVERY SECTION)**

INVITATION FOR BIDS

IFB Title: State Disaster Recovery Act Single-Family Home Construction Project No. 27

Grantee: New Hanover County

Projects: Reconstruction of One (1) Home

Issue Date: October 28, 2020

**Bid Opening Date: Thursday November 12, 2020, at 2:00 PM at OSBM-DR Conference Room,
Dobbs Building, Raleigh, NC**

The State of North Carolina, through the Office of State Budget & Management Disaster Recovery Section (“OSBM-DR”), serving as the State Disaster Recovery Acts (“DRA”) of 2017, 2018 and 2019 Program Manager for the North Carolina Division of Emergency Management (“NCEM”), will be accepting sealed bids for the project(s) identified in the invitation below (the “IFB”). The IFB is issued on behalf of New Hanover County (the “County”) pursuant to a DRA grant awarded the County following Hurricane Florence. OSBM-DR will serve as the project manager on behalf of New Hanover County.

One of the purposes of State’s 2018 DRA Housing Recovery Program Critical and Pressing Needs Grants is to provide homes that are decent, safe, and sanitary by reconstruction the primary residences of low to moderate income households whose homes sustained major damage from Hurricane Florence and whose losses were are/not met through insurance or were not eligible for a federal disaster recovery program.

Enclosed please find the Bid Proposal Form which must be filled out completely and attach all documentation identifying your firm’s qualifications to perform the requested services. Only the Bid Proposal Form and requested documentation must be submitted in a sealed envelope to OSBM-DR pursuant to the following delivery instructions.

SEALED BID DELIVERY LOCATIONS

As a result of the COVID-19 Pandemic, there is limited access to our building, State employees have been ordered to telework as much as possible, and OSBM-DR cannot assure bidders that regular U.S. Mail deliveries will be processed and delivered to our section within any specific time frame, there may not be public access to our building to allow for overnight mail deliveries, and/or there may be no access to our building without making an appointment assuming there are no stay-at-home orders in effect in North Carolina or in Wake County. Therefore, the following shall be the acceptable delivery methods:

Electronic Transmission is the Preferred Delivery Method:

1. Email in PDF (Image Only/TIFF/JPEG format) to:

OSBM-DR's Administrative Assistant: christine.salome@osbm.nc.gov

and original mailed to:

Mail to:

**Richard Trumper, Senior Construction Manager
Office of State Budget & Management-Disaster Recovery Section
Mail Service Center 20320
Raleigh, NC 27699-0320**

Bidder must email bid on or before the Bid Opening date and time, and the transmittal email should request a receipt of delivery. THE TRANSMITTAL INFORMATION SHOULD NOT CONTAINING ANY PRICING INFORMATION AND SHOULD ONLY STATE THE BIDDER'S LEGAL NAME AND OSBM-DR IFB NUMBER. The original email must be mailed so that is received by OSBM-DR no later than five (5) days after the Bid Opening Date. All timely bids received by email will be conditionally accepted but subject to rejection if the original is not received by our office in regular mail by the close of business on the fifth day after the Opening Date.

OSBM-DR's administrative assistance will forward all bids to the OSBM-DR staff responsible for the bid opening on the bid opening date and will also set up a back-up folder for the bids in a networked folder that can be accessed by OSBM-DR staff on the Opening Date.

2. Hand-Delivery BY APPOINTMENT ONLY to:

**Richard Trumper, Senior Construction Manager
Office of State Budget & Management-Disaster Recovery Section
Dobbs Building, Suite 2228
430 N. Salisbury Street
Raleigh, NC 27603
(984) 236-0735 (Office)
(919) 810 - 7682 (Mobile-Telework Contact)**

Hand-delivery is discouraged while there is a State of Emergency (State and federal) for COVID-19 Pandemic, and hand-delivery is only permitted if a bidder is unable to scan and email its bid by the preferred method. The bidder must speak with OSBM-DR's Senior Construction Manager at least 24 hours in advance to discuss hand-delivery and if hand-delivery is approved by the Senior Construction Manager, then a delivery location will be agreed to and as well as the social distancing and the safety measures that will be followed during the delivery. Bidder must not have any conversation with the Senior Construction Manager regarding the IFB or any bid submitted in response to the IFB. The delivery must be cancelled if either party is experiencing any symptom of a cold, flu and/or COVID-19, or a party knows he or she has been exposed to an individual who has tested positive for COVID-19 or knows that a person he or she has been exposed to has taken a COVID-19 test but has not received the test results.

Optional Pre-Bid Meeting/Conference Call

An optional pre-bid meeting will be held for all interested bidders on **Wednesday, November 4, 2020, from 2:00 pm to 2:30 pm by CALL IN ONLY on the OSBM-DR Meet Me Line at (919) 716-0711.** The

meeting will address project specific questions, issues, bidding procedures, construction scheduling, review of construction documents, and bid forms. Written inquiries regarding the IFB may be email to OSBM-DR (Richard Trumper, Senior Construction Manager) at richard.trumper@osbm.nc.gov up until 5:00 pm on November 4, 2020 and OSBM-DR will post an addendum of answers to those inquiries or questions presented at the pre-bid meeting by Friday November 6, 2020 at 5pm.

