

Award Agreement

THIS AGREEMENT (“Award Agreement”) is entered this 27th day of July, 2020 (“Effective Date”) by and between COASTAL COMMUNITY RESILIENCE, INC., d.b.a. RISE (the “Awarder” or “RISE”) and FernLeaf Interactive, LLC (the “Awardee”).

I. RECITALS

WHEREAS, Pursuant to Public Law 113-2 (the “Appropriations Act”) and the Federal Register Notice dated the 7th day of June, 2016, at 81 FR 36560, the U.S. Department of Housing and Urban Development (“HUD”) has awarded \$120,549,000.00 in Community Development Block Grant National Disaster Resilience Competition (“CDBG-NDR”) funds (the “Grant”) to the Commonwealth of Virginia (the “Commonwealth”) for the purpose of assisting in disaster relief and long-term recovery from major disasters declared under the Stafford Act (42 U.S.C. 4121 et seq.) and described in the Commonwealth’s NDRC Application; and

WHEREAS, The Appropriations Act made funds available for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.) (“Stafford Act”), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. The Appropriations Act requires funds to be used only for these specific disaster-related purposes; and

WHEREAS, All recipients of CDBG-NDR Awards are subject to: (1) the requirements of the Appropriations Act; (2) the Fiscal Year (FY) 2014 Notice of Funding Availability for National Disaster Resilience Competition (NDRC NOFA), including all appendices and incorporated portions of the FY 2014 General Section (as amended); and (3) applicable regulations governing the CDBG program at 24 CFR Part 570, unless modified by waivers and alternative requirements published by HUD in this NOFA or other applicable Federal Register Notice; and

WHEREAS, it has been authorized by the Governor of the Commonwealth to distribute and administer to the nonprofit COASTAL COMMUNITY RESILIENCE, INC. doing business as RISE (“RISE”) a CDBG-NDR SUBAWARD, with the Catalog of Federal Domestic Assistance (“CFDA”) number 14.272, which was awarded to the Commonwealth as a successful applicant to the National Disaster Resilience Competition (“NDRC”) according to the approved Grant application; and

WHEREAS, RISE entered into a contract with the Commonwealth on May 25th, 2017, to carry out a part of the Commonwealth’s subaward by committing \$5,250,000 of the Commonwealth’s Federal subaward to RISE; and

WHEREAS, RISE acting by and through the Commonwealth, has made this award pursuant to the CDBG-NDR funded Coastal Community Resilience Challenge & Resilience Innovation Fund Program (the “Program”) to assist small businesses and non-profit entities (referred to in this Agreement as “Awardee”); and

WHEREAS, the Awardee has applied to participate in the Program and represents that Awardee is eligible to receive CDBG-NDR funds and has previously submitted an application for funding under the Program (the “Application”); and

WHEREAS, RISE has reviewed and approved the Application and has agreed to make an award (as defined below) to the Awardee, pursuant to the terms and conditions set forth herein,

WHEREAS, RISE has selected the Awardee, FernLeaf Interactive, LLC, to enter into this Award Agreement to carry out a part of the RISE’s subaward by committing an amount not to exceed \$30,000.00 of RISE’s Federal subaward, based upon availability of Program funding and Awardee’s performance of tasks under each Phase, as described on Exhibit A, under this Agreement; and

WHEREAS, the CDBG-NDR funds made available for use by Awardee under this Award Agreement constitute a subaward of RISE’s subaward, the use of which must be in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of the RISE’s subaward; and

NOW, THEREFORE, in consideration of the need for recovery from Hurricane Irene, NDRC goals, and the promises and mutual covenants described herein, the parties mutually agree to the terms described in this Award Agreement.

Contact information:

Awarder: COASTAL COMMUNITY
RESILIENCE, INC., d.b.a. RISE
Name of awarding official:
Paul Robinson
Title: Executive Director
Awarder Name: Coastal Community Resilience
Inc.
Address: 500 E Main St., Suite 1601
City, State, Zip: Norfolk, VA 23510
Telephone: 757-258-0500
Fax Number: N/A

Awardee: FernLeaf Interactive, LLC
Name of primary contact: Jeffrey M.
Hicks
Title: CEO
Awardee Name: FernLeaf Interactive,
LLC
Address: 1 Haywood Street, Suite 401
City, State, ZIP: Asheville, NC 28801
Telephone: 828-348-0831
Email: jeff@fernleafinteractive.com

Fax Number: N/A

Federal Award Identification Number: B-13-DS-51-0001
CFDA Number and Name: 14.272
Federal Award Date: June 7, 2016

II. AWARD

A. Definitions.

- a. “Award” means funds made available to Awardee pursuant to the CDBG-NDR funded Coastal Community Resilience Challenge & Resilience

Innovation Fund Program. Funds are to be disbursed to the Awardee under an Award as a Reimbursement grant.

- b. “Awardee” means a finalist of the Urban Mobility Resilience Challenge – one of the 2020 topic areas under the Coastal Community Resilience Challenge & Resilience Innovation Fund.
 - c. “Reimbursement” means Award funds provided to Awardee after incurring a reimbursable expenditure under the Program.
- B. RISE will provide an Award of CDBG-NDR funds (“CDBG-NDR Award”) to Awardee in connection with the implementation of DryWays in the Hampton Roads region of the Commonwealth of Virginia (“Project Business Premises”). The Awardee is a business incorporated in North Carolina and maintains its main office at 1 Haywood Street, Suite 401 Asheville, NC 28801. RISE has agreed to provide an Award to the Awardee up to the amount of \$30,000.00, subject to the terms and conditions set forth in this Agreement.
- C. The Awardee will be responsible for ensuring the performance of the activities detailed in Exhibit A and incorporated herein (“Statement of Work and Budget”). As a reimbursement-based program, for tasks and deliverables contained in the Statement of Work and Budget, they must be conducted in a manner satisfactory to RISE and in compliance with applicable federal and state requirements, laws and regulations. RISE may amend the Statement of Work and Budget depending upon the completion of each Task and how such performance changes the metrics for the success of the Project. Such amendments shall be signed by both RISE and Awardee.
- D. RISE will monitor the performance of the Awardee against goals and performance standards as stated in the Statement of Work and Budget. The Awardee must perform (and document to RISE) the entire Statement of Work and Budget, even if the funds provided hereunder do not cover 100% of the costs of performance. Substandard performance as reasonably determined by RISE, in its sole discretion, will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Awardee within a reasonable period of time (as determined by RISE) after being notified by RISE, RISE may: (i) choose not to make a Reimbursement to the Awardee for noncompliant and/or unallowable work; (ii) require Awardee to reimburse any payment made by RISE to Awardee for noncompliant and/or unallowable work; and/or (iii) take action to suspend or terminate this Agreement or other actions as permitted under applicable law. Nothing in this Agreement shall waive or otherwise limit the actions RISE may take or the remedies RISE may seek as a result of any noncompliance by Awardee, including but not limited to suspending or debaring the Awardee from future State benefits.

