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CASS COUNTY COMMISSION

SEP 10 2019

MEMORANDUM

**Highway
Department**

Jason Benson, P.E.
County Engineer

Thomas B. Soucy, P.E.
Deputy County Engineer

Blaine Laaveg
Superintendent

TO: Cass County Commission

FROM: Jason Benson, Cass County Engineer *JB*

DATE: September 9, 2019

SUBJECT: Consent Agenda Item for September 16th, 2019 Commission Meeting: NDDDES Public Assistance Subgrant Agreement for FEMA-4444-DR

Following the spring flood of 2019, a Presidential Disaster Declaration was given. The Disaster Declaration Number for this flood is FEMA-4444-DR and Cass County serves as a Subrecipient. The attached Subgrant Agreement provides the roles and responsibilities of both NDDDES and Cass County. This agreement is needed to ensure grant funding can be provided to Cass County for the 2019 flood disaster.

SUGGESTED MOTION: Authorize chairperson to sign the NDDDES Public Assistance Subgrant Agreement for FEMA-4444-DR.

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395

September 5, 2019

Cass (County)
Attn: Jason Benson, County Engineer
1201 West Main Ave.
West Fargo, ND 58078

RE: Public Assistance Subgrant Agreement for FEMA-4444-DR

Dear Jason Benson:

Enclosed please find the North Dakota Department of Emergency Services (NDDDES) Public Assistance Subgrant Agreement for FEMA-4444-DR. This agreement articulates the roles and responsibilities of NDDDES and your entity.

Please review this document carefully and provide the required information on pages 14 and 16. This document should be signed by your entity's Chief Elected Officer or in the case of non-governmental entities, an executive with the authority to enter into contracts. Please make a copy for your records and return the original to **NDDDES, Attn: Nadine Jundt, PO Box 5511, Bismarck, ND, 58506**. Grant funding will not be provided until this agreement is received and the information verified.

If you should have any questions regarding the Public Assistance Grant Program, please contact Randy Reimer at (701) 328-8262.

Sincerely,



Justin Messner
Disaster Recovery Chief
ND Department of Emergency Services

Enclosures: Public Assistance Subgrant Agreement for FEMA-4444-DR



Doug
Burgum
GOVERNOR

Major General
Alan S. Dohrmann
DIRECTOR - DEPARTMENT
OF EMERGENCY SERVICES

Cody
Schulz
DIRECTOR - DIVISION
OF HOMELAND SECURITY

Daniel
Donlin
DIRECTOR - DIVISION
OF STATE RADIO

Ensuring a safe and secure homeland for all North Dakotans



STATE OF NORTH DAKOTA
DEPARTMENT OF EMERGENCY SERVICES

DOUG BURGUM

Governor

Major General Alan S. Dohrmann

Director – Department of Emergency Services

Cody Schulz

Director - Division of Homeland Security

Justin Messner

Disaster Recovery Chief

CFDA Title and Number: Disaster Grants – Public Assistance, 97.036

Disaster Declaration Number: FEMA-4444-DR

Subrecipient: Cass (County)

**Public Assistance Grant Program Subgrant Agreement
for
FEMA-4444-DR**

This Agreement is between the State of North Dakota, Department of Emergency Services (Grantee) and, the undersigned state agency, political subdivision of the state, private nonprofit organization, or federally recognized Tribal Nation or authorized tribal organization (Subrecipient). This Agreement is based on the existence of the following facts and conditions:

- A. WHEREAS, President Donald Trump issued a major disaster declaration (FEMA-4444-DR) for the State of North Dakota. The declaration authorized Public Assistance, as well as federal monies under the Hazard Mitigation Grant Program for counties designated eligible in the Federal Emergency Management Agency (FEMA)-State Agreement; and
- B. WHEREAS, the Grantee represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein and agrees to comply with all the requirements of this Agreement; and

- C. WHEREAS, pursuant to the North Dakota Disaster Act of 1985 as amended, the Grantee has authority to administer federal financial assistance from the FEMA consequent to a presidential declaration of disaster.
- D. WHEREAS, Subrecipient has the legal authority to accept public assistance funds and shall provide all necessary financial and managerial resources to meet the terms and conditions of receiving federal and state public assistance funds.

NOW, THEREFORE, the Grantee and Subrecipient, based upon the existence of the foregoing conditions, do further agree to the following:

ARTICLE I. Definitions. As used in this Agreement, the following terms shall have the following meanings unless another meaning is specified elsewhere:

- A. "Eligible activities" are those activities authorized in the FEMA-State Agreement, and in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C §§ 5121-5207 (Stafford Act); in accordance with 44 CFR § 206.44; and applicable policies of the FEMA.
- B. "FEMA-State Agreement" is the agreement between the FEMA and the State of North Dakota, for a presidential major disaster declaration designated FEMA-4444-DR.