Deadline for Delivery & Public Opening

Proposals will be received up to 2:00 PM on Thursday November 12, 2020 and immediately thereafter publicly opened and read in the OSBM Commission Conference Room (no. 2009, second floor). The bid opening has been scheduled from 2:00 pm to 2:30 pm. Bidder attendance at bid opening is not mandatory and all bidders will receive a copy of the bid tabulation. OSBM-DR reserves the unqualified right to reject any and all bids. Reasons for rejection may include, but shall not be limited to, the following:

1. If the Form of Proposal furnished to the bidder was not used or was altered.
2. If the bidder adds any provisions reserving the right to accept or reject any award.
3. If there are unauthorized additions or conditional bids, or irregularities of any kind which tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
4. If the bidder fails to complete the proposal form where information is requested so the bid may be properly evaluated by the owner.
5. If the bidder fails to comply with other instructions stated herein.
6. Bidder is not authorized to transaction business in the North Carolina, bidder has been suspended from doing business in North Carolina by the N.C. Secretary of State, is under a revenue suspension by the N.C. Carolina Department of Revenue, bidder has been suspended or debarred from public contracting by any local, state or federal government entity, and/or the State Construction Office has received a negative evaluation regarding bidder's performance on a state construction project.

After the opening of bids, no bid may be withdrawn, except under the provisions of General Statute Subject to the process set forth in Section 143-129.1 of the North Carolina General Statutes, a bidder's pricing shall remain valid for a period of forty-five (45) days unless otherwise specified in bid or an addendum to the IFB. Should the successful bidder default and fail to execute a contract, the contract may be awarded to the next lowest and responsible bidder, and OSBM-DR reserves the right to seek compensation from the original successful low bidder to cover any increased costs between the two bids.

1. Site Addresses for Home Reconstruction

- **1410 S 7th Street Wilmington – Roberts Residence**

2. Specifications for All Homes

A. See Attached Tightlines Designs Julia II:

1. Ceiling lights in each bedroom and in dining room, fan with light in living/family room operated from wall switch.
2. Wind Zone – rated for 140 mph (minimum 25 or 30-year shingle with corresponding warranty)
3. Appliances that must be included in bid are refrigerator; dishwasher; range (combination oven and stovetop); microwave/range hood combination or separate range hood.

4. Brick Foundation with minimum height per local authority having jurisdiction or 32 inches above grade or 24 inches above any known flood levels, whichever is higher.
5. Drywall wall finishes, not paneling, in all living spaces
6. No Plastic Plumbing Fixtures (sinks, faucets, etc.)
7. ADA/Comfort Height Toilet in Master Bath
8. Low Threshold/Walk in Shower in Master Bathroom must be offered as an option if requested by the Homeowner.
9. Underneath the home is to be graded to prevent water ponding.
10. A GFCI convenience receptacle should be located adjacent to mechanical equipment.
11. The electrical system is complete with proper conductor and overcurrent device sizes.
12. All electrical conduit is supported according to code.
13. All hose bibs have means for back flow prevention.
14. All mechanical equipment located outside is level on a suitable pad.
15. Any ductwork run under the home should be supported every 4'-0"
16. Vinyl sheet on entrance floors, kitchen and bath floors and carpeting in living room and bedrooms. LVP (Vinyl Plank) may be used in any room as a substitution as approved by the homeowner.

All additional documents, attachments and/or pictures can be found at the following drobox link:

https://www.dropbox.com/sh/5h0pi2m7lvnfnfr/AAD14MGz46_S5TjtJMDv2Rdpa?dl=0

Licensing Requirements & Bonds

To the extent bidder will use a general contractor to perform any work in setting up any on any lot, the general contractor must be properly licensed under Chapter 87, Article 1, General Statutes of North Carolina, and must have license classification for Limited, Intermediate, or Unlimited Construction.

Bidder or its general contractor must use properly North Carolina licensed subcontractors for the performance of electrical, plumbing, mechanical and HVAC (heating, ventilation and air conditioning), or as may be required by authority having jurisdiction (i.e., municipal and/or county building department).

No bid bond shall be required for this IFB.

Bidder shall indicate in its bid whether it is able to provide a performance bond and a payment bond for all contract it may be awarded under this solicitation. Bidder shall include a unit price for the premium for each bond. In lieu of bonds, Bidder shall provide a statement as to how it will guarantee timely performance of any contract awarded under this solicitation and how it will resolve issues with its subcontractors to avoid mechanics liens that may be placed against the home and properties for alleged nonpayment of sums that may be due under the subcontractors. Any required bond shall have a penal sum for one hundred percent (100%) of the contract price.

Payment Terms

Bids shall include proposed terms of payment that may require:

1. A deposit up to 25% to start production of any of the homes to which bidder was awarded a contract and cover the cost of initiate site and foundation work on the lot(s).
2. Progress Payments, not to exceed 60% of remaining balance of contract price, as determined by

OSBM-DR or AHJ inspections and approved pay applications.