III. AWARDEE’S REPRESENTATIONS, WARRANTIES, COVENANTS

AND/OR AGREEMENTS

The Awardee represents, warrants, covenants, and/or agrees that as of the Effective Date or such other date as set forth below herein:

- A. All information provided is true, correct, and complete in all material respects and accurately represents the financial condition of the applicant, as of the date submitted.
- B. There has been no material adverse change in the financial condition, assets or business prospects of the Awardee or any change in the ownership or management of the Awardee, since the date on which Awardee submitted the Application, except to the extent disclosed to the Awardee, in writing, prior to the date hereof.
- C. The Awardee has good and marketable title to all assets reflected in the Awardee's financial statements and Awardee's assets are not subject to any liens or encumbrances, except as already disclosed.
- D. All licenses, permits, and /or other approvals necessary to operate the Awardee's business are in full force and effect and will continue to be so.
- E. The Awardee will maintain all types and amounts of insurance as are typical and customary in the same or any type of similar business. If required to provide security to assure compliance of the project, Awardee will be required to furnish Performance and Payment Bonds, or other security approved in advance by RISE.
- F. The Awardee has the corporate authority to apply for and receive the Award. If required, a resolution, motion or similar action has been duly adopted or passed as an official act of the Awardee's governing body, authorizing Awardee's filing of the Application, and directing and authorizing the person or persons identified as the official representative of the Awardee, to act in connection with the Application or execution of this agreement, as well as the receipt of the Award.
- G. There is no currently pending or, to Awardee's knowledge, threatened litigation, arbitration or other proceeding involving Awardee before any court, commission or other administrative authority.
- H. The Awardee will not sell, lease, pledge, encumber (except by purchase money lien on property acquired after the date of this Agreement) or otherwise dispose of any of the Awardee's property or assets, except in the ordinary course of business.
- I. If Project Business Premises buildings in the 100-year flood plain are improved or/and leased with the Award, the Awardee must provide proof of flood insurance and maintain flood insurance in perpetuity and provide proof of flood insurance for the duration of the Award.

- J. The Awardee agrees to, and will comply with, all the laws and regulations outlined in Exhibit B, CDBG-NDR Terms and Conditions.
- K. The Awardee shall notify RISE of the receipt of funding from sources outside of the CDBG-NDR Program (“Additional Funding”), if such Additional Funding is used, or is designated to be used for payment or reimbursement of expenses (i) that could be considered to be for the same purposes as the CDBG-NDR funding, (ii) are a duplication of Program benefits, or (iii) are otherwise itemized in the Statement of Work and Budget (collectively the “Program Expenses”). Awardee shall return to RISE any Additional Funding used to pay Program Expenses.
- L. The Awardee has filed all tax returns and reports required by any government agency (including, but not limited to, any real property tax, income tax, sales tax, and/or corporate franchise tax returns) and has paid or provided for the payment of all taxes and assessments now due and has no knowledge of any claims for taxes which might become a lien on the assets of the Awardee, other than taxes not yet payable.
- M. The Awardee hereby agrees that if the project does not proceed within a reasonable timeframe, HUD and RISE reserve the right to withdraw any funds RISE has not obligated under the award.
- N. The Awardee hereby agrees to use the Award only in accordance with the Statement of Work and Budget attached hereto as Exhibit A. Any failure to use the Award funds for the described authorized uses shall be considered a non-compliance under this Agreement. Any disallowed costs will not be reimbursed. Any payment used for disallowed costs will be reimbursed to RISE by Awardee.
- O. “Program Income” means any revenue derived from activities funded by Awards under this Award Agreement. For purposes of the NDR Project, the Awardee may not generate or retain any CDBG-NDR Program Income during the term of this Agreement.
- P. At any time, the Awardee shall furnish any documentation reasonably requested by RISE, to substantiate the eligibility of costs incurred by the Awardee in performance of this Agreement and in accordance with the attached Budget.
- Q. The Awardee will furnish proof of payment on incurred costs to RISE prior to disbursement of the Award funds intended to reimburse such incurred costs. Proof of payment requires the submission of invoices and cancelled checks, credit or cash payment receipts, or any other documentation that RISE may reasonably request to substantiate asserted costs.
- R. The Awardee hereby authorizes RISE, the federal government, or the State or any instrumentality of the federal government or the State, to publish details of the awards. Such information may include, without limitation: the name of the

Awardee (individual or company); Awardee's Project Business Premises' address; the Award Amount; the use of Award proceeds, and/or any achievements delivered.

- S. The Awardee shall notify RISE, in writing, within three business days of receiving notice or becoming aware of the occurrence of any default or Event of Default listed in Section XI of this Agreement, or in the occurrence of any event or any material change in circumstances that would make any Awardee representations untrue or incorrect or otherwise impair Awardee's ability to fulfill Awardee's obligations under this Agreement or under any other Program documents.

- T. Funding awards received, if at all, by Awardee shall not be used for development of software applications and are not intended by RISE to be for the purchase of property or services from Awardee. RISE will award funds to Awardee for the outputs achieved by their software applications. RISE does not intend, by virtue of funding distributed to Awardee, to acquire rights in or to the software applications developed by Awardee. Subject to the applicability of the provisions of 37 CFR Part 401, 2 CFR 200 and the National Disaster Resilience Competition Grant Agreement (#16-NDR-02), RISE shall obtain no right, title, or interest in or to the software applications developed by Awardee.

- U. Awardee shall grant to RISE a security interest in any assets or equipment purchased by Awardee with funds reimbursed from an Award. Awardee authorizes RISE to perfect that security interest by filing UCC financing statements in the appropriate jurisdiction. The security interest shall terminate upon Awardee's successful achievement of the deliverables as agreed on Exhibit A.

IV. APPLICABLE REQUIREMENTS

The Awardee shall comply with all applicable requirements of federal, state, and local laws and regulations, including all applicable requirements of law concerning civil rights, non-discrimination in employment and with respect to individuals with disabilities, equal opportunity and affirmative action programs, labor standards (including those under the Davis-Bacon Act) and any other requirement of law applicable to the Awardee in connection with this agreement or otherwise. These requirements are further detailed in Exhibit B – CDBG Terms and Conditions.