ARTICLE II. Applicable Law. The parties agree to all the conditions, obligations, and duties imposed by the FEMA-State Agreement and all applicable state and federal legal requirements including, without any limitation on the generality of the foregoing, the requirements of Title 2 of the Code of Federal Regulations (CFR) Part 200, 44 CFR Part(s) 13 and 206, and the policies of the FEMA. The Subrecipient further agrees to comply with the Statement of Assurances attached hereto as Attachment A.

ARTICLE III. Funding and Insurance. Grantee shall provide funds to the Subrecipient for eligible activities for the projects approved by the Grantee and the FEMA, as specified in the approved Project Worksheets. The federal allowable costs shall be determined as per 2 CFR Part 200, which shall be seventy-five percent of all eligible costs unless a higher percentage is approved.

- A. The approved Project Worksheets shall be transmitted to Subrecipient, and shall state the cumulative funding allowed, the scope of the eligible project, and the costs eligible under this Agreement. Project Worksheets may obligate or deobligate funding, thereby amending the total funding for the project. The approved Project Worksheets shall document the total eligible costs and the total federal share of those costs, which shall be seventy-five percent of all eligible costs, unless a higher percentage is approved. Contingent upon an appropriation by the State Legislature, the Grantee may provide some portion of any nonfederal share for some subrecipients. As a condition of receipt of the federal funding, the Subrecipient agrees to provide any nonfederal share not paid by the Grantee.
- B. If the Subrecipient is required to repay the Grantee funds already disbursed by the Grantee, the Subrecipient will have 60 days to reimburse the full amount. If Subrecipient has not reimbursed the grantee the full amount within the 60 days, the Grantee will have all the rights and remedies available to them by law; including, but not limited to, the withhold of future fund disbursement to off-set amount due to Grantee.
- C. As a further condition to funding under this Agreement, the Subrecipient agrees to procure insurance sufficient for the type or types of hazards for which the disaster was declared to cover any and all projects to be funded under this Agreement where insurance is available and reasonable. Subrecipient shall provide Grantee with a certificate of such insurance as a condition to funding under this Agreement.

ARTICLE IV. Duplication of Benefits Prohibition. Subrecipient may not receive funding under this Agreement to pay for damage covered by insurance, nor may Subrecipient receive any other duplicate benefits under this Agreement.

- A. Without delay, Subrecipient shall advise Grantee of any insurance coverage for the damage identified on the applicable Project Worksheets and of any entitlement to compensation or indemnification from such insurance. All such duplicate benefits are “ineligible costs” which the Subrecipient shall reimburse to the Grantee without delay. The Subrecipient shall also reimburse the Grantee if the Subrecipient receives any duplicate benefits from any other source for any damage identified on the applicable Project Worksheets for which Subrecipient has received payment from Grantee.
- B. In the event that Grantee should determine that Subrecipient has received duplicate benefits, by its execution of this Agreement the Subrecipient gives Grantee the authority to set off the sum of any such duplicate benefits by withholding it from any other funds otherwise due and owing to Subrecipient, or to use such remedies available at law or equity to the repayment of said sums to Grantee.

ARTICLE V. Compliance with Environmental, Planning and Permitting Laws. Subrecipient shall be responsible for the implementation and completion of the approved projects described in the Project Worksheets in a manner acceptable to Grantee, and in accordance with applicable legal requirements. The contract documents for any project undertaken by Subrecipient, and any land use permitted by or engaged in by Subrecipient, shall be consistent with the local ordinances and State law. Subrecipient shall ensure that any development or development order complies with all applicable planning, permitting and building requirements. Subrecipient shall engage such competent, properly licensed engineering, building, and other technical and professional assistance at all project sites as may be needed to ensure that the project complies with the contract documents.

ARTICLE VI. Subrecipient Risk Assessment. As required by 2 CFR § 200.331 NDDDES will complete a Financial Assistance Recipient Risk Assessment rating form for every subrecipient receiving an award to evaluate their potential risk of non-compliance. Subrecipients will be evaluated on factors such as their prior experience with the same or similar subawards, results of previous audits including whether or not they received a Single Audit and the extent to which the same or similar subaward has been audited as a major program; if they have new personnel or new or substantially changed systems, and the extent and results of Federal awarding agency monitoring.

A Risk Assessment will be completed immediately prior to executing this Subgrant Agreement. All new and existing active subrecipients will be rated upon new disaster and program funding opportunities. The Business Manager will work with the Public Assistance Officer (PAO), or assigned staff, to jointly complete the risk assessment and score subrecipients, as applicable. Results of the Risk Assessment may result in the imposition of specific conditions as allowed in 2 CFR § 200.207, and will be identified within Attachment B of this Subgrant Agreement.

Every January, or as needed, NDDDES will re-evaluate all subrecipient Risk Assessments. Based on overall compliance with project requirements and any issues noticed therein, an updated Financial Assistance Recipient Risk Assessment will be completed and subrecipients can be upgraded or removed from low, medium or high risk status. If a subrecipient is non-compliant with the additional requirements of a subaward due to being considered high risk, the subaward and all federal and state monies can be deobligated at the request of NDDDES. Upon deobligation due to non-compliance, a subrecipient will be considered high risk in perpetuity.