3. Progress Payment, not to exceed 10% of remaining contract balance, when home is substantially complete (i.e. issuance of Building Certificate of Occupancy)
4. Final Payment of remaining 5% will be paid after: the local authority having jurisdiction completes final inspections and approves of occupancy of the home; signed acceptance of delivery and completion of the home by the owner(s); completion of all punchlist items; and submission of all manufacturer and subcontractor warranties to owner(s) and delivery to the OSBM of copies of all relevant inspection and permitting documentation. In addition, the final payment will be dependent on the delivery to OSBM a copy of the final “As Built” installation documentation package to include copies of all issued permits and certificates from the local authority having jurisdiction and all ancillary certifications from other statutory agencies with jurisdiction

General Terms and Conditions

See Appendix A

Instructions to Bidders, Evaluation of Bids and Contract Award

For a proposal to be considered it must be in accordance with the following instructions:

1. **Bid Proposal Format & Content:** Bidders must use and complete the Bid Proposal Form included in this IFB and must fill in all blank spaces regarding prices and schedule for each reconstruction project that Bidder is interested in building. The bidder shall write “No Bid” in blank spaces for any home that bidder does not want to work on.

The bidder understands and agrees that Bid Proposal includes the construction documents for each home that bidder submits a bid on, and that Bidder agrees to enter into the applicable sample contract form after receiving notice of contract award from OSBM-DR. If bidder desires to request any change to the sample contract form it must submit such request prior to the pre-bid meeting and/or make the request at the pre-bid meeting. No modification to the contract form will be permitted after the public opening except as permitted in the contract.

Photocopied, emailed, or faxed bid proposals will not be considered.

Any bidder modification to the Bid Proposal Form may result in disqualify all or part of the bid depending on what was modified. OSBM-DR reserves the right to waive minor informalities in any bid.

The bidder shall fill in the Form of Proposal as follows:

- a. If the documents are executed by a sole owner, that fact shall be evidenced by the word “Owner” appearing after the name of the person executing them.
- b. If the documents are executed by a partnership, that fact shall be evidenced by the word “Co-Partner” appearing after the name of the partner executing them.
- c. If the documents are executed on the part of a corporation, they shall be executed by either the president or the vice president and attested by the secretary or assistant secretary in either case, and the title of the office of such persons shall appear after their signatures. The seal of the corporation shall be impressed on each signature page of the documents.

- d. If the documents are executed on the part of a limited liability company, they shall be executed by the managing member (if any) or all members (if the company does not include a written authorization delegating the authority to enter into contracts to the member that submitted the bid) and attested by the secretary or assistant secretary of the company (if any) or properly notarized if the company does not have a secretary or assistant secretary, and the title of the office of such persons shall appear after their signatures. The seal of the company (if any) shall be impressed on each signature page of the documents.
- e. If the proposal is made by a joint venture, it shall be executed by each member of the joint venture in the above form for sole owner, partnership or corporation, whichever form is applicable.
- f. All signatures shall be properly witnessed.
- g. If the contractor's license of a bidder is held by a person other than an owner, partner, or officer of a firm, then the licensee shall also sign and be a party to the proposal. The title "Licensee" shall appear under his/her signature.

Proposals should be addressed and delivered to OSBM-DR in an opaque sealed envelope, marked "Bid" and bearing the IFB Title of **State Disaster Recovery Act Single-Family Home Reconstruction Project # 27** clearly marked on the outside of the bid envelope with Bidder's name and the contractor's license number appearing on the outside of the envelope. It shall be the specific responsibility of the bidder to deliver his bid to the proper official at the selected place and prior to the announced time for the opening of bids. All late bids shall be disqualified regardless of the reason for late delivery.

2. **Statement of Bidder's Experience and Project References:** Bidder must include a brief statement, cover letter, and/or copies of webpages that describes the Bidder's general contracting experience in building new single-family homes, experience with any state or federal disaster housing recovery programs, and/or experience working with any local housing authority or North Carolina Housing Finance Authority.

The Bidder's statement shall also identify the surety that will be furnishing payment and performance bonds and identify the insurers who will be providing builders' risk, commercial general liability, workers' compensation insurance. Bidder should include the local agents for its surety and insurers.

Bidder's statement or letter must include at least three references to single-family homes completed within the last two years, which must include: (1) project cost; (2) brief description of the home (e.g., s.f., no. bedrooms, bathrooms, stories, and any other features that may demonstrate bidder's construction experience); (3) project's street address; (4) start and finish dates; and (5) names of owners and designers. OSBM-DR reserves the right to obtain additional information from bidder or owners about the projects referenced in this statement for bidders is one of three lowest responsible bidder and prior to the award of any contract.

If not already prequalified pursuant by the North Carolina Division of Emergency Management pursuant to the Request for Prequalification dated July 18, 2018 (19-RFP-014364-WAX) and review of bidder's surety and insurers raises questions, OSBM-DR reserves the right to review bidder's financial statements and cashflow statements prior to awarding any contract or issuance of a notice to proceed with construction.