- A. The Awardee acknowledges that the distribution and use of the Program's funds is subject to all HUD CDBG-NDR program requirements, including the regulations set forth under Title 24 CFR Part 570, including subpart I and K, as modified by FR-5696-N-01 and subsequent notices (collectively, the "CDBG Regs"). Where waivers or alternative requirements are provided for in the applicable Federal Register Notices published by HUD on March 5, 2013 (78 Fed. Reg. 14,329), April 19, 2013 (78 Fed. Reg. 23,578), May 29, 2013 (78 Fed. Reg. 32,262), August 2, 2013 (78 Fed. Reg. 46,999), and November 18, 2013 (78 Fed. Reg. 69,104) ("HUD

Notices”), such requirements, including any regulations referenced therein, shall apply.

- B. Awardee acknowledges that funds provided through this Award Agreement are Federal funds administered by HUD under the CDBG-NDR Award and that all funds provided by this Award Agreement are subject to audit, disallowance, and repayment. If HUD or the Virginia Department of Housing and Community Development (“DHCD”) finds any Award, to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause, Awardee shall promptly return any and all funds to RISE. This clause shall survive indefinitely the termination of this Award Agreement for any reason by either Party.
- C. The Awardee also agrees to comply with all other applicable Federal, State and local laws, regulations, HUD Notices, policies and guidelines, whether existing or to be established, provided the same are applied to activities occurring after the date the policy or guideline was established, governing the Grant funds provided under this Award Agreement. In the event a conflict arises between the provisions of this Award Agreement and any of the foregoing, the Federal, State and local laws, regulations, HUD Notices, policies and guidelines shall control and this Award Agreement shall be interpreted in a manner so as to allow for the terms contained herein to remain valid and consistent with such Federal, State and local laws, regulations, HUD Notices, policies and guidelines. The Awardee further agrees to utilize Grant funds available under this Award Agreement to supplement rather than supplant funds otherwise available.

V. PROGRAM REPORTING

The Awardee shall submit such reports as required by RISE to meet its local obligations and its obligations to HUD. RISE will prescribe the report format, as well as the time and location for submission of such reports.

VI. FINANCIAL MANAGEMENT

A. General Statement

RISE shall reimburse the Awardee its allowable costs for the services identified in this Agreement not to exceed \$30,000.00 upon presentation of properly executed reimbursement requests and supporting documents as provided by and approved by RISE.

Such reimbursement shall constitute full and complete payment by RISE under this Agreement. Allowable costs shall mean those necessary and proper costs identified in the Exhibit A and approved by RISE unless any or all such costs are disallowed by HUD.

Any reimbursement made under this Agreement must comply with the applicable requirements of 24 CFR Part 85. The Awardee may not request disbursement of funds under this Agreement until the funds are needed for payment of allowable costs.

B. Payments

Requests for Reimbursements must be e-mailed to Barbara Walker at BarbaraWalker@riseresilience.org and Katerina Oskarsson at KaterinaOskarsson@riseresilience.org

Payments shall be made upon RISE receiving reimbursed funds from DHCD allowing approximately 30 days for receipt of funds.

Reimbursement payments shall be made to:
FernLeaf Interactive, LLC
1 Haywood Street, Suite 401
Asheville, NC 28801

Payments may be contingent upon certification of the Awardee's financial management system in accordance with the standards specified in 24 CFR 84.21.

Drawdowns for the payment of allowable costs shall be made against the line item budgets specified in Exhibit A, herein and in accordance with performance.

In addition, RISE may require a more detailed budget breakdown than the one contained herein, and the Awardee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by RISE. Any amendments to the budget must be approved in writing by both RISE and the Awardee and included as contract amendments.

C. Closeout

Upon termination of this Award Agreement, in whole or in part for any reason including completion of the project, the following provisions may apply:

- A. If Awardee has met the deliverables stated in Exhibit A, then upon written request by the Awardee, RISE shall make or arrange for payments to the Awardee of allowable reimbursable costs not covered by previous payments;
- B. Disposition of program assets: Awardee shall return all unused materials, equipment, unspent cash advances, and accounts receivable to RISE;
- C. The Awardee shall submit within thirty (30) days after the date of expiration of this Award Agreement, all financial, performance and other reports required by this Award Agreement, and in addition, will cooperate in a program audit by RISE or its designee; and

- D. Closeout of funds will not occur unless all requirements of 24 CFR 92.507 are met and all outstanding issues with the Awardee have been resolved to the satisfaction of RISE. RISE and Awardee shall enter into a closeout agreement.
- E. All program expenses must be paid upon closeout of this Award Agreement. RISE retains the sole discretion to reimburse any eligible program expenses after closeout. In no event will program expenses be reimbursed if the budget limit has already been paid to the Awardee.

The Awardee's obligation to RISE shall not end until all closeout requirements are completed.

VII. DOCUMENTATION OF COSTS AND OTHER FINANCIAL REPORTING

All costs shall be supported by properly executed payrolls, time records, invoices, vouchers or other official documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible, and upon reasonable notice, RISE, DHCD, and HUD shall have the right to audit the records of the Awardee as they relate to the Agreement and the activities and services described herein.

The Awardee shall also:

- A. Maintain an effective system of internal fiscal control and accountability for all CDBG-NDR funds and property acquired or improved with CDBG-NDR funds, and make sure the same are used solely for authorized purposes.
- B. Keep a continuing record of all disbursements by date, check number, amount, vendor, description of items purchased and line item from which the money was expended, as reflected in the Awardee's accounting records.
- C. Maintain payroll, financial, and expense reimbursement records for a period of five (5) years after receipt of final payment under this Agreement.
- D. Permit inspection and audit of its records with respect to all matters authorized by this Agreement by representatives of RISE, DHCD or HUD at any time during normal business hours and as often as necessary.
- E. Inform RISE concerning any funds allocated to the Awardee, that the Awardee anticipates will not be expended during the term of this Agreement, and permit the reassignment of the same by RISE to other Awardees.
- F. Repay RISE any funds in its possession at the time of the termination of this Agreement that may be due to RISE, DHCD or HUD.

- G. Maintain complete records concerning the receipt and use of all program income. Program income shall be reported on a monthly basis on forms provided by RISE.

VIII. REPAYMENT OF FUNDS

In the event that RISE, DHCD or HUD determines that any funds were expended by the Awardee for unauthorized or ineligible purposes or the expenditures constitute disallowed costs in any other way, RISE, DHCD or HUD may order repayment of the same. The Awardee shall remit the disallowed amount to RISE within thirty (30) days of written notice of the disallowance.