ARTICLE VII. Required Documentation, Reviews, and Inspections. Subrecipient shall create and maintain documentation of work performed and costs incurred sufficient to permit a formal audit comporting with ordinary, customary and prudent public accounting requirements. Upon the failure of Subrecipient to create and maintain such documentation, Grantee may terminate further funding under this Agreement, and Subrecipient shall reimburse to Grantee (within 60 days) all payments disbursed earlier to Subrecipient, together with any and all accrued interest.

- A. For all Small Projects and in accordance with the NDDDES Public Assistance Small Project Monitoring Policy, Grantee will inspect Small Projects by random selection. After inspection Subrecipient shall submit a signed "Public Assistance Small Project Funding Certification".
- B. For all Large Projects, Grantee will conduct final inspections to ensure that all work has been performed within the scope of work specified on the Project Worksheets. Costs not within the approved scope of work shall not be reimbursed.
- C. Subrecipient shall submit the following documentation for Large Projects (the Large Project threshold for this declaration is \$128,900).
 - 1. a request for reimbursement;
 - 2. a summary of documentation, which shall be supported by original documents such as contract documents, invoices, purchase orders, change orders, and proof of payment;
 - 3. a request for project closeout;

ARTICLE VIII. Cost Sharing. The federal share of the eligible costs specified in the Project Worksheets under this Agreement shall be seventy five (75) percent of such costs, unless a higher percentage is approved, and the nonfederal share shall be the remaining amount. Payment of all or a specified portion of the nonfederal share of such costs is contingent upon a potential future State appropriation defining the apportionment of the nonfederal share. Subrecipient commits to meet any local matching funds required for successful project completion. Subrecipient also certifies that any matching funds borne by the Subrecipient will come from a nonfederal source as required by 2 CFR 200.306

ARTICLE IX. Payment of Costs. Grantee shall disburse the eligible costs to Subrecipient in accordance with the following procedures:

- A. Grantee shall disburse the federal and nonfederal shares of the eligible costs for Small Projects to Subrecipient as soon as practicable after execution of this Agreement and formal notification by FEMA of its approval of the pertinent Project Worksheet.
- B. Grantee shall reimburse Subrecipient for ninety percent of the federal share of the eligible costs for Large Projects as soon as practicable after Subrecipient has delivered the following documents to Grantee:
 - 1. a Request for Reimbursement
 - 2. a summary of documentation, which shall be supported by original documents such as contract documents, invoices, purchase orders, change orders, and proof of payment;
 - 3. Certification that the reported costs were incurred in the performance of eligible work.
- C. Grantee may advance funds under this Agreement to Subrecipient not exceeding the federal share if Subrecipient meets the following conditions:
 - 1. Subrecipient shall certify to Grantee that Subrecipient has procedures in place to ensure that funds are disbursed to project vendors, contractors, and subcontractors without unnecessary delay;

2. Subrecipient shall submit to Grantee the budget supporting the request;
 3. Subrecipient shall submit a statement justifying the advance and the proposed use of the funds and specifying the amount of funds requested; and
 4. Subrecipient shall pay over to Grantee any interest earned on advances for remittance to the FEMA as often as practicable, but not later than ten (10) business days after the close of each calendar quarter.
- D. Grantee may, in its discretion, pay some or its entire portion of the nonfederal share when the NDDDES Director, Division of Homeland Security, authorizes such payments.
- E. Grantee may, in its discretion, withhold its portion of the nonfederal share of funding under this Agreement from Subrecipient if Grantee has reason to expect a subsequent unfavorable determination by the FEMA that a previous disbursement of funds under this Agreement was improper.

Memorandum of Agreement Between County and Township. In order for a County to assume legal authority to act as the subrecipient on behalf of a Township for the administration of the federal Public Assistance (PA) Program following a Presidential Disaster Declaration, there must be a completed Memorandum of Agreement between the two jurisdictions on file with NDDDES.

No payment of Federal or state funds will be made to a county on behalf of a township until a completed Memorandum of Agreement is submitted to NDDDES.

ARTICLE X. Final Payment. Grantee shall disburse the final payment to Subrecipient upon the performance of the following conditions:

- A. Subrecipient shall have requested final reimbursement;
- B. Subrecipient shall have submitted the documentation specified in Articles VII and VIX of this Agreement;
- C. Subrecipient shall have completed the project to the satisfaction of the Grantee;
- D. In the case of Large Projects, the Grantee shall have performed the final inspection; or
- E. In the case of Small Projects, the NDDDES Small Project Monitoring Team shall have performed a compliance review; and
- F. When necessary, FEMA Closeout shall be completed.