3. **Examination of Conditions:** It is understood and mutually agreed that by submitting a bid the bidder acknowledges that Bidder has carefully examined all documents pertaining to the work, the location, accessibility and general character of the site of the work and all existing buildings and structures

within and adjacent to the site, and Bidder is satisfied as to the nature of the work, the condition of existing buildings and structures to be demolished (if any), the conformation of the ground, the character, quality and quantity of the material to be encountered, the character of the equipment, machinery, plant and any other facilities needed preliminary to and during prosecution of the work, the general and local conditions, the construction hazards, and all other matters, including, but not limited to, the labor situation which can in any way affect the work under the contract, and including all safety measures required by the Occupational Safety and Health Act of 1970 and all rules and regulations issued pursuant thereto. It is further mutually agreed that by submitting a proposal the bidder acknowledges that bidder is satisfied as to the feasibility and meaning of the plans, drawings, specifications and other contract documents for the construction of the work and that bidder accepts all the terms, conditions and stipulations contained therein.

Each bidder may, at its own expense, make such additional surveys and investigations as bidder may deem necessary to determine bid prices for the performance of the work in the durations requested by OSBM-DR. Any on-site investigation shall be done at the convenience of the OSBM-DR and the homeowner. Any reasonable request for access to the site will be honored by the OSBM-DR and owner.

4. Except for good cause shown to OSBM-DR, no bid may be withdrawn after the public opening of bids. All bidders shall remain valid for 180 days subject to inflation and/or price escalation of materials/labor after 90 days. The owner reserves the right to reject any or all bids and to waive informalities.
5. **Bid Evaluation and Contract Award:** The award of the contract will be made to the lowest responsible bidder and OSBM-DR intends to make contract awards within five (5) business days following the public opening. However, OSBM-DR reserves the right to award multiple projects to any lowest responsible bidder(s) that has the building capacity to handle multiple awards and can deliver all the projects within the requested contract durations.

In determining the lowest responsible, responsive bidder, OSBM-DR shall take into consideration the past experience and performance on prior single-family home projects, completion times, building capacity, quality of work, review or ratings of surety and insurers identified by bidder, and any information provided by owners or designers if references are checked by OSBM-DR during the evaluation process.

Should OSBM-DR adjudge that the apparent low bidder is not the lowest responsible, responsive bidder by virtue of the above information, said apparent low bidder will be so notified and his bid security shall be returned to him.

6. **Substitutions:** In accordance with the provisions of N.C. Gen. Stat. 133-3, material, product, or equipment substitutions proposed by the bidders to those specified herein can only be considered during the bidding phase until ten (10) days prior to the receipt of bids when submitted to the Designer with sufficient data to confirm material, product, or equipment equality. Proposed substitutions submitted after this time will be considered only as potential change order.

Approved for Issuance By:



Durwin Jones
OSBM-DR Deputy Director & General Counsel

October 28, 2020

Date

FORM OF BID PROPOSAL

State Disaster Recovery Act Single-Family Home Construction Project No. 27

Date: October 28th, 2020

Procuring State Agency:
N.C. Office of State Budget & Management

Bidder: _____

Date: _____

The undersigned, as bidder, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this proposal or in the contract to be entered into; that this proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud. The bidder further declares that bidder had the option to examine the sites of the work and the contract documents relative thereto, and has read all provisions furnished prior to the opening of bids; that bidder understands the work to be performed. The bidder further declares that it and its subcontractors will or have fully complied with NCGS 64, Article 2 in regards to E-Verification as required by Section 2.(c) of Session Law 2013-418, codified as N.C. Gen. Stat. § 143-129(j).

The Bidder proposes and agrees if this proposal is accepted to contract with the North Carolina Office of State Budget Management-Disaster Recovery Section (“OSBM-DR”), 430 N. Salisbury Street, Raleigh, North Carolina, in the form of contract as defined in the Invitation for Bids, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete the **demolition of the homes for the following lump sum prices:**

Project No.	Project Address	Cost	Days to Complete (Calendar Days)
1	1401 S 7 th Street Wilmington		
	TOTAL BID PRICE TO REBUILD ONE HOME		Total Duration for all Projects: _____ Days

Proposal Signature Page

The undersigned further agrees that in the case of failure on his part to execute the said contract and the bonds within ten (5) business calendar days after being given written notice of the award of contract, OSBM-DR may cancel the contract award, award the contract to the next lowest responsible bidder, and/or request the North Carolina Department of Justice to commence a civil action to recover the any increased cost between the bidder's bid price and the next lowest responsible bidder's bid price.

Respectfully submitted this day of _____ 2020.

(Name of firm or corporation making bid)

WITNESS:

By: _____
Signature

(Proprietorship or Partnership)

Name: _____
Print or type

ATTEST:

Title _____
(Owner/Partner/Pres./V.Pres)

By: _____

Address _____

Title: _____
(Corp. Sec. or Asst. Sec. only)

License No. _____

Federal I.D. No. _____

(CORPORATE SEAL)

Email Address: _____

CONTRACT ACCEPTANCE PAGE

OSBM-DR accepts Contractor’s Bid for:

Project 1 for the Lump Sum Amount of \$_____

BY: _____
Durwin P. Jones
Deputy Director and General Counsel

_____ Date

APPENDIX A

CONTRACT GENERAL TERMS & CONDITIONS

Inspection of the Work: It is a condition of this Contract that the work may be subject to inspection by the local authority having jurisdiction (“AHJ”). OSBM-DR will also conduct quality assurance/quality control (“QA/QC”) inspections of the demolition work and final inspection to close out the contract. OSBM-DR will also make inspections to approve progress payments. Contractor shall permit all inspections at the project site during normal working hours and during any time work is in preparation and progress by the AHJ, OSBM-DR, homeowner and/or those persons required by state law to test special work for official approval. The Contractor shall therefore provide safe access to the work at all times for such inspections.

