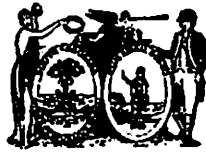


**The State of South Carolina  
Military Department**



**OFFICE OF THE ADJUTANT GENERAL**

**R. Van McCarty  
MAJOR GENERAL  
THE ADJUTANT GENERAL**

October 22, 2020

Mr. John Pedersen  
City Manager  
City of Myrtle Beach  
937 Broadway Street  
Myrtle Beach, SC 29577

Reference: FEMA-4286-DR-SC HMGP Project F0074: City of Myrtle Beach Hwy. 501 at Balsam Street Water Rerouting and Mitigation of Cane Patch/ N Kings Hwy.

Dear Mr. Pedersen:

The South Carolina Emergency Management Division (SCEMD) is pleased to inform you that the above-referenced subgrant has been awarded by the Federal Emergency Management Agency (FEMA) under the Hazard Mitigation Grant Program (HMGP).

The Recipient-Subrecipient Agreement must be signed by both organizations. Please sign the agreement and return a signed copy to SCEMD. A copy of FEMA's approval letter with additional programmatic conditions is also enclosed. If you have any questions or concerns, contact Mrs. Elizabeth Melton, State Hazard Mitigation Officer, at 803-737-8643 or [emelton@emd.sc.gov](mailto:emelton@emd.sc.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "K. Stenson".

Kim Stenson  
Director

Enclosures

**Emergency Management Division  
2779 Fish Hatchery Road  
West Columbia, South Carolina 29172  
(803) 737-8500 Fax (803) 737-8570**



## **SOUTH CAROLINA**

### **EMERGENCY MANAGEMENT DIVISION**

#### **Hurricane Matthew (FEMA-4286-DR-SC)**

**Project 4286-0074: City of Myrtle Beach HWY 501 at Balsam Street Water Rerouting and Mitigation of Cane Patch/ N Kings Hwy.**

#### **Recipient-Subrecipient Hazard Mitigation Grant Program Federal Award Agreement**

THIS AGREEMENT is entered into by the State of South Carolina, Office of the Adjutant General, South Carolina Emergency Management Division (hereinafter referred to as the "Recipient"), and the City of Myrtle Beach (hereinafter referred to as the "Subrecipient"). This Agreement covers the project described in Exhibit A.

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS AND CONDITIONS:

**WHEREAS**, on October 11, 2016 President Barack H. Obama issued a major disaster declaration designated FEMA-4286-DR-SC for the State of South Carolina as a result of Hurricane Matthew. Federal funding is available on a cost-sharing basis for hazard mitigation measures statewide;

**WHEREAS**, the Federal Emergency Management Agency (hereinafter referred to as "FEMA"), as a result of a Presidential Declaration, made funding available under the Hazard Mitigation Grant Program (hereinafter referred to as "HMGP"); and

**WHEREAS**, the federal share is limited to 75 % of eligible expenditures and that the Subrecipient shall provide from Subrecipient's funds the other 25 % of eligible expenditures of the total eligible costs.

The estimated cost of this project is \$120,000 to be cost shared \$90,000 federal and \$30,000 local.

**NOW THEREFORE**, the Recipient and the Subrecipient agree to the following:

#### **1) DEFINITIONS**

Unless otherwise indicated, the following terms shall be defined as stated herein.

- a) "Activities" shall be defined as stated in 44 CFR 206.431.
- b) "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 § 206.223; and applicable policies of FEMA.

- c) "FEMA-State Agreement" is the agreement dated October 11, 2016, between FEMA and the State of South Carolina, for a presidential emergency declaration designated FEMA-4286-DR-SC.

## **2) APPLICABLE STATUTES, RULES, AND AGREEMENTS**

- a) 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 set forth in the Code of Federal Regulations, and the policies of FEMA. This grant program is administered under the FEMA Hazard Mitigation Assistance Unified Guidance dated February 27, 2015. Any reference to the HMGP Application refers to the application submitted by the Subrecipient to the Recipient dated September 1, 2016 and all associated documents, correspondences, and fulfilled requests for information (RFIs). The Subrecipient further agrees to comply with the Statement of Assurances attached hereto as Exhibit B.