ARTICLE XI. Records Maintenance. The funding of eligible costs under this Agreement and the performance of all other conditions shall be subject to the following requirements, in addition to such other and further requirements as may be imposed by operation of law:

- A. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as codified in 2 Code of Federal Regulations Part 200, as amended.
- B. Office of Management and Budget Circular No. A-87, "Cost Principles for State and Local Governments," as amended.
- C. Office of Management and Budget Circular No. A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," as amended.
- D. Office of Management and Budget Circular No. A-122, "Cost Principles for Non-Profit Organizations," as amended.
- E. Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement, as well as the compliance of all subcontractors or consultants paid from funds under this Agreement for a period of three years from the date of formal notification from the Grantee that FEMA has officially closed the disaster program. The Subrecipient shall allow the Grantee or its designee, the Comptroller General of the United States, FEMA,

and the North Dakota State Auditor's Office, access to records upon request. The three year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the three year period expires, and extend beyond the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
 2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for five years after final disposition.
 3. Records relating to real property acquired shall be retained for five years after the closing on the transfer of title.
- F. The Subrecipient shall maintain all records for the Subrecipient and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives under this Agreement and all other applicable laws and regulations.
- G. The Subrecipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Grantee, its employees, and agents. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Grantee.

ARTICLE XII. Reimbursement of Funds. If upon final inspection, final audit, or other review by Grantee, the FEMA or other authority determines that the disbursements to Subrecipient under this Agreement exceed the eligible costs, Subrecipient shall reimburse to Grantee the sum by which the total disbursements exceed the eligible costs within sixty (60) days from the date Subrecipient is notified of such determination. If Subrecipient has not reimbursed the grantee the full amount within the 60 days, the Grantee will have all the rights and remedies available to them by law; including, but not limited to, the withhold of future fund disbursement to off-set amount due to Grantee.

ARTICLE XIII. Repayment by Subrecipient. All refunds or repayments due to the Grantee under this Agreement are to be made payable to the order of "North Dakota Department of Emergency Services" and mailed directly to the following address: **PO Box 5511, Bismarck, ND, 58506.**

ARTICLE XIV. Audit.

- A. The Subrecipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.
- B. These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Grantee. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.
- C. The Subrecipient shall also provide the Grantee or its designee with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.
- D. If a Subrecipient is a state or local government or a non-profits organization as defined in OMB Circular A-133, as revised, and if the Subrecipient expends \$500,000 or more, then the Subrecipient shall have a single or program specific audit conducted which meets the

requirements of the Single Audit Act of 1984, 31 U.S.C. ss. 7501-7507, OMB Circular A-133 Part .200 for the purposes of auditing and monitoring the funds awarded under this Agreement. In connection with the aforementioned audit requirement, the Subrecipient shall fulfill for auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

- E. If the Subrecipient spends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provision of OMB Circular A-133, as revised, is not required. In the event the Subrecipient expends less than \$500,000 in federal awards in its fiscal year and chooses to have an audit conducted in accordance with OMB Circular A-133 Part .200, as revised, the cost of the audit must be paid from nonfederal funds.
- F. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Subrecipient shall be held liable for reimbursement to the Grantee of all funds not spent in accordance with these applicable regulations and Agreement provisions within sixty (60) days after the Grantee has notified the Subrecipient of such non-compliance.
- G. If required, the audit is due nine (9) months after the end of the fiscal year of Subrecipient.
- H. If audit is conducted as required by subsection D. above, the Subrecipient shall submit the data collection form and one copy of the reporting package to the Federal Audit Clearinghouse at the following address: **Federal Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132**. If the audit documents any finding or questioned costs, Subrecipient shall submit a copy of the reporting package to the State at the following address:

ND Department of Emergency Services
PO Box 5511
Bismarck ND 58506

ARTICLE XV. Noncompliance. If the Subrecipient violates this Agreement or any legislation, regulation, statute, rule or other legal requirement applicable to the performance of this Agreement, the Grantee may withhold any disbursement otherwise due Subrecipient for the project with respect to which the violation has occurred until the violation is cured or has otherwise come to final resolution. If the violation is not cured, Grantee may terminate this Agreement and invoke its remedies under the Agreement as per the Articles of this Agreement.

ARTICLE XVI. Nondiscrimination by Contractors. Pursuant to 44 CFR Parts 7 and 16, and 44 CFR Part 206.36, the Subrecipient shall undertake an active program of nondiscrimination in its administration of disaster assistance under this Agreement. Subrecipient shall also be subject to the requirements in the General Services Administrative Consolidated List of Debarred, Suspended and Ineligible Contractors, in accordance with 44 CFR Part 17.

ARTICLE XVII. Modification. A modification extending the time for completion of the project and any other modification shall be in writing, and shall take effect only upon execution by both parties. Modifications to any Project Worksheet to be funded under this Agreement may be requested by Subrecipient through Grantee, but the approval of any such modifications shall reside in the sole discretion of the Federal Emergency Management Agency. Any approved modification to a Project Worksheet shall be noted in an additional Project Worksheet version for the project and in any amendment to this Agreement. If otherwise allowed under this Agreement, any extension shall be in writing and shall be subject to the same terms and conditions as those set out in the initial Agreement.