1. **Changes in Work:** OSBM-DR does not expect any changes in the work, but there may be unknown conditions discovered by Contractor during site preparation or construction. Contractor shall provide timely notice of such conditions and submit a request for change order based on the actual net costs of all work at the Project site plus a reasonable markup for overhead and profit that shall not exceed a combined total of 25% of actual costs. OSBM-DR will pay approved change orders in the next scheduled progress payment after the change order work has been completed and accepted by AHJ and/or OSBM-DR. No change order will be allowed for any concealed underground utility if Contractor failed to “Call Before You Dig.”
2. **Time of Completion, Delays and Extensions of Time:** The Contractor shall commence work to be performed under this Agreement on a date a Contract is awarded. Accordingly, the Contractor shall complete all work on the Project(s) within 120 days from the date in the Notice to Proceed or sooner in accordance with the duration(s) in Contractor’s bid. By executing a contract, the Contractor acknowledges that time is of the essence in the completion of work. After a two-week grace period following the Contract’s completion date, OSBM-DR may assess liquidated damages for each day after the grace period until Contractor completes the Project(s). The amount of liquidated damages to be assessed shall be \$150.00 per day, which Contractor shall pay OSBM-DR or OSBM-DR may deduct the amount of liquidated damages from the contract balance that may be due Contractor.

If the Contractor is delayed at any time in the progress of his work solely by a material breach of the contract by OSBM-DR (e.g., failure to make a progress payment), by changes ordered in the work; by abnormal weather conditions not reasonably anticipated for the locality where the work is performed; by unavoidable casualties; by any causes beyond the Contractor’s control; or by any other causes which OSBM-DR determine may justify the delay, then the contract time may be extended by change order only for the time which OSBM-DR may determine is reasonable.

Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity for the locality where work is performed. For purpose of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where work is performed. Contractor will have to provide documentation of the abnormal weather event and any time extension will be based on the number of days of actual abnormal weather events. Time extensions for weather delays, acts of God, labor disputes, fire, delays in transportation, unavoidable casualties or other delays which are beyond the control of the OSBM-DR do not entitle the Contractor to compensable damages for delays, but Contractor will be entitled to a

reasonable time extension.

3. **Payment Terms & Process:** Contractor's bid price shall include the costs for performing all the work set forth in the Notice of Contract Award.

A. Successfully Bidder will be required to complete a State Substitute W-9 form that OSBM-DR will provide with the notice of contract award, which will allow OSBM-DR to set up an account with the State of North Carolina that will permit electronic payments to Contractor.

B. A deposit up to 25% to cover the costs of permitting, delivery of equipment, installation of erosion control, and/or mobilization of Contractor and/or abatement subcontractor (if any). Notwithstanding the foregoing, the Contractor must have sufficient financial ability to finance its construction work and pay subcontractors for a minimum of 30 days.

C. OSBM-DR will make bi-weekly or monthly progress payments for actual work performed less 5% retainage and work not covered by the 25% deposit. Progress payments will be subject to confirmation of quality control progress inspections by OSBM and/or its representatives or agents to approve progress payments

Contract may use AIA G702 and G703 payment application or similar payment application form with a schedule of values. Contractor may contact OSBM-DR to obtain a sample copy of an approved AIA G702 & G703 payment application form. Contractor's first payment application must include a schedule of values (G703) showing a breakdown of the Contract Price into values of the various parts of the work, so arranged as to facilitate the review of the payments requested by Contractor and its subcontractors. The Contractor shall list the value of each subcontractor and supplier, identifying each minority business subcontractor and supplier.

The retainage will be released after local authority having jurisdiction completes final inspection and upon Contractor's request for final payment, which OSBM-DR will verify that all demolition work subject any erosion control measures that will remain at the Project site(s).

The Contractor, upon request of OSBM-DR, shall substantiate any request for payment with back-up documentation such as delivery tickets, dump receipts, invoices from subcontractors/suppliers, payroll documents, or other evidence.

D. Contractor's final payment application must include the following documents:

1. Completed Contract Closeout Checklist (to be provided by OSBM-DR at least 15 days prior to Completion Date stated in the Notice to Proceed)
2. List of Historically Underutilized Businesses used by Contractor on the Project(s).
3. Contractor shall make final payments to subcontractors and suppliers after it has received all warranties and guarantees required by the Scope of Work.
4. Contractor shall obtain release of liens from all subcontractors and suppliers for all labor, materials and/or equipment they furnished for the Project. The releases shall become effective when the subcontractor or supplier has received full payment from Contractor. Contractor shall agree to indemnify OSBM-DR for any release of liens that Contractor cannot obtain from its manufacturer, subcontractors and/or suppliers.
5. Contractor's Release of Liens and Claims.
6. Consent of Surety to final payment (if any payment or performance bond was required for the Project(s)).
7. Copy of AHJ's Demolition Permit and Documentation that Debris was disposed of at the appropriate landfill(s).