- A. The Awardee agrees that funds determined by RISE to be surplus upon completion of the Agreement will be subject to cancellation by RISE.
- B. The Awardee agrees that upon expiration of this Agreement, the Awardee shall transfer to RISE any CDBG-NDR funds on hand at the time of the expiration and any accounts receivable attributable to the use of CDBG-NDR funds.
- C. RISE shall be relieved of any obligation for payments if funds allocated to RISE cease to be available for any cause other than misfeasance of RISE itself.
- D. RISE reserves the right to withhold payments pending timely delivery of program reports or documents as may be required under this agreement.
- E. Awardee acknowledges that all "Program Income," as that term is defined in 24 CFR 570.500, received by Awardee shall be immediately remitted to RISE, and that Awardee shall have no right to retain Program Income without the written consent of RISE.

IX. INDEMNIFICATION

Awardee agrees to indemnify and hold harmless the State, RISE, RISE's Awardees and/or subcontractors of every tier and each of their respective officers, directors, agents, designated representatives, employees and affiliates (collectively the "Indemnified Parties") from any and all claims, losses, damages or liability (including attorney's fees) arising out of, or in any way related to, the CDBG-NDR Award, or any other act or failure to act under this Agreement, any receipt of or eligibility for any duplicate benefits, and/or all other documents executed in furtherance of the CDBG-NDR Award and/or this Agreement. If Awardee attempts to take legal action against the Indemnified Parties, the Indemnified Parties will have the right to recover from Awardee owner attorney fees and other expenses incurred in connection with such action in the event of an adverse determination or judgment against Awardee.

X. NO OBLIGATION

The exercise by RISE of, or failure to so exercise any authority it possesses under this Award Agreement shall, in no manner, affect obligations, covenants or liability of, the Awardee to RISE hereunder or under any other Program related document issued or entered into by and between HUD and DHCD or DHCD and RISE (a "Grant Document"). In addition, RISE shall be under no obligation or duty to exercise any of the powers hereby conferred upon it and it shall be without liability for any act or failure to act in connection with the collection of, or the preservation of the assets of Awardee. Furthermore, RISE shall have all the rights and remedies of a secured party under the Uniform Commercial Code (whether or not the Code is in effect in the jurisdiction where rights and remedies are assured).

No waiver by RISE of any default shall operate as a waiver of any other default or the same default on a future occasion. Awardee hereby waives promptness by RISE in making any demand upon it, and agrees that no delay by RISE in exercising any of its rights hereunder shall be deemed to constitute a waiver thereof. The powers and remedies given hereby shall not be exclusive of any other powers or remedies available to RISE. No course of dealings between RISE and the Awardee, and no delay on the part of RISE in exercising any rights with respect to any default shall operate as a waiver of any rights of RISE.

XI. EVENTS OF DEFAULT

Any one of the following shall constitute a default under this Agreement and, if not cured during the applicable grace period, if any, shall constitute an "Event of Default":

Awardee's breach of any covenant, agreement or obligation set forth in this or any other Grant Document, which is not cured within fifteen (15) days after the date listed on RISE's written demand.

If at any time RISE becomes aware that any one or more of Awardee's representations or warranties in this or any other Grant Document or certificate provided in connection with the Grant, including without limitation, Awardee's Application, is false, fraudulent or materially incomplete.

The Awardee's failure to comply with the nondiscrimination clauses, or with any of the foregoing rules, regulations, representations warranties, covenants or requests of this Agreement.

The Awardee fails to meet the agreed upon deliverables stated in Exhibit A.

If Awardee fails to obtain and maintain flood insurance for a building in a 100-year flood zone that is leased and/or improved with the Award.

The occurrence of any default or "event of default" under any other Grant Document.

XII. SUSPENSION AND TERMINATION

This Agreement may be suspended or terminated in whole or in part as follows:

- A. By fulfillment. The Agreement will be considered to be terminated upon fulfillment of its terms and conditions;
- B. By mutual consent. The Agreement may be terminated or suspended, in whole or in part, at any time, if both parties consent to such termination or suspension. The conditions of the suspension or termination shall be documented in a written amendment to this Agreement;
- C. For cause. In accordance with 24 CFR 85.43, RISE may suspend or terminate this Agreement if the Awardee materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:
 - a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, guidelines, policies or directives as may become applicable at any time;
 - b. Failure, for any reason except those beyond Awardee's control, of the Awardee to fulfill in a timely and proper manner its obligations under this Agreement;
 - c. Ineffective or improper use of funds provided under this Agreement;
 - d. Submission by the Awardee to RISE of reports that are untimely, incorrect or incomplete in any material respect; or
 - e. Any other Event of Default as set forth in Section XI above.
- D. For convenience. In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either RISE or the Awardee, in whole or in part, by setting forth the reasons for such termination, the Effective Date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination RISE determines that the remaining portion of the award will not accomplish the purpose for which the award was made, RISE may terminate the award in its entirety.
- E. Non-Compliance. Enforcement for noncompliance may include, but is not limited to, the following remedies if Awardee materially fails to comply with any term of this Agreement, whether stated in a federal statute or regulation, an assurance in a State plan or application, a notice of award, or elsewhere:
 - a. Temporarily withhold cash payments pending correction of the deficiency by the Awardee.

- b. Disallow (that is, deny use of funds for) all or part of the cost of the activity or action not in compliance.
- c. Wholly or partly suspend or terminate the current award for the Awardee's program.
- d. Exercise any other remedies or any other rights that may be legally available to RISE, including termination of this Agreement.

XIII. REMEDIES

Upon the occurrence and during the continuation of any Event of Default, RISE shall have the right, to demand the return of all or any portion of the Award made to Awardee, and/or to exercise or pursue any one or more of the rights, privileges and/or remedies available to RISE under this Agreement, any other Grant Document or at law or in equity.

Any such action or actions taken by RISE is intended to be cumulative and not exclusive, and may be pursued at such time and in such order as RISE may determine in its sole discretion, without impairing or otherwise affecting any other rights, privileges and/or remedies whether available under this or any other Grant Document, or permitted at law or in equity.

XIV. SURVIVAL OF REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS

All representations and warranties, covenants and agreements in this Agreement or any certificate or document delivered in connection with this Agreement or pursuant hereto shall survive the making of the Award provided for herein for a period ending on September 30, 2022. The parties acknowledge that HUD and DCHD may exercise right pursuant to relevant law which may extend beyond September 30, 2022. Any partial invalidity of the provisions hereof shall not invalidate the remaining portions hereof.

XV. COSTS INCURRED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT

Costs incurred prior to the Effective Date of this Agreement or after the expiration of this Agreement will not be reimbursed by RISE, unless approved by RISE and subject to this Agreement being signed by all parties.