ARTICLE XVIII. Time for Performance. Subject to any modification extending the time for the performance of this Agreement approved by Grantee or the FEMA, the time for the performance of emergency work shall be six (6) months from the date of the Presidential Declaration. The time for the performance of permanent work shall be eighteen (18) months from the date of the Presidential Declaration. The time for the performance of this Agreement may be extended for cause by Grantee. Extensions shall not be approved for delays caused by lack of cost-share funding. If any extension request is denied, Subrecipient shall be reimbursed for eligible project costs incurred up to the latest approved date for timely completion. Failure to complete any project will be adequate cause for the termination of funding for that project.

ARTICLE XIX. Contracts with Others. If the Subrecipient contracts with any other contractor or vendor for performance of all or any portion of the work required under this Agreement, the Subrecipient shall incorporate into its contract with such contractor or vendor an indemnification clause holding Grantee and Subrecipient harmless from liability to third parties for claims asserted under such contract.

ARTICLE XX. Termination. Either of the parties may terminate this Agreement by notice in writing. Such termination shall take effect thirty (30) days after the date of such notice. Such termination shall not affect the rights, interests, duties or responsibilities of either of the parties or any allowable costs that have accrued as of the date of the notice of termination.

ARTICLE XXI. Liability. Grantee assumes no liability to third parties in connection with this agreement. The Subrecipient shall be solely responsible to any and all contractors, vendors, and other parties with whom it contracts in performing this Agreement. Unless the Subrecipient is a political subdivision under NDCC 32-12.2-13, the Subrecipient shall defend, indemnify and hold harmless Grantee from claims asserted by third parties in connection with the performance of this Agreement. Contractors hired by a Subrecipient, including political subdivisions, shall be required to agree in writing to defend, indemnify and hold the State of North Dakota harmless for any claims arising out the contractor's or any subcontractor's performance under the agreement. For the purposes of this Agreement, the Grantee and Subrecipient agree that neither one is an employee or agent of the other, but that each one stands as an independent entity in relation to one another. Nothing in this Agreement shall be construed as a waiver by the Grantee or Subrecipient of any legal immunity, nor shall anything in this Agreement be construed as consent by either of the parties to be sued by third parties in connection with any matter arising from the performance of this Agreement. Subrecipient represents to the best of its knowledge any hazardous substances at its projected site or sites are present in quantities within statutory and regulatory limitations, and do not require remedial action under any federal, state or local legal requirements concerning such substances, Subrecipient further represents that the presence of any such substance or any condition at the site caused by the presence of any such substance shall be addressed in accordance with all applicable legal requirements.

ARTICLE XXII. Reports. Grantee is required to submit a Large Project Quarterly Report to FEMA for Large Projects for which a FEMA Large Project Closeout has not been completed. The progress report will include: the status of the project, such as "in design" or "percentage of construction completed"; time extensions granted, if any; a projected completion date; the amount of expenditures and amount of payment for each project; and any problems or circumstances that could delay the project or result in noncompliance with the conditions of the FEMA approval. When the FEMA Large Project Closeout for each large project is complete, the project may be dropped from the report. Periodically, Grantee may request information or reports from the Subrecipient for inclusion in the Large Project Quarterly Report. Subrecipient is required to provide

information or reports as soon as practicable after requested. Interim inspections may be scheduled by Subrecipient before the final inspection, and may be required by Grantee. Grantee may require additional reports as needed, and Subrecipient shall provide any additional reports requested by Grantee as soon as practicable.

ARTICLE XXIII. Monitoring. The Subrecipient shall monitor its performance under this Agreement, as well as that of its subcontractors, Subrecipients and consultants who are paid from funds provided under this Agreement, to ensure that performance under this Agreement are achieved and satisfactorily performed and in compliance with applicable state and federal laws and rules.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised), monitoring procedures may include, but not be limited to, on-site visits by Grantee staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with all monitoring procedures/processes deemed appropriate by the Grantee. In the event that the Grantee determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the Grantee to the Subrecipient regarding such audit. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Comptroller or Auditor General. In addition, the Grantee will monitor the performance and financial management by the Subrecipient throughout the contract term to ensure timely completion of all tasks.

ARTICLE XXIV. Mandated Conditions. Subrecipient agrees to the following conditions:

- A. The performance and obligation of Grantee to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
- B. Bills for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper pre-audit and post-audit.
- C. Grantee may unilaterally terminate this Agreement for refusal by the Subrecipient or its contractors or subcontractors to allow public access to all documents, papers, letters or other material, that are made or received by Subrecipient or its contractors and subcontractors in connection with this Agreement.
- D. Subrecipient agrees that no funds or other resources received from the Grantee disbursed to it under this Agreement will be used directly or indirectly to influence legislation or any other official action by the North Dakota Legislature or any state agency.
- E. Subrecipient certifies that it possesses the legal authority to receive the funds under this Agreement and that it's governing body (if applicable) has authorized the execution and acceptance of this Agreement. The Subrecipient also certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement.
- F. Subrecipient agrees that responsibility for compliance with this Agreement rests with Subrecipient, and further agrees that noncompliance with this Agreement shall be cause for the rescission, suspension or termination of funding under this Agreement, and may affect eligibility for funding under future Subrecipient Agreements.
- G. The Grantee will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Subrecipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Department.