E. **Withholding of Payments:** The OSBM-DR may withhold payment for the following reasons:

1. Faulty work not corrected (including a failure to maintain erosion control or violation of Sediment Pollution Control Act).
2. Evidence of nonpayment to any subcontractor or supplier after 10 business days since OSBM-DR's payment to Contractor for the work subcontractor or supplier claim which is the subject of the claim of nonpayment.
3. To provide for sufficient contract balance to cover liquidated damages that will be assessed.

When grounds for withholding payments have been removed, payment will be released.

5. **Licensing & Bond Requirements:** To the extent bidder will use a general contractor to perform any work in setting up any on any lot, the general contractor must be properly licensed under Chapter 87, Article 1, General Statutes of North Carolina, and must have license classification for Limited, Intermediate, or Unlimited Construction.

Bidder or its general contractor must use properly North Carolina licensed subcontractors for the performance of electrical, plumbing, mechanical and HVAC (heating, ventilation and air conditioning), or as may be required by authority having jurisdiction (i.e., municipal and/or county building department).

6. **Insurance:**

Coverage. During the term of the awarded contract(s), the Bidder shall include in its bid prices the cost to provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract(s). At a minimum, the Contractor shall provide and maintain the following coverage and limits and obtain the required performance bond:

- a. **Worker's Compensation.** The Contractor's shall provide and maintain Worker's Compensation, as required by the laws of North Carolina, as well as employer's liability coverage with insurance minimum limits of \$500,000.00, covering all of Contractor's employees who are engaged in any work under this contract.
- b. **Commercial General Liability.** The Contractor's shall maintain General Liability Coverage on a Comprehensive Broad Form on a cost occurrence basis in the minimum amount of \$1,000,000.00 single limit and a combined/aggregate limit of \$2,000,000.00. Defense cost shall be in excess of the limit of liability.
- c. **Automobile.** The Contractor's shall maintain automobile liability insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with this contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$10,000.00 medical payment.
- d. **Deductible.** Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Bidder.

Requirements. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor and is of the essence of this Agreement. All such insurance shall meet all laws of the State

of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies. The limits of coverage under each insurance policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. The costs of premiums shall be included in the Contract Price and be reflected in the Contractor's schedule of values in its payment application as general condition costs.

Contractor represents to OSBM-DR that a certificate of insurance with all required insurance policies and limits has been provided prior to the issuance of the Notice to Proceed. **The Contractor shall provide a copy of the certificate of insurance to the OSBM-DR prior to mobilization of Contractor at any Project site.** If any personal injury or property damage or claim of such injury or damage should occur during demolition of the Project(s), the Contractor shall provide upon request of OSBM-DR, subcontractor, homeowner, any employee of an entity inspecting the property or providing architectural, engineering and/or land surveying services (including but not limited to State employees, employees of the AHJ), and/or any attorney representing an OSBM-DR a complete copy of any insurance policy that may provide coverage for the injury, damages and/or claim.

Notice. The State Tort Claims Act, N.C. Gen. Stat. §§ 143-291 et seq., may apply to any incident involving any State employees who may be at the Project site during construction for purposes performing DRA project management, grant monitoring/compliance and/or inspections, and he/she allegedly caused property damage to the Premises and/or personal injury to the OSBM-DR, any Contractor employee, any subcontractor employee, and/or any other person at the Project site.

7. **Dispute Resolution Goals and Scope.** The primary goal of the DRA program is to expedite the State's housing recovery efforts to counties that have needs that are not met by any federal disaster recovery programs. The DRA dispute resolution program will achieve the foregoing goal by fairly and timely addressing: changes in work; delays and requests for time extensions; DRA compliance issues; performance issues of Contractor and/or subcontractors; non-conforming or deficient work issues (quality control/quality assurance); payment and nonpayment issues; warranty issues within the first year (to the extent OSBM-DR is still implementing a DRA Housing Recovery Program); OSBM-DR's enforcement of contract requirements; action on or disposition of any audit finding; OSBM-DR complaints relating and/or arising out of the construction of the Project; and/or any other dispute or claim that arises from or relates to the Project that are not otherwise excluded below.

During such time as any dispute, issue or claim is being presented, heard, and considered pursuant to this Paragraph, this Agreement shall remain in full force and effect and the Contractor shall continue to perform work as directed in the Agreement.

All non-monetary and monetary claims, disputes or issues shall be disposed of in the following manner:

- (1) The claimant shall submit to OSBM-DR a short written statement or email of the claim, dispute or issue and/or attach the document reflecting or containing the claim, dispute or issue (e.g., rejected change order request, rejected request for time extension and a schedule narrative/time impact analysis supporting a delay claim, notice of deficiency or non-conforming work, request for information, unpaid invoice or payment application, audit finding, etc.). OSBM-DR shall investigate the claim, dispute or issue within seven (7) business days and the investigation may include but is not limited to: requesting a written response from any party to the claim, dispute or issue within this time period; and/or consult with other state agencies or retained subject matter

experts. OSBM-DR, at its discretion, may request a conference call or meeting with Contractor, manufacturer and/or subcontractor to discuss resolution of the claim, dispute or issue.