## **3) FUNDING AND INSURANCE**

- a) The Recipient shall provide funds to the Subrecipient for eligible mitigation activities for the projects approved by the Recipient and FEMA. Allowable costs shall be determined in accordance with 44 CFR 206.439, 2 CFR Part 200, and pertinent FEMA guidance documents.
- b) The Recipient or FEMA may obligate or deobligate funding, thereby amending the total funding for the project.
- c) As a condition to funding under this Agreement, the Subrecipient agrees that the Recipient may withhold funds otherwise payable to Subrecipient upon a determination by Recipient or FEMA that funds exceeding the eligible costs have been disbursed to Subrecipient pursuant to this Agreement or any other funding agreement administered by Recipient.
- d) As a further condition to funding under this Agreement the Subrecipient shall maintain such types of insurance as are reasonable and necessary to protect against future loss for the anticipated usable life of the project or the insured facility, whichever is the lesser.

## **4) DUPLICATION OF BENEFITS PROHIBITION**

- a) 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.
- b) Without delay, Subrecipient shall advise Recipient of any insurance coverage for the mitigations measures identified in the HMGP Application, 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 Recipient without delay. The Subrecipient shall also reimburse the Recipient if the Subrecipient receives any duplicate benefits from any other source for the work identified on the applicable HMGP

Application for which Subrecipient has received payment from Recipient.

- c) In the event that Recipient should determine that Subrecipient has received duplicate benefits, by its execution of this Agreement, the Subrecipient gives Recipient the authority to offset 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 Recipient.

## **5) ENVIRONMENTAL PLANNING & PERMITTING LAWS**

- a) Subrecipient shall be responsible for the implementation and completion of the approved projects described in the HMGP Application in a manner acceptable to Recipient, and in accordance with applicable legal requirements.
- b) If applicable, 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 government comprehensive plan.
- c) Subrecipient shall ensure that any development or development order complies with all applicable planning, permitting, and building requirements.
- d) 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.

## **6) REQUIRED DOCUMENTATION REVIEWS AND INSPECTIONS**

- a) 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, Recipient may terminate further funding under this Agreement, and Subrecipient shall reimburse to Recipient all payments disbursed earlier to Subrecipient, together with any and all accrued interest.
- b) Documentation must include all supporting backup documentation (invoices, canceled checks, daily activity reports, payroll records, time sheets, executed contracts, receipts, billing statements, etc.).
- c) Recipient will inspect all projects to ensure that all work has been performed within the scope of work specified in the HMGP Application. Costs of any work not performed within the approved scope of work shall not be eligible for funding.

## **7) COST SHARING**

- a) The HMGP funds for eligible costs shown in the HMGP Application and described in this Agreement shall be shared on a 75% Federal, 25% non-Federal cost share basis, unless otherwise specified in the Notice of Award. The non-federal share shall be paid by Subrecipient.

## **8) REIMBURSEMENT OF SUBGRANTEE COSTS**

- a) Once the Award Agreement has been fully executed and funds are obligated and available for disbursement, Recipient shall disburse HMGP funds to Subrecipient in accordance with the following procedures:
  - i) Project funds are disbursed in response to receipt of a properly completed Request for Reimbursement (RFR) submitted through the SCRecoveryGrants Website.
  - ii) A Request for Reimbursement (RFR) must be submitted via screcoverygrants website at least quarterly for work that was completed and paid for in that quarter.
  - iii) The sub recipient must submit accompanying documentation, as necessary, to demonstrate that costs were allowable and reasonable, and incurred during the authorized project period.
  - iv) Acceptable documentation includes, but is not limited to contract documents, change orders, copies of original paid invoices, cancelled checks (front and back), bank statements, (or other proof of expenditure and disbursement of payment), time and attendance records, and reports from the applicant's payroll and accounting systems, or other approved instruments.
  - v) The supporting documentation must also comply with the documentation requirements set forth in 2 CFR Part 200. Expenses must be for work included in the scope of work section of the specific Project Worksheet for which reimbursement is requested. Excel spreadsheets summarizing expenditures are not generally acceptable as a supporting document.
  - vi) The final invoice shall be submitted within sixty (60) days after the expiration date of this Agreement.
  - vii) An explanation of any circumstances prohibiting the submittal of quarterly invoices shall be submitted to the Recipient as part of the Subrecipient's quarterly reporting as referenced in Paragraph 21 of this Agreement.
  - viii) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the federal Office of Management and Budgeting, the State Chief Financial Officer or as stated under Paragraph (3) of this Agreement, all obligations on the part of the Recipient to make any further payment of funds shall terminate, and the Subrecipient shall submit its closeout report within thirty (30) days of receiving notice from the Recipient.