XVI. NOTICES AND DEMANDS

Any notices, requests, consents or demands required by this Agreement shall be in writing and shall be deemed to be effective as of the date it is sent by certified mail, return receipt requested, or by commercial courier.

All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Awarder: RISE
500 E Main St., Suite 1601
Norfolk, VA 23510

Awardee: FernLeaf Interactive, LLC
1 Haywood Street, Suite 401
Asheville, NC 28801

XVII. REQUIRED PROVISIONS OF LAW

It is the intention and understanding of the parties hereto that each and every provision of law required to be inserted in this Agreement should be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted and if, through mistake or otherwise, any such provision is not inserted herein, or is not inserted in correct form, then this Agreement shall forthwith, upon the application of either party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party.

XVIII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIX. MISCELLANEOUS

This Agreement shall bind and inure to the benefit of the parties, their respective legal representatives, successors and assigns. If any part of this Agreement is found to be void or unenforceable, the remaining provisions shall nevertheless be binding. The headings of this Agreement are inserted only for purpose of convenient reference, and shall not be used in interpreting this Agreement. In construing this Agreement, feminine pronouns shall be substituted for those masculine in form (and vice versa), and plural terms shall be substituted for singular and singular for plural where the context so requires.

This Agreement may be executed in several counterparts, each of which shall be considered a legal original for all purposes. Any counterparts signed by both parties may be introduced into evidence in any action or proceeding without having to produce or account for the others. Likewise, this Agreement may be introduced into evidence by production of separate counterparts which collectively contain signatures of all parties and which are otherwise identical in all material respects.

One or more parties may transmit his signature on this Agreement via telecopy, facsimile or other form of electronic transmission, and that such signature shall be binding and have the same effect as a manual signature upon the original.

This agreement is to be construed according to the laws of the Commonwealth of Virginia.

XX. CORRECTIVE DOCUMENTS

The Awardee shall, within seven (7) days of a written request by RISE, execute any document(s) that RISE, in its sole discretion, determines should have been executed at or before the funding of this Award. Amendments to the provisions of the Agreement are required to be in writing and shall be executed by the authorized representatives of both parties.

XXI. VIOLATIONS OF STATE FINANCE LAW

The Awardee, including each and every principal of awardee, acknowledges and understands that the Virginia Fraud Against Taxpayers Act, Code of Virginia Section 8.01-216 et seq., (1) makes it a violation of state law to knowingly present or cause to be presented to any employee, officer or agent of the Commonwealth of Virginia (including any division or public benefit corporation) (a) a false or fraudulent claim for payment or approval; or (b) to use or cause to be made or use a false record or statement to get a false or fraudulent claim paid or approved by the Commonwealth of Virginia. Persons who violate this section may be liable for a civil penalty of not less than \$10,957 and not more than \$21,916, plus three times the amount of all damages, including consequential damages, sustained because of their action as well as costs incurred to recover any such penalties or damages.

XXII. ENTIRE AGREEMENT

This Agreement, including all Amendments and Addenda together with the Grant Documents, constitutes the entire agreement between RISE and Awardee with respect to this Award and supersedes all other prior or contemporaneous communications and proposals, whether electronic, oral, or written between RISE (or its agents) and Awardee with respect to this Agreement. In the event of a conflict between this Agreement and any of the Grant Documents, this Agreement shall control.

XXIII. ELECTRONIC SIGNATURE

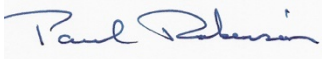
In the event that RISE and/ or the Awardee shall execute this Agreement by the use of an electronic signature, such electronic signature shall create a valid and binding obligation by such Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this **AWARD AGREEMENT** to be executed and made effective as of the day and year first above written.

AWARDER

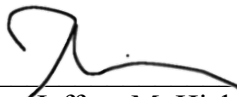
AWARDEE

COASTAL COMMUNITY
RESILIENCE, INC. DBA "RISE"

By: 
Name: Paul A. Robinson, Ph.D.

Title: Executive Director, RISE

FernLeaf Interactive, LLC

By: 
Name: Jeffrey M. Hicks

Title: CEO

EXHIBIT A

STATEMENT OF WORK AND BUDGET

The Awardee has been selected as a Finalist of the Urban Mobility Resilience Challenge – one of the 2020 topic areas under the RISE Coastal Community Resilience Challenge.

The 2020 RISE Urban Mobility Resilience Challenge seeks solutions to bring automated real-time flooding information to mobile apps and route guidance platforms. The goal is to demonstrate real-time flooding guidance apps in Hampton Roads. Solutions proven successful in this region must also apply to other coastal cities and communities. Guidance must be available to private drivers, commercial vehicles, emergency vehicles, and public transportation.

During flooding events, communities often experience significant disruptions to transportation. These disruptions affect private, commercial, and emergency vehicles as well as public transportation, detracting from local business' viability and the quality of life of residents. Also, many coastal communities are home to significant private/public installations which are economic drivers in the communities. These organizations rely on the transportation infrastructure of the host cities to function, and disruptions to their functionality cause hardship to them and to the community. A large part of the difficulty in managing this issue is the lack of awareness of the location and severity of the flooding, and how to navigate around the hazards.

The advent of mapping and routing platforms for smartphones (e.g., Waze, Google Maps, Apple Maps, etc.), could provide drivers guidance around such hazards in real-time. However, automatically conveying temporally and spatially changing flood hazards to such applications for their route guidance systems in real-time is complex and has not yet been demonstrated.

As the Finalist, the Awardee will perform the following tasks:

Task 1. Submission of a Final Incident and Closure Reports Dataset for a Past Flood Event

Using data inputs provided by RISE and its own software, the Awardee will submit a final dataset with automatically generated GeoJSON reports of flood hazards and road closures in Hampton Roads for the Hurricane Dorian historical flooding event. This final dataset must incorporate corrections identified by the RISE Technical Judging Committee provided to the Awardee.

Task 2. Participation in the RISE Resilience Innovation Accelerator

Awardee will participate in a 2-month virtual RISE Resilience Innovation Accelerator Program to refine their business plan for the solution proposed to the RISE Urban

Mobility Resilience Challenge. The Program, administered by the George Washington University, will follow the following structure and timeline:

The Awardee will receive payment for a satisfactory completion of each of four deliverables described below.