- H. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.
- I. The Subrecipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.
- J. With respect to any Subrecipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, by signing this Agreement, the Subrecipient certifies, to the best of its knowledge and belief, that it and its principals:
1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
 2. have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for:
 - a) The commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction.
 - b) Violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c) Have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Subrecipient is unable to certify to any of the statements in this certification, such Subrecipient shall attach an explanation to this Agreement. In addition, the Subrecipient shall submit to the Grantee (by email or facsimile) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" for each prospective subcontractor which Subrecipient intends to fund under this Agreement. See Attachment B. Such form must be received by the Grantee prior to the Subrecipient entering into a contract with any prospective subcontractor.

- K. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Subrecipient in this Agreement, in any subsequent submission or response to Grantee request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Subrecipient, cause the termination of this Agreement and the release of the Grantee from all its obligations to the Subrecipient.
- L. This Agreement shall be construed under the laws of the State of North Dakota, and venue for any actions arising out of this Agreement shall lie in Burleigh County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then

such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

- M. The Subrecipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:
1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid or will be paid 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 3. The undersigned shall require that the language 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 sub grantees shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- O. All unmanufactured and manufactured articles, materials and supplies which are acquired for public use under this Agreement have been produced in the United States as required 41 U.S.C. 10a, unless it would not be in the public interest or unreasonable in cost.

ARTICLE XXV. Term. This Agreement shall take effect upon its execution by both parties, and shall terminate upon approval of closeout by the FEMA, unless terminated earlier as specified elsewhere in this Agreement. Subrecipient shall commence approved project(s) specified by this Agreement without delay.

ARTICLE XXVI. Events of Default, Remedies, and Termination.

- A. Upon the occurrence of any one or more of the following events, all obligations of Grantee to disburse further funds under this Agreement shall terminate at the option of Grantee. Notwithstanding the preceding sentence, Grantee may at its option continue to make payments or portions of payments after the occurrence of any one or more such events without waiving the right to exercise such remedies and without incurring liability for further payment. Grantee may at its option terminate this Agreement and any and all funding under this Agreement upon the occurrence of any one or more of the following:
1. Any representation by Subrecipient in this Agreement is inaccurate or incomplete in any material respect, or Subrecipient has breached any condition of this Agreement with Grantee and has not cured in timely fashion, or is unable or unwilling to meet its obligations under this Agreement.

2. Subrecipient suffers any material adverse change in its financial condition while this Agreement is in effect, as compared to its financial condition as represented in any reports or other documents submitted to Grantee, if Subrecipient has not cured the condition within thirty (30) days after notice in writing from Grantee.
 3. Any reports required by this Agreement have not been submitted to Grantee or have been submitted with inaccurate, incomplete, or inadequate information.
 4. The monies necessary to fund this Agreement are unavailable due to any failure to appropriate or other action or inaction by the State Legislature, Congress or Office of Management and Budget.
- B. Upon the occurrence of any one or more of the foregoing events, Grantee may at its option give notice in writing to Subrecipient to cure its failure of performance if such failure may be cured. Upon the failure of Subrecipient to cure, Grantee may exercise any one or more of the following remedies:
1. Terminate this Agreement upon not less than fifteen (15) days notice of such termination by certified letter to the Subrecipient, such notice to take effect when delivered to Subrecipient;
 2. Commence a legal action for the judicial enforcement of this Agreement;
 3. Withhold the disbursement of any payment or any portion of a payment otherwise due and payable under this agreement or any other agreement with Subrecipient; and
 4. Take any other remedial actions that may otherwise be available under law.
- C. Grantee may terminate this Agreement for any misrepresentation of material fact, for failure or nonperformance of any Agreement condition or obligation, or for noncompliance with any applicable legal requirement.
- D. Any deobligation of funds or other determination by the FEMA shall be addressed in accordance with the regulations of that Agency.
- E. Upon the rescission, suspension or termination of this Agreement, the Subrecipient shall refund to Grantee all funds disbursed to Subrecipient under this Agreement.
- F. The venue of any action or proceeding by either Grantee or Subrecipient for enforcement of this Agreement or for adjudication rights, interest, or duties of the parties to it shall lie in South Central District Court, Burleigh County, North Dakota.
- G. Notwithstanding anything to the contrary elsewhere in this Agreement, the rescission, suspension or termination of this Agreement by Grantee shall not relieve Subrecipient of liability to Grantee for the restitution of funds advanced to Subrecipient under this Agreement, and Grantee may set off any such funds by withholding future disbursements otherwise due Subrecipient under this Agreement or any other Agreement until such time as the exact amount of restitution due Grantee from Subrecipient is determined. In the event the FEMA should deobligate funds formerly allowed under this Agreement or under any other Agreement funded by the Agency and administered by Grantee, then Subrecipient shall immediately repay such funds to Grantee. If the Subrecipient fails to repay any such funds, then Grantee may recover the same from funding otherwise due Subrecipient.

ARTICLE XXVII. Attachments.