## **9) FINAL PAYMENT**

- a) Recipient shall disburse the final payment to Subrecipient upon the performance of the following conditions:
  - i) Subrecipient shall have completed the project to the satisfaction of FEMA and the Recipient in accordance with the approved scope of work;
  - ii) Subrecipient shall have submitted the proper documentation;
  - iii) Recipient shall have performed a final inspection;

- iv) The project listing and certification shall have been reviewed by Recipient;
- v) Subrecipient shall have requested final reimbursement.

#### **10) RECORDS MAINTENANCE**

- a) The Subrecipient agrees to maintain all records pertaining to the project and the funds received under this Agreement until all issues relating to inspections and audits are complete and all actions or resolutions are resolved. Records shall be maintained for three (3) years after the date FEMA completes closeout of the Recipient's final project.
- b) Access to those records must be provided at reasonable times to the Comptroller General of the United States, the Recipient, its employees and agents, and to FEMA, its employees and agents.
- c) 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 Recipient, its employees, and agents (including auditors retained by the Recipient), and to FEMA, 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.
- d) Recipient 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 materials that are made or received by Subrecipient or its contractors and subcontractors in connection with this Agreement.

#### **11) RECOVERY OF FUNDS**

- a) If upon final inspection, final audit, or other review by Recipient, FEMA or other authority determines that the disbursements to Subrecipient under this Agreement exceed the eligible costs, Subrecipient shall reimburse to Recipient the sum by which the total disbursements exceed the eligible costs within forty-five (45) days from the date Subrecipient is notified of such determination.

#### **12) REPAYMENT BY SUBRECIPIENT**

- a) All refunds or repayments due to the Recipient under this Agreement are to be made payable to the order of "South Carolina Emergency Management Division" and mailed directly to the following address: South Carolina Emergency Management Division, 2779 Fish Hatchery Road, West Columbia, SC 29172. In accordance with Title 24, Chapter 11, South Carolina Code of Laws, if a check or other draft is returned to the Recipient for collection, Subrecipient shall pay the Recipient a service fee of \$30.00.

#### **13) AUDIT**

- a) The Subrecipient shall provide for an annual audit. This audit will be conducted in accordance with 2 CFR Part 200, any federal or state legal requirements, as well as any policy, procedure, or guidance issued by the Recipient.

- b) Audit resolution instructions shall be prescribed by the Recipient.
- c) Within thirty (30) days of the receipt of the non-federal audit, the Subrecipient shall provide the Recipient the following:
  - i) Two copies of the Audit Report;
  - ii) An amended Federal Status Report in agreement with the audit, accompanied by a trial balance;
  - iii) Any unobligated fund balance due as a result of audit adjustments;
  - iv) A response to management letter findings and recommendations;
  - v) A response to all questioned costs, relating to this Grant and;
  - vi) Any other adjustments, explanations or information that may be pertinent to the Grant.

#### **14) NONCOMPLIANCE**

- a) If the Subrecipient violates this Agreement or any statute, rule or other legal requirement applicable to the performance of this Agreement, the Recipient shall 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, Recipient may terminate this Agreement and invoke its remedies under the Agreement or that may otherwise be available.

#### **15) MODIFICATION**

- a) The Recipient, the Subrecipient, or FEMA may request modifications to this Agreement, including work to be completed on the HMGP Application and the performance period. However, the party requesting the modifications must do so in writing. The requested modification may become effective only after approval by the Recipient, the Subrecipient, and FEMA.