Task 3. Provide Access to the Real-Time Incident and Closure Report Feed

The Awardee will build and demonstrate a real-time version of their algorithms and software, utilizing their own funding and resources. The purpose of this is twofold: 1) to monitor and assess the system availability (network and data) and finalist’s response to outages, and 2) demonstration by way of real-time generation of incident and closure reports based on current environmental conditions. The Awardee will be required to have their real-time system up and running by August 17, 2020. The Awardee will be allowed to make changes to their systems after this date and should notify RISE if they are taking their system down so any outage will not be penalized. The Awardee will receive \$10,000 for access to the real-time incident and closure report feed. The Awardee will work with RISE contractors to provide the access by August 21, 2020. The real-time feed needs to be available until October 31, 2020. RISE is not funding development of the software and algorithms. RISE will only pay the Awardee for a deliverable consisting of the output from a real-time version of algorithms and software. RISE will perform the assessment of network and data availability.

BUDGET

| Task | Deliverable | Completion By | RISE RIF Amount |
|-------------|--|----------------------|------------------------|
| Task 1 | Final corrected incident and closure report dataset for a past flood event | August 17, 2020 | \$10,000.00 |
| Task 2a | Project plan approved by adjunct | August 17, 2020 | \$2,500.00 |
| Task 2b | Interim report: revision to the business model (with canvas), product revisions and pilot development. | September 15, 2020 | \$2,500.00 |
| Task 2c | Revised business plan based on accelerator work. | October 2, 2020 | \$2,500.00 |
| Task 2d | Final presentation with revised financials | October 19-31, 2020 | \$2,500.00 |
| Task 3 | Real-time incident and closure report feed access | August 17, 2020 | \$10,000.00 |

CDBG-NDR TERMS AND CONDITIONS

1. Effective Date and Commencement of Work

This Agreement is effective upon approval by RISE.

- A. Awardee cannot incur any costs until the effective date of this Agreement, unless prior written approval has been given by RISE.
- B. For certain project activities, RISE must receive the Authority to Use Grant Funds from HUD prior to the commitment and/or commencement of project work.
- C. An Awardee cannot be reimbursed for any project costs until RISE has issued written clearance of all general conditions and any special conditions required.

2. Sufficiency of Funds

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays, which would occur if this Agreement were executed after the determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are available to RISE by the United States Government, through DHCD, for the purposes of the CDBG-NDR Program. In the event there is a withdrawal of, or any limitation on, RISE's expenditure authority or any funding of the Program, RISE may elect to terminate this Agreement, in whole or in part, in its sole discretion and upon ten (10) days written notice to Awardee. In addition, this Agreement is subject to any additional restrictions, limitations, conditions or statute enacted by the Congress or State Legislature, promulgated in State or federal regulations or any State or federal statute, as now in effect and as may be amended from time to time which may affect the provisions, terms, or funding of this Agreement in any manner.

3. Litigation

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of RISE, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. Awardee shall notify RISE immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or RISE and shall take such

action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of RISE.

- C. In the event that any legal or administrative claim or action (“Claim”) is taken, filed, or asserted by or against any party to this Agreement, or any contractor or subcontractor thereof, or with respect to the NDR project(s), RISE may, in its sole and absolute discretion, and in addition to any other rights or remedies it may have hereunder, elect to either suspend or terminate this Agreement, in whole or in part, or to proceed forward under this Agreement. RISE shall have a period of ninety (90) days from its receipt of notice of a Claim to notify Awardee in writing of its decision to either suspend, terminate, or proceed forward. In the event RISE elects to terminate this Agreement, Awardee shall promptly submit its final Funds Request, together with those of its contractors and subcontractors, to RISE for processing, and upon payment thereof, the parties shall have no further rights or obligations under this Agreement, except for those rights and obligations which are expressly stated as surviving such a termination. Awardee shall ensure that all contracts or agreements with its contractors or subcontractors shall contain a provision similar to this paragraph.

4. National Objectives

All grant project activities performed under this Agreement must be CDBG-NDR eligible, have eligible costs and be documented as meeting one of the National Objectives of the HUD regulations as included in the Application authorized by HUD. National Objective standards are found under Title I of the Housing and Community Development Act of 1974, Section 104(b)(3), as amended and 24 CFR Part 570.483. Waivers of National Objective Standards are published over the course of the CDBG-NDR Program. For the purposes of the NDR grant, General Administration and Planning Activities are assumed to meet a CDBG National Objective.

- A. Activity primarily benefits HUD defined low- or moderate-income (“LMI”) person (family) or household. The term low- or moderate-income is defined as a family or household having an annual income of no more than 80% of the median area income on a county level, which is annually determined by HUD, per 24 CFR, Part 570.483(b); unless a formal waiver is provided in a CDBG-NDR federal register notice.
- B. Activity eliminates conditions of Slum or Blight (on a spot or area basis) is an eligible CDBG National Objective. Slum and Blight's definition is found in 24 CFR, Part 570.483(c). The use of Slum or Blight is not eligible under CDBG-NDR without prior written approval from RISE.
- C. Meeting an Urgent Need is an eligible CDBG National Objective under 24 CFR, Part 570.483(d). This National Objective was provided a waiver under Federal Register Notice FR-5936-N-01, Section V. A. 1. d. for activities using Urgent Need.

5. Eligible Activities

Awardee shall only use funds under this Agreement for eligible CDBG-NDR activities and costs as authorized under existing Section 105(a) of Title I of the Housing and Community Development Act of 1974, as amended by the Appropriations Act as well as those specified in the NDRC NOFA, and awarded CDBG-NDR grants, and in compliance with other requirements or conditions which may be imposed by HUD, from time to time. The eligible activities under this Agreement are described in Exhibit A.

6. Public Benefit Standards for Special Economic Development (ED) Activities

Pursuant to 24 CFR 570.482(f), (g) and 570.483(b)(4), the Awardee is responsible for providing fulfillment of HUD required public benefit standards when activities under this agreement qualify as special ED activities. The NDRC NOFA and Federal Register Notice FR-5936-N-01 waives the public benefit subsidy standards at 42 U.S.C. 5305(e)(3), 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6), and 570.209(b)(1), (2), (3)(i), (4), for economic development activities designed to create or retain jobs when assisting for profit businesses (including, but not limited to, long-term loans, short-term loans, and grants for infrastructure projects). However, recipients of grant funding shall report and maintain documentation on the creation and retention of total jobs; the number of jobs within certain salary ranges; the average amount of assistance provided per job, by activity or program; the North American Industry Classification System (NAICS) code for each business assisted; and the types of jobs. HUD is also waiving 570.482(g) and 570.209(c) and (d) to the extent these provisions are related to public benefit.

These special ED activities must also comply with CDBG's six (6) underwriting standards, per 24 CFR Part 570.482(e).

7. Waivers

No waiver or any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of RISE to enforce at any time the provisions of this Agreement or to require at any time performance by the Awardee of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of RISE to enforce these provisions.

8. Uniform Administrative Requirements

The Awardee and all other recipients of grant funds shall comply with the policies, guidelines and requirements of OMB Uniform guidance at 2 CFR 200 the Uniform Administrative Requirements, effective July 1, 2015.