- (2) After the investigation, OSBM-DR shall issue a summary decision or recommendation resolving the claim, dispute or issue to the claimant and respondent(s). The claimant and respondent shall each notify in writing or by email of the response (acceptance or rejection) to the decision or recommendation. If the claimant and respondent accept the decision or recommendation, then the decision or recommendation shall be implemented by Contractor, OSBM-DR, and/or the designer.
- (3) If OSBM-DR's decision or recommendation does not resolve the dispute, the parties agree to hire mediator and follow the process for mediation set forth in the State Building Commission's Dispute Resolution Rules. If mediation does not result in a settlement of the dispute, the parties may seek to resolve the dispute with a North Carolina Court. If the claim will be against OSBM-DR then, pursuant to N.C. Gen. Stat. § 143-135.3, the action must be commenced in Wake County Superior Court and tried to the Court, or a contested case filed with the Office of Administrative Hearings.

All parties to this Agreement and DRA Housing Recovery Program grant award to OSBM-DR understand and acknowledge that the foregoing dispute resolution process is intended to be an informal settlement process of claims, disputes and issues. The parties are cautioned that OSBM-DR reserves the right to terminate this agreement for convenience, if the claimed proposed change order, proposed request for time extension/delay claim, and/or alleged damages for breach of contract will exceed any allocated contingency for the Project and DRA Housing Recovery Program funding cap for the OSBM-DR's Project type. Therefore, all parties are strongly encouraged to resolve all disputes, claims or issues as quickly as possible to avoid a termination of this Agreement for convenience.

8. Termination of Agreement

- a. **Termination for Convenience.** In general, OSBM-DR will provide notice to the Contractor to terminate this Contract for convenience by giving Contractor at least a three (3) day notice in writing and/or email to the Contractor, but may issue a notice with less time. OSBM-DR may exercise this option for any reason, however, OSBM-DR is more likely to terminate this Contract for any of the following situations: unknown environmental hazards are discovered on the Property or in the Premises; proposed changes, claims, mechanics liens against Owner's Property, and/or disputes and related damages are projected to exceed the grant funding for the Project OSBM-DR grant (including any contingency); delays or performance issues caused by circumstances beyond the control of the Contractor or OSBM-DR (e.g., sickness, death, employee turnover, etc.); verbal or written complaints of non-payment or late payment by any of the Contractor's subcontractors or suppliers; violation of safety measures, protocols or prohibitions at the Project site (e.g., possession of firearm, consumption of alcohol, etc.); relationship issues between Contractor and OSBM-DR or Contractor and Owner; federal, state or local agency notice or action that causes work to stop that was not caused by an act or omission of the Contractor and/or OSBM-DR; damage to the Property caused by a third-party or other natural disaster; or any issue or circumstance that necessitates the termination of the Contract for convenience rather than a termination for cause/default. The termination shall take effect 10 business days after the date of the notice, unless a short period is specified in the notice.

If this Agreement is terminated for convenience by OSBM-DR, the Contractor will be paid for all work properly performed and in place at the Project site as of the date of the termination and reasonable demobilization costs included in Contractor's general conditions in its payment application's schedule of values. OSBM-DR and/or County may deduct the cost for repairs or corrective work for the Contractor's work that was deficient, non-conforming to the construction

documents, not in compliance with the applicable building codes and/or local ordinances, and/or of poor quality. Unless the notice directs otherwise in the notice, the Contractor shall immediately stop placing of orders for materials, facilities and supplies for delivery to the Project. County/OSBM-DR may direct certain work be continued or performed until completed or a date certain, which may be beyond the 30-day transition period. A termination for convenience does not waive the rights of the Owner, State and/or County from asserting any contractual, legal or equitable remedies under any warranty/guarantee, or to recover damages for any breach of this Agreement.

b. **Termination for Cause/Default.** The Contractor and OSBM-DR agree and understand that OSBM-DR has the right to terminate grant funding of this Project should the Contractor default in performing its work and carrying out its responsibilities under this Agreement. Any of the following events or situations may give rise to a notice to the Contractor of the intent to termination this Agreement for cause or default:

1. Contractor is adjudged as bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed because of its insolvency;
2. Contractor materially fails pay its subcontractors or suppliers;
3. Contractor has materially and substantially breached the Contract; and
4. Contractor fails to so prosecute the Work as to ensure its completion by the Completion Date as extended by approved change order(s).