#### **16) TIME FOR PERFORMANCE**

- a) FEMA will not establish activity completion timeframes for individual subawards. The period of performance for all subgrant awards will begin on October 10, 2017 and end November 9, 2021.
- b) Time extensions are, per Item 15 of this Agreement, a modification and requests must be submitted in writing. If any extension request is denied by the Recipient or not sought by the Subrecipient, Subrecipient shall only be reimbursed for eligible project costs incurred up to the latest extension for completed projects.
- c) Failure to complete any project will be adequate cause for the termination of funding for that project and reimbursement of any and all project costs to Recipient.
- d) For phased projects only:
  - i) The Subrecipient shall provide all phase one deliverables no later than one year after the date of award shown on the award letter provided by FEMA. If extenuating circumstances beyond the control of Subrecipient prevent timely completion of phase one deliverables, Subrecipient shall submit a time extension request no later than sixty

days prior to the expiration of the initial one-year period for completion. The time extension request must be made in writing with a detailed justification for delay, the current status of the completion of the work, a timeline for completion of remaining elements, and a projected completion date. Failure to submit a timely request for an extension may result in denial of the extension, loss of funding for the project, or the imposition of other specific conditions or remedies for noncompliance as needed to fulfill the Recipient's obligations under the Award as described in 44 C.F.R. § 206.438(a), 2 C.F.R. Part 200, and the FEMA-State Agreement.

## **17) CONTRACTS WITH OTHERS**

- a) 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 Recipient and Subrecipient harmless from liability to third parties for claims asserted under such contract. The Subrecipient shall also document in the quarterly report the subcontractor's progress in performing its work under this Agreement. Subrecipient shall provide the contractor with a copy of this Agreement.
- b) To the extent that the Subrecipient has outstanding, uncompleted, contracts for work requiring reimbursement under this Agreement, the Subrecipient agrees to modify its contracts in accordance with this section.

## **18) MONITORING**

- a) The Subrecipient shall monitor its performance under this Agreement, as well as that of its subcontractors, vendors, 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.
- b) In addition to reviews of audits conducted in accordance with 2 C.F.R Part 200, monitoring procedures may include, but not be limited to, on-site visits by Recipient or its agent, limited scope audits as defined by 2 C.F.R Part 200, 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 Recipient. In the event that the Recipient determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by the Recipient 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 Recipient will monitor the performance and financial management by the Subrecipient throughout the contract term to ensure timely completion of all tasks.

## **19) DEFAULT; REMEDIES; TERMINATION**

- a) Upon the occurrence of any one or more of the following events of default, all obligations of Recipient to disburse further funds under this Agreement shall terminate at the option of Recipient. Notwithstanding the preceding sentence, Recipient 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. Recipient 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:

- b) 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 Recipient and has not cured in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;
- c) 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 Recipient, if Subrecipient has not cured the condition within thirty (30) days after notice in writing from Recipient;
- d) Any reports required by this Agreement have not been submitted to Recipient or have been submitted with inaccurate, incomplete, or inadequate information; or
- e) The monies necessary to fund this Agreement are unavailable due to any failure to appropriate or other action or inaction by Congress, the Office of Management and Budget, or any State agency/office, including the State Legislature.
- f) Upon the occurrence of any one or more of the foregoing events of default, Recipient 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, Recipient may exercise any one or more of the following remedies:
  - i) 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;
  - ii) Commence a legal action for the judicial enforcement of this Agreement;
  - iii) Withhold the disbursement of any payment or any portion of a payment otherwise due and payable under this Agreement with Subrecipient; and
  - iv) Take any other remedial actions that may otherwise be available under law.
- g) Recipient 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.
- h) Upon the rescission, suspension or termination of this Agreement, the Subrecipient shall refund to Recipient all funds disbursed to Subrecipient under this Agreement.
- i) Notwithstanding anything to the contrary elsewhere in this Agreement, the rescission, suspension or termination of this Agreement by Recipient shall not relieve Subrecipient of liability to Recipient for the restitution of funds advanced to Subrecipient under this Agreement, and Recipient may set off any such funds by withholding future disbursements otherwise due Subrecipient under this Agreement until such time as the exact amount of restitution due Recipient from Subrecipient is determined. In the event that FEMA should deobligate funds formerly allowed under this Agreement, the Subrecipient shall

immediately repay such funds to Recipient. Any deobligation of funds or other determination by FEMA shall be addressed in accordance with the regulations of that Agency.