- A. All attachments to this Agreement are incorporated into this Agreement by reference as if set out fully in the text of the Agreement itself.
- B. In the event of any inconsistencies between the language of this Agreement and the Attachments to it if any, the language of the Attachments shall be controlling, but only to the extent of such inconsistencies.

Note: All other grant administrative and electronic forms will be provided by Grantee as necessary or posted on the North Dakota Department of Emergency Services website: <http://www.nd.gov/des/>.

ARTICLE XXVIII. Notice and Contact. All notices under this Agreement shall be in writing and shall be delivered by email, by facsimile, by hand, or by letter to the following respective addresses:

Grantee:

Department of Emergency Services
Justin Messner, Disaster Recovery Chief
PO Box 5511
Bismarck, ND 58506
Email: jmessner@nd.gov

Subrecipient:

Cass (County)
Jason Benson, County Engineer
1201 West Main Ave.
West Fargo, ND 58078
Email: bensonj@casscountynd.gov

ARTICLE XXIX. Designation of Agent. Subrecipient hereby designates the following agents to execute any Request for Advance or Reimbursement, certification, or other necessary documentation:

Primary Agent

Alternate Agent

Jason Benson, Engineer
Name and Title

Wyatt Papenfuss, Accountant
Name and Title

701-298-2370
Phone Number

701-241-5603
Phone Number

bensonj@casscounty.nd.gov
E-mail

papenfussw@casscounty.nd.gov
E-mail

STATE OF NORTH DAKOTA
DEPARTMENT OF EMERGENCY SERVICES

SIGNATURE PAGE

PUBLIC ASSISTANCE GRANT PROGRAM SUBGRANT AGREEMENT
FOR
(FEMA-4444-DR)

IN WITNESS HEREOF, the Grantee and Subrecipient have executed this Agreement:

FOR THE GRANTEE:

DEPARTMENT OF EMERGENCY SERVICES

Justin Messner – Disaster Recovery Chief

Date

STATE OF NORTH DAKOTA
DEPARTMENT OF EMERGENCY SERVICES

SIGNATURE PAGE

PUBLIC ASSISTANCE GRANT PROGRAM SUBGRANT AGREEMENT
FOR
(FEMA-4444-DR)

IN WITNESS HEREOF, the Grantee and Subrecipient have executed this Agreement:

FOR THE SUBRECIPIENT:

Name and Title

Signature

Date

Federal Employer Identification Number (FEIN): _____

DUNS Number: _____

ATTACHMENT A

Statement of Assurances

To the extent the following provisions apply to this Agreement, the Subrecipient agrees to comply with the following:

1. Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327 et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week.
2. Federal Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
3. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Subrecipient receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to the Subrecipient, this assurance shall obligate the Subrecipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.
4. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C.: 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualified handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973.
5. Executive Order 11246 as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship.
6. It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Section 51 which outlaws and prescribes penalties for "kickbacks" of wages in federally financed or assisted construction activities.
7. It will comply with the provisions of 18 USC 594, 598, 600-605 (further known as the Hatch Act) which limits the political activities of employees.
8. It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973 as amended, 42 USC 4002-4107, including requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate,

subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance.

9. It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the "Uniform Federal Accessibility Standards," (AS) which is Appendix A to 41 CFR Section 101-19.6 for general type buildings and Appendix A to 24 CFR Part 40 for residential structures. The Subrecipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
10. It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (U.S.C. 470), Executive Order 11593, 24 CFR Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et seq.) by:
 - a) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Section 800.8) by the proposed activity.
 - b) Complying with all requirements established by the state to avoid or mitigate adverse effects upon such properties.
 - c) When any of Subrecipient's projects funded under this Agreement may affect a historic property, as defined in 36 CFR 800. (2)(e), the FEMA may require Subrecipient to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the recommended approaches set out in the "Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards), the Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines) (48 Federal Register 44734-37)," or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the Standards, Subrecipient agrees to participate in consultations to develop, and, after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.
 - d) Subrecipient agrees to notify FEMA and the Grantee if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation for footings and foundations; and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise Subrecipient on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery of archeological data from the property. If Subrecipient is unable to avoid the archeological property, develop, in consultation with the SHPO, a treatment plan consistent with the Guidelines and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties." Subrecipient shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do

not object within 15 calendar days of receipt of the treatment plan, FEMA may direct Subrecipient to implement the treatment plan. If either the Council or the SHPO object, Subrecipient shall not proceed with the project until the objection is resolved.