9. Non-Performance

In the event that the National Objective requirements are not met due to any action or inaction of Awardee, RISE may, in its sole discretion, require reimbursement of part or all

project funding disbursed to Awardee under this Agreement, whether before or after the date of non-compliance.

Prior to closing out this Agreement, RISE will review the actual National Objective, Eligible Activities, and Public Benefit achievements of the project activities with Awardee.

10. Affirmatively Furthering Fair Housing

Per Federal Register Notice FR-5936-N-01, Section 3: V.C.1.b., all activities under this Agreement and under any and all associated agreements, shall be carried out in a manner that affirmatively furthers fair housing, as required by section 808 (e) (5) of the Fair Housing Act, as amended (42 U.S.C. 3608 (e) (5)).

11. Equal Opportunity Requirements and Responsibilities

Awardee and its contractors and subrecipients shall comply with all of the following:

- A. Title VI of the Civil Rights Act of 1964: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
- B. Title VII of the Civil Rights Act of 1968 (The Fair Housing Act): This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing. Awardee will meet all civil rights related requirements pursuant to 24 CFR 570.503(b)(5).
- C. Restoration Act of 1987: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- D. Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]: This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- E. The Fair Housing Amendment Act of 1988: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis

of familial status for those housing developments that qualify as housing for persons age 55 or older.

- F. The Housing for Older Persons Act of 1995 (HOPA): Retained the requirement that the housing facilities must have one person who is 55 years of age or older living in at least 80% of its occupied units. The act also retained the requirement that housing facilities publish and follow policies and procedures that demonstrate intent to be housing for persons 55 or older.
- G. The Age Discrimination Act of 1975: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 Paragraph 11; 101 KAR 1:375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.
- H. Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.
- I. Americans with Disabilities Act of 1990 (ADA): This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a disability” in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.
- J. Executive Order 11063: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
- K. Executive Order 11259: This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.

- L. Equal Employment Opportunity Act: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found “probable cause” of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
- M. Immigration Reform and Control Act (IRCA) of 1986: Under IRCA, employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (1-9).
- N. Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.
- O. Vietnam Era Veterans Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- P. Executive Order 11246: This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

12. Training, Employment, and Contracting Opportunities for Business and Lower-Income Persons Assurance of Compliance (“Section 3”):

The Awardee will comply with Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u), and implementing 24 CFR, Part 135. The responsibilities of the Awardee are outlined in 24 CFR Part 135.32 as follows:

- A. Implementing procedures designed to notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- B. Notifying potential contractors for Section 3 covered projects of the requirements of this Part and incorporating the Section 3 clause set forth in Section 135.38 in all solicitations and contracts.

- C. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns by undertaking activities such as described in the appendix to this part, as appropriate, to reach the goals set forth in Section 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of Section 3 residents and contract award to Section 3 business concerns that exceed those specified in Section 135.30.
- D. Assisting and actively cooperating with HUD, DHCD and RISE in obtaining the compliance of contractors and subcontractors with the requirements of this part and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR Part 135.
- E. Documenting actions taken to comply with the requirements of this part, the results of those actions taken and impediments, if any.

13. Environmental Compliance

The Awardee shall assist RISE, RISE's technical assistance consultant, and any environmental compliance consultant/engineer, should one be procured, so that National Environmental Policy Act (NEPA) requirements and Virginia Environmental Impact Report Procedure (VAEIR) requirements are met. Under federal regulations, the Awardee cannot act as lead agency for NEPA, as DHCD is required to be lead agency for the CDBG-NDR funds. Awardee shall not assume the role of lead agency for any VAEIR review process. DHCD or one of its designees shall assume the lead agency role for VAEIR. Awardee will assist RISE in the VAEIR/NEPA processes and obtaining Authority to Use Grant funds from HUD staff prior to incurring any project implementation costs.

14. Clean Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, Part 15, as amended from time to time.

15. Relocation, Displacement, and Acquisition

The provisions of the Uniform Relocation Act, as amended, 49 CFR, Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 shall be followed where any assistance is carried out by the Awardee and assisted in whole or in part by funds allocated by CDBG. For projects where there will be temporary or permanent displacement, the Awardee must submit signed General Information Notices from each tenant who was residing in the project at the time of Application submittal.

16. Federal Labor Standards Provisions

Awardee and its contractors and subrecipients shall comply with all of the following:

- A. Davis-Bacon Act (40 U.S.C. 3141-3148) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Federal Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.
- B. “Anti-Kickback Act of 1986” (41 U.S.C. 51-58) The act prohibits attempted as well as completed “kickbacks,” which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind. The act also provides that the inclusion of kickback amounts in contract prices is prohibited conduct in itself. This act requires that the purpose of the kickback was for improperly obtaining or rewarding favorable treatment. It is intended to embrace the full range of government contracting.
- C. Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. 3702) requires that workers receive “overtime” compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- D. Title 29, Code of Federal Regulations CFR, Subtitle A, Parts 1, 3 and 5) are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

17. Lead Based Paint Hazards

Activity(ies) performed with assistance provided under this Agreement are subject to lead-based paint hazard regulations contained in CFR, Part 35 (Lead Disclosure). Any grants or loans made by the Awardee with assistance provided under this Agreement shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under these regulations. The Awardee shall be responsible for the notifications, inspections, and clearance certifications required under these regulations.

18. Conflict of Interest of Members, Officers, or Employees of Contractors, Members of Local Governing Body, or other Public Officials

Pursuant to 24 CFR 570.489(h), no member, officer, or employee of the Awardee, or its designees or agents who exercise or have exercised any functions or responsibilities with respect to CDBG-NDR activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-NDR-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-NDR-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties. The foregoing requirement shall apply to members of the governing body and all public officials of locality in which the program is

situated only if Awardee enters into a contract or subcontract with such locality or localities to fund or perform CDBG NDR assisted activities. The Awardee shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

19. Conflict of Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. Awardee shall report all perceived, potential or actual conflicts of interest to RISE for review before entering into any agreements or providing financial assistance.

20. Anti-Job Pirating Certification

Pursuant to 24 CFR 570.482(h) CDBG-NDR funds may not be used to directly assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one labor market area to another labor market area if the relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs. Job loss of more than 500 employees is always considered significant. Job loss of 25 or fewer positions is never considered significant. A waiver has been granted by HUD for this regulation in the Federal Register Notice FR-5936-N-01, but Awardee must request permission to use the waiver in writing from RISE.