## **20) LIABILITIES**

- a) Recipient assumes no liability to third parties in connection with this Agreement. Unless the Subrecipient is a governmental entity covered under S.C. Code Ann. § 15-78-20 (1976), the Subrecipient shall be solely responsible to any and all contractors, vendors, and other parties with whom it contracts in performing this Agreement.
- b) Unless the Subrecipient is a governmental entity within the meaning of the preceding sentence, Subrecipient shall indemnify Recipient from claims asserted by third parties in connection with the performance of this Agreement, holding Recipient and Subrecipient harmless from the same.
- c) For the purpose of this Agreement, the Recipient and Subrecipient agree that neither one is an employee or agent of the other, but that each one stands as an independent contractor in relation to the other.
- d) Nothing in this Agreement shall be construed as a waiver by Recipient 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.
- e) Subrecipient represents that to the best of its knowledge any hazardous substances at its project 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.
- f) 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.

## **21) REPORTS AND INSPECTIONS**

- a) The Subrecipient shall provide the Recipient the required documentation as quarterly programmatic progress reports for each project. The first report is due ten (10) days after the end of the first quarter after project approval notification by the Recipient and quarterly thereafter until the project is complete and approved through final inspection. Quarterly reporting deadlines are January 10, April 10, July 10 and October 10. Quarterly programmatic progress reports should be submitted via [www.screcoverygrants.org](http://www.screcoverygrants.org).
- b) The Recipient may require additional reports as needed. The Subrecipient, as soon as possible, shall provide any additional reports requested by the Recipient. The Recipient contact for all reports and requests for reimbursement will be the State Hazard Mitigation Officer.

- c) Interim inspections shall be scheduled by the Subrecipient prior to the final inspection and may be requested by the Recipient based on information supplied in the quarterly reports.

## **22) EQUIPMENT**

- a) If the Subrecipient purchases any equipment (as defined in 2 CFR 200.33), Subrecipient must maintain property records that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, the cost of the property, percentage of Federal participating in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- b) Subrecipient must take a physical inventory of the property and reconcile the results with the property records at least once every two years.
- c) Subrecipient must abide by the maintenance plan included in their HMGP Application.
- d) Subrecipient must follow all equipment disposition requirements as set forth in 2 CFR 200.313.

## **23) ATTACHMENTS**

- a) All attachments/exhibits 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.

## **24) TERM**

- a) This Agreement shall be effective upon execution and terminate upon completion of, and final payment for, all approved projects, subject to any modification.

## **25) NOTICE AND CONTACT**

- a) All notices under this Agreement shall be in writing and shall be delivered by email, by facsimile, by hand, or by certified letter to the Recipient at the following addresses:

**Kim Stenson, Director  
SC Emergency Management Division  
2779 Fish Hatchery Road  
West Columbia, SC 29172**

**John Pedersen, City Manager  
City of Myrtle Beach  
937 Broadway Street  
Myrtle Beach, SC 29577**

The Subrecipient hereby authorizes \_\_\_\_\_ as its primary designated agent, and \_\_\_\_\_ as its alternate agent to execute Payment Requests, necessary certifications, and other supplementary documentation.

Recipient: R. N. [Signature]

Date 22 Oct 20

Printed

Date \_\_\_\_\_

**HMGP 4286- 0074: City of Myrtle Beach HWY 501 at Balsam Street Water Rerouting and Mitigation of Cane Patch/ N Kings Hwy**

## **EXHIBIT A**

### **Project Summary**

**Project Title:** City of Myrtle Beach HWY 501 at Balsam Street Water Rerouting and Mitigation of Cane Patch/ N Kings Hwy

**Grant #:** FEMA-4286-DR-SC Project 0074 (S-21)

**Award Date:** October 16, 2020

<b>Total Project Cost</b>	<b>\$120,000</b>	<b>100 %</b>
<b>Total Federal Share</b>	<b>\$90,000</b>	<b>75%</b>
<b>Total Non-Federal Share</b>	<b>\$30,000</b>	<b>25%</b>

### **Brief Project Description:**

The following is the approved Scope of Work (SOW) for the above referenced project: The City of Myrtle Beach proposes to upgrade storm structures to accept dual pipes and the addition of detention basin to attenuate flows. Once the phase I is completed, FEMA will review the documentation to ensure the project is eligible, technically feasible, cost effective, and compliant with EHP requirements before approving Phase II for construction.