Procedures. OSBM-DR shall give Contractor and its surety (if any) a seven-day written notice, certified mail return receipt requested, to the last known business address of Contractor as well as by email, of the intent to terminate the Agreement for any cause set forth above. The seven-day notice shall provide Contractor with a date certain by which it must cure the stated causes for termination and that failure to do so by that date will allow OSBM-DR to terminate the Agreement without any further notices to cure. If Contractor fails to cure the stated causes for default by the specified date(s), then OSBM-DR shall notify Contractor and surety (if any) in writing that the Agreement has been terminated for cause/default and the surety (if any) has seven (7) days to take over completion of the Contract. OSBM-DR will take over completion of the Contract if there is no surety or surety declines to take over completion of the Project and OSBM-DR shall take possession of the Project site and of all materials, and/or equipment on the site which has been purchased and paid for by OSBM-DR. OSBM-DR shall also issue a change order deducting the cost thereof from the unpaid Contractor Amount including earned but unpaid retainage. The Contractor and its surety (if any) shall not be entitled to any further payment from OSBM-DR until all costs of completing the Work shall have been paid. If the unpaid balance of the Contract Price exceeds the costs of finishing the Work, such excess shall be paid to the Contractor or its Surety as applicable after final inspection and issuance of certificate of occupancy by AHJ, whichever is later. If such costs exceed the unpaid Contract Price, the Contractor or its surety shall pay the difference to OSBM-DR. If OSBM-DR sues the Contractor or Surety to recover the excess costs, then Contractor and Surety shall pay all litigation costs, liquidated damages and/or actual damages incurred by OSBM-DR in the successful recovery of such costs and/or damages, including reasonable attorney's fees.

Except further performance of the work and related contractual provisions, all other obligations of the Contractor shall survive the termination of the Contract, in particular auditing and DRA compliance.

9. **Contractor Evaluation:** The Contractor’s overall work performance on each assigned or awarded DRA Project shall be fairly evaluated by OSBM-DR in accordance with the State Building Commission (“SBC”) policy and procedures (included in the rules for the N.C. Department of Administration). The evaluations may be used by the Counties and OSBM-DR for bidding on future DRA projects and/or other state disaster recovery projects arising from Hurricane Florence or other subsequent natural disaster. Contractor’s shall have the right to appeal any evaluation to the SBC pursuant to the aforementioned policy and procedures.

10. **Gifts:** Pursuant to N.C. Gen. Stat. § 133-32, it is unlawful for any vendor or contractor to make gifts or to give favors to any State employee. This prohibition covers those vendors and contractors who: (1) have a contract with a governmental agency; or (2) have performed under such a contract within the past year; or (3) anticipate bidding on such a contract in the future. For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review N.C. Gen. Stat. § 133-32.

During the of the contract period, the Contractor and subcontractors are prohibited from making gifts to any employees of OSBM-DR and/or any other State employee from any other State Agency that may have any involvement, influence, responsibilities, oversight, management and/or duties that pertain to and/or relate to the contract administration, financial administration and/or disposition of claims arising from and/or relating to the Agreement and/or Project.

11. **North Carolina False Claims Act:** The North Carolina False Claims Act (“FCA”), N.C. Gen. Stat. § 1-605 through 1-618, applies to this Contract. The Contractor should familiarize itself with the FCA and should seek the assistance of an attorney if it has any questions regarding the FCA and its applicability to any requests, demands and/or claims for payment it submits to the State through the contracting state agency.

12. **Modification:** This Agreement or related construction documents may not be modified or amended in any manner except in an executed change order.

13. **Assignment:** This Agreement and any of the documents related hereto and the rights, duties, or obligations thereunder may not be assigned by the OSBM-DR or the Contractor without the written consent of OSBM-DR. Any assignment made without the written consent of the OSBM-DR shall be void and of no force or effect.

14. **Choice of Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

15. **Auditing Access to Person and Records:** In accordance with N.C. Gen. Stat. §147-64.7, State Auditor and/or the internal auditors for the County, OSBM-DR and/or DPS/NCCEM, shall have access to Contractor’s officers, employees, agents and/or other persons in control of and/or responsible for the Contractor’s records that relate to this Agreement for purposes of conducting audits under the referenced statute. Said auditors shall also have the right to access and copy the Contractor’s and its subcontractors’ and suppliers’ records relating to the Agreement and Project during the term of the Agreement and within three (3) years following the completion of the Project/close-out of the Agreement to verify accounts, accuracy, information, calculations and/or data affecting and/or relating to Contractor’s requests for payment, requests for change orders, change orders, claims for extra work, requests for time extensions; and/or claims.

16. **Notices.** Any notice to the OSBM-DR or Contractor required under this Agreement shall be served in person, email or by mail as set forth below.

For OSBM-DR	For Contractor
<p>Richard Trumper, Senior Construction Manager OSBM-DR MSC 20320 Raleigh, NC 27699-0320</p> <p>Physical Address: Dobbs Building 430 N. Salisbury Street, Room 2228 Raleigh, NC 27603</p> <p>Direct: 984 236-0735 Fax: 919-733-0640 Email: richard.trumper@osbm.nc.gov</p>	

17. **Entire Agreement:** This Agreement (inclusive of all documents identified herein) is between the OSBM-DR and the Contractor. The OSBM-DR and Contractor recognize and understand that this Agreement includes the DRA Program Policies and Procedures that are reference herein, Attachments hereto, and the construction documents constitute the entire Agreement and all prior agreements and/or oral representation/agreements are merged into this Agreement.