- e) Subrecipient shall notify the Grantee and FEMA as soon as practicable: (i) of any changes in the approved scope of work for a National Register eligible or listed property; (ii) of all changes to a project that may result in a supplemental DSR or modify an HMGP project for a National Register eligible or listed property; (iii) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner. Subrecipient acknowledges that FEMA may require Subrecipient to stop construction in the vicinity of the discovery of a previously unidentified property that may be eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. Subrecipient further acknowledges that FEMA may require Subrecipient to take all reasonable measures to avoid or minimize harm to such property until FEMA concludes consultation with the SHPO. Subrecipient also acknowledges that FEMA will require, and Subrecipient shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.
 - f) Subrecipient acknowledges that, unless FEMA specifically stipulates otherwise, it shall not receive funding for projects when, with intent to avoid the requirements of the NHPA, Subrecipient intentionally and significantly adversely affects a historic property, or having the legal power to prevent it, allowed such significant adverse affect to occur.
11. It will comply with Title IX of the Education Amendments of 1972, as amended (20 U.S.C.: 1681-1683 and 1685 - 1686) which prohibits discrimination on the basis of sex.
 12. It will comply with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (42 U.S.C. 4521-45-94) relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
 13. It will comply with 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 14. It will comply with Lead-Based Paint Poison Prevention Act (42 U.S.C.: 4821 et seq.) which prohibits the use of lead based paint in construction of rehabilitation or residential structures.
 15. It will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. 6201-6422), and the provisions of the state Energy Conservation Plan adopted pursuant thereto.
 16. It will comply with the Laboratory Animal Welfare Act of 1966, 7 U.S.C. 2131-2159, pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by an award of assistance under this agreement.
 17. It will comply with Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 2000c and 42 3601-3619, as amended, relating to non-discrimination in the sale, rental, or financing of housing, and Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or nation origin.
 18. It will comply with the Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7642.
 19. It will comply with the Clean Water Act of 1977, as amended, 42 U.S.C. 7419-7626.
 20. It will comply with the Endangered Species Act of 1973, 16 U.S.C. 1531-1544.
 21. It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4728-4763.

22. It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 270.
23. It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347.
24. It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 469a, et seq.
25. It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination.
26. It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j, regarding the protection of underground water sources.
27. It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs.
28. It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting components or potential components of the national wild and scenic rivers system.
29. It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 12898 (Environmental Justice).
30. It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3510.
31. It will assure project consistency with the approved state program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1464.
32. It will comply with the Fish and Wildlife Coordination Act of 1958; 16 U.S.C. 661-666.
33. With respect to demolition activities, it will:
 - a) Create and make available documentation sufficient to demonstrate that the Subrecipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.
 - b) Return the property to its natural state as though no improvements had ever been contained thereon.
 - c) Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in Subrecipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the State health authority and the county health authority.
 - d) Provide documentation of the inspection results for each structure to indicate: safety hazards present; health hazards present; and/or hazardous materials present.
 - e) Provide supervision over contractors or employees employed by Subrecipient to remove asbestos and lead from demolished or otherwise applicable structures.
 - f) Leave the demolished site clean, level and free of debris.
 - g) Notify the Grantee promptly of any unusual existing condition which hampers the contractors work.
 - h) Obtain all required permits.
 - i) Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.
 - j) Comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

- k) Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR Part 15 and 61). This clause shall be added to any subcontracts.
- l) Provide documentation of public notices for demolition activities.

ATTACHMENT B

Risk Assessment Conditions

Per Article VI of this contract, NDDDES is required to complete a Financial Assistance Risk Assessment rating form for every subrecipient receiving an award to evaluate their potential risk of non-compliance. Subrecipients will be evaluated on factors such as their prior experience with the same or similar subawards, results of previous audits including whether or not they received a Single Audit and the extent to which the same or similar subaward has been audited as a major program; if they have new personnel or new or substantially changed systems, and the extent and results of Federal awarding agency monitoring. Results of the Risk Assessment may result in the imposition of specific conditions, as allowed in 2 CFR § 200.207, and contained within this attachment.

Based upon the Risk Assessment completed for DR-4444-ND, Cass (County) has received a score of {7} and has been determined to be a Low Risk based upon the above mentioned criteria.

The specific conditions for a subrecipient determined to be Low Risk are the following:

- Subrecipients identified as Low Risk have no further conditions and may continue with their projects as approved by FEMA. This must include the completion of all project specific conditions, to include environmental requirements and/or permitting, placed upon individual projects by FEMA at the time of award or amendment. **Subrecipients that fail to comply with project specific conditions could potentially jeopardize their current and future federal funding.**

Every January, or as needed, NDDDES will re-evaluate all subrecipient Risk Assessments. Based on overall compliance with project requirements and any issues noticed therein, an updated Financial Assistance Recipient Risk Assessment will be completed and subrecipients can be upgraded or removed from low, medium or high risk status. If a subrecipient is non-compliant with the additional requirements of a subaward due to being considered high risk, the subaward and all federal and state monies can be deobligated at the request of NDDDES. Upon deobligation due to non-compliance, a subrecipient will be considered high risk in perpetuity.

ATTACHMENT C
Certification Regarding
Debarment, Suspension, Ineligibility
and
Voluntary Exclusion

Subcontractor Covered Transactions:

1. The prospective subcontractor of the Subrecipient certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the Subrecipient's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

SUBCONTRACTOR:

Name of Company

Street Address

City, State, Zip

Federal Employer Identification Number (FEIN)

By: _____
Signature Date

Subrecipient's Name

Grantee Agreement Number