Project location: Hwy 501 and Balsam Street, Myrtle Beach, SC

## **EXHIBIT B**

### **Statement of Assurances and Conditions**

The Recipient hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines and requirements. Additionally, to the extent the following provisions apply to this Agreement, the Subrecipient assures and certifies that:

- 1) It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the sub-recipient's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the subrecipient to act in connection with the application and to provide such additional information as may be required.
- 2) It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purpose constructed.
- 3) It will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program(s) have been met.
- 4) It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms to the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may need.
- 5) It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and will see that work on the project will be prosecuted to completion with reasonable diligence.
- 6) It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.
- 7) It will provide without cost to the United States and the Recipient all lands, easements and rights-of-way necessary for accomplishments of the approved work.
- 8) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, reimbursements, advances, contracts, property, discounts of other Federal financial assistance extended after the date hereof to the subrecipient by FEMA, that such Federal Financial assistance will be extended in reliance on the representations and agreements made in this assurance and that the United States and the Recipient shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the subrecipient, its successors, transferees, and assignees, and the person or persons whose signatures appear on this agreement as authorized to sign this assurance on behalf of the

subrecipient.

- 9) Bills for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper pre-audit and post-audit.
- 10) It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.
- 11) It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- 12) Subrecipient agrees that no funds or other resources received from the Recipient disbursed to it under this Agreement will be used directly or indirectly to influence legislation or any other official action by the South Carolina Legislature or any State agency.
- 13) It will comply with the minimum wage and maximum hour's provisions of the Federal Fair Labor Standards Act.
- 14) It will comply with the 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.
- 15) It will comply with the 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.
- 16) 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.
- 17) It will give Recipient or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
- 18) It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.
- 19) It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing

by the EPA.

20) It will comply with all appropriate environmental and historical preservation laws. Any conditions set forth from FEMA or the Recipient relating to environmental and historical preservation shall be compulsory.

21) It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, 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 Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

22) It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 2898 (Environmental Justice).

23) 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 South Carolina Department of Health and Environmental Control and the county health department.
- 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 Recipient 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, and provide documentation of such 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.
- 24) It will comply, and all its contractors will comply, with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C,D,E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.
- 25) It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17-7031). Subrecipient will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
- 26) 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.
- 27) 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.
- 28) In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the Grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, Recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.
- 29) It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.
- 30) DRUG-FREE WORKPLACE (RECIPIENTS OTHER THAN INDIVIDUALS) As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for Recipients, as defined at 28 CFR Part 67 Sections 67.615 and 67
- 31. 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.

32. 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 thirty-six (36) months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.
33. 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 Recipient 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 Recipient and with thirty (30) days written notice to the Subrecipient, cause the termination of this Agreement and the release of the Recipient from all its obligations to the Subrecipient.
34. This Agreement shall be construed under the laws of the State of South Carolina, and venue for any actions arising out of this Agreement shall lie in Richland County Circuit Court. 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.
35. 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.
36. Where the Subrecipient is unable to certify to any of the statements in this certification, the Subrecipient shall attach an explanation to this Agreement.

## **EXHIBIT C**

**Award conditions as noted in the FEMA award letter of October 16, 2020**



**FEMA**

October 16, 2020

Mr. Kim Stenson, Director  
South Carolina Emergency Management Division  
2779 Fish Hatchery Road  
West Columbia, SC 29172

Attention: Mrs. Elizabeth Melton, State Hazard Mitigation Officer

Reference: **HMGP 4286-0074: City of Myrtle Beach HWY 501 at Balsam Street Water Rerouting and Mitigation of Cane Patch/N Kings Hwy- Phase I award corrected**

Dear Mr. Stenson:

I am pleased to inform you that the project referenced above has been approved for phase I funding of \$120,000 with a Federal share of \$90,000 and a non-federal share of \$30,000. Financial approval documents for the award are enclosed for your records.

The following is the approved Statement of Work (SOW) for the above referenced project:

***The City of Myrtle Beach proposes to upgrade storm structures to accept dual pipes and the addition of detention basin to attenuate flows. Once the phase I is completed, FEMA will review the documentation to ensure the project is eligible, technically feasible, cost effective, and compliant with EHP requirements before approving Phase II for construction.***

City of Myrtle Beach shall deliver to the FEMA through the State of South Carolina Emergency Management Division the following documents for review and approval prior to implementing any phase 2 activities:

#### **Technical Deliverables**

- The H&H study must address proposed level of protection of the proposed project with the Phase I deliverables.
- The H&H study must address the increased level of protection of the proposed project, comparison of pre-mitigation to post mitigation with the Phase I deliverables.
- The H&H study must address upstream and downstream impacts of the proposed project with the Phase I deliverables.
- Identify applicable design and construction codes and standards with the Phase I deliverables.
- Demonstrate with the H&H study, the reduced flood risk when completing the project. Included the after-mitigation impact in the BCA with the Phase I deliverables.

#### **Standard Conditions:**

- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all

appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

- If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

FEMA will not establish activity completion timeframes for individual sub-awards. Recipients are responsible for ensuring that all approved activities are completed by the end of the grant period of performance (POP). The period of performance ends no later than 36 months from the close of the application period which is November 11, 2021.

The State HMGP Administrative Plan defines the procedure whereby the Governor's Authorized Representative (GAR) may advance portions of the approved Federal share to the subgrantee. Upon completion of the HMGP project, the subgrantee's closeout reimbursement for the final Federal share of eligible project costs must be submitted to the Regional Director for review and determination.

Quarterly progress reports for the HMGP projects are required. Please include this HMGP project in your future quarterly reports. Note that 44 CFR 206.438(c) indicates the State must provide a quarterly progress report to FEMA indicating the status and completion date for each project funded. The report will include any problems or circumstances affecting completion dates, scope of work, or project cost that may result in non-compliance with the approved grant conditions.

Section 206.438(d) of 44 CFR requires the GAR to "certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement."

The State (grantee) must obtain prior approval from FEMA before implementing changes to the approved project SOW. According to the Uniform Administrative Requirements for grants and cooperative agreements to State and Local Governments:

- For construction projects, the grantee shall obtain prior written approval for any budget revision which would result in a need for additional funds.
- A change in the scope of work must be approved by FEMA in advance regardless of the budget implications.
- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- The grantee must notify FEMA as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower cost or earlier completion. Any extensions of the POP must be submitted to FEMA 60 days prior to the expiration date.
- The grantee must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarified in 44 CFR 206.191.
- This review does not address all federal, state, and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state, and local laws. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding.

The Obligation Report is enclosed for your records. Management and environmental reports are available in NEMIS. The obligated funds are available for withdrawal from **Payment Management System** on sub-account number **4286DRSCP0000000745**.

If you have any questions, please contact Kenya Grant, of my staff (770) 220-8893.

Sincerely,

A handwritten signature in blue ink, reading "Richard S. Flood". The signature is written in a cursive style with a large initial 'R' and 'F'.

Richard S. Flood, CFM, Chief  
Hazard Mitigation Assistance Branch  
Mitigation Division

Enclosure:

10/14/2020

## FEDERAL EMERGENCY MANAGEMENT AGENCY

HMGP-OB-01

1:21 PM

## HAZARD MITIGATION GRANT PROGRAM

## Obligation

Disaster No	FEMA Project No	Amendment No	State Application ID	Action No	Supplemental No	State	Recipient
4286	74 -R	0	88	1	80	SC	Statewide

Subrecipient: Myrtle Beach

Project Title : 021 - City of MB Hwy 501 at Balsam Street Water Rerouting and Replacement

Subrecipient FIPS Code: 051-49075

Total Amount Previously Allocated	Total Amount Previously Obligated	Total Amount Pending Obligation	Total Amount Available for New Obligation
\$90,000.00	\$90,000.00	\$0.00	\$0.00

Project Amount	Recipient Admin Est	Subrecipient Admin Est	Total Obligation	IFMIS Date	IFMIS Status	FY
\$90,000.00	\$0.00	\$0.00	\$90,000.00	10/07/2020	Accept	2021

Comments

Date: 10/07/2020 User Id: KGRANT15

Comment: 4286-0074 hwy501 project; phase 1 fed share \$90,000.00 total share; \$120,000 grant POP 11/9/2021 reported on Octobers spend pl

Date: 10/07/2020 User Id: DBURKETT

Comment: 4286-0074-R-DR-SC-HM Myrtle Beach Grant POP 11/9/2021 Application 88 City of MB Hwy 501 at Balsam Street Water Rerouting &amp; Replacement Allocation 37 included in the October Spend Plan PHI Federal share \$90,000.00 Supplement 80 approved HMO

Authorization

Preparer Name: KENYA GRANT

Preparation Date: 10/07/2020

HMO Authorization Name: DEBORAH BURKETT

HMO Authorization Date: 10/07/2020