21. Anti-Lobbying Certification

The Awardee shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity(ies) and that all subrecipients 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 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant,

loan, or cooperative agreement, Awardee shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

22. Bonus or Commission, Prohibition Against Payments of

The assistance provided under this Agreement shall not be used in the payment of any bonus or commissions for the purpose of:

- A. Obtaining RISE's approval of the Application for such assistance; or,
- B. RISE's approval of the Applications for additional assistance; or,
- C. Any other approval or concurrence of RISE required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

23. Contractors and Subrecipients

- A. RISE has adopted procurement standards under 2 CFR 200.318-326. The Awardee shall follow these same standards. In addition, Awardee shall not enter into any agreement, written or oral, with any contractor or subrecipient without the prior determination that the contractor or subrecipient is eligible to receive CDBG-NDR funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.
- B. An agreement between the Awardee and any contractor shall require:
 - 1) Compliance with the applicable State and federal requirements described in this Agreement, which pertain to, among other things, procurement, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug-Free Workplace; and, compliance with the applicable provisions relating to labor standards and Section 3 as described in Sections 11 and 16, above. Appendix II of 2 CFR Part 200 sets forth mandatory provisions for incorporation into non-Federal entity contracts involving federal funds awards.
 - 2) Maintenance of at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the grant activities or any part of it.
 - 3) Maintenance, if so required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor in performing the grant activity(ies) or any part of it.

- 4) Compliance with the applicable Equal Opportunity Requirements described in Section 11, of this exhibit.
- 5) Compliance with the policies, guidelines and requirements of OMB Uniform guidance at 2 CFR 200 the Uniform Administrative Requirements, as well as all state/federal laws, regulations and RISE guidelines applicable to the activities set forth in this Agreement.

C. Contractors and Subrecipients: Drug-Free Workplace Act of 1988

Contractors and subrecipients shall comply with all of the following:

- 1) Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
- 2) Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
- 3) Notify employees that as a condition of employment on a federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within (5) five calendar days, if he or she is convicted of a criminal drug violation in the workplace.
- 4) Notify the contracting or granting agency within 10 (ten) days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- 5) Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- 6) Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

24. Insurance

The Awardee shall have and maintain in full force and effect during the term of this Agreement such forms of insurance, at such levels as may be determined by the Awardee and RISE to be necessary for specific components of the grant activity(ies) described in Exhibit A.

25. Reporting Requirements

During the term of this Agreement, the Awardee must work with RISE, RISE's technical assistance consultants, and other partners in submitting reports by the dates identified, respectively, or as otherwise required, at the discretion of RISE.

26. Monitoring Requirements

RISE shall perform a monitoring of project activities and/or fiscal monitoring of the grant in accordance with requirements of 42 U.S.C. 5304(e)(2), as amended and as modified by Federal Register Notice FR-5936-N-01. The Awardee shall be required to resolve any monitoring findings to RISE's satisfaction by the deadlines set by RISE. Awardee will work with RISE, and RISE's technical assistance consultant, to conduct ongoing monitoring compliance of parties who are implementing CDBG-NDR project activities. Awardee shall assist RISE and RISE's technical assistance consultant in complying and maintaining recordkeeping files to facilitate HUD audit reviews under 24 CFR 570.493 for all activities under this agreement.

RISE shall determine the areas of monitoring, the number of monitoring visits, and their frequency. Monitoring shall address program compliance with contract provisions, including to but not limited to eligible activity, eligible costs, meeting a National Objective. In addition, monitoring reviews of financial management and requirements of Disaster Relief Appropriations Act, 2013 (Public Law 113-2), Title I of Housing Community Development Act (HCDA) of 1974 (42 U.S. C. 5302 et seq.), HCDA regulations 24 CFR, Part 85, 24 CFR 570 Part I, all applicable federal overlay requirements and all CDBG-NDR published Federal Register Notices shall be conducted.

27. Inspections of Grant Activity

RISE, DHCD, and HUD reserves the right to inspect any grant activity(ies) performed hereunder to verify that the grant activity(ies) is being and/or has been performed in accordance with the applicable federal, state and/or local requirements and this Agreement.

- A. Awardee shall inspect any grant activity performed by contractors and subrecipients hereunder to ensure past and current grant activities meet the applicable federal, state and/or local requirements per this Agreement.
- B. Awardee agrees to require that all grant activities found by such inspections not to conform to the applicable requirements be corrected, and to withhold payment to its contractor or subcontractor and subrecipients, respectively, until it is so corrected.

28. Access to Records

Awardee and its contractors and subrecipients shall at all times during the term hereof provide to RISE, DHCD, HUD, the State, the Comptroller General of the United States, or any of their duly authorized representatives, access to any books, documents, papers, and records for the purpose of making audit, examination, excerpts, and transcriptions pursuant to 24 CFR 85.36(i)(10).

29. Audit/Retention and Inspection of Records

- A. Awardee must have intact, auditable fiscal and program records at all times.
- B. Awardee agrees that RISE or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Awardee agrees to provide RISE or its designee with any relevant information requested. Awardee shall permit RISE or its designee access to its premises, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance. Awardee further agrees to maintain such records for a minimum period of five (5) years after RISE notifies Awardee that the HUD RISE CDBG-NDR grant contract has been closed. Awardee shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation.
- C. An expenditure that is not authorized under this Agreement or that cannot be adequately documented shall be disallowed. If this determination is made after reimbursement was made to Awardee, then expenditure must be reimbursed to RISE or its designee by the Awardee. Expenditures for grant activity(ies) not described in Exhibit A shall be deemed authorized if the performance of such grant activity(ies) is approved in writing by RISE prior to the commencement of such grant activity(ies).
- D. Absent fraud or mistake on the part of RISE, the determination by RISE of the allowability of any expenditure shall be final.
- E. For the purposes of annual audits under OMB Uniform Guidance, Awardee shall use the Federal Catalog number 14.272 for the CDBG-NDR Program.
- F. Pursuant to OMB Uniform Guidance 2 CFR 200, the Awardee shall perform an annual audit at the close of each fiscal year in which this Agreement is in effect. Audit costs for this Agreement are a general administration expense and are subject to the general administration expenditure limits associated with this Agreement. The costs of the CDBG-NDR-related portion of the audit may be charged to the program in accordance with Public Law 98-502, Uniform Guidance.
- G. Notwithstanding the requirement of A-F above, RISE will not reimburse the Awardee for any audit cost incurred after the expenditure deadline of this Agreement.

- 1) The audit shall be performed by a qualified State, local or independent auditor. The agreement/contract for audit shall include a clause which permits access by RISE to the independent auditor's working papers.
- 2) If there are audit findings, the Awardee must submit a detailed response to RISE for each audit finding. RISE will review the response and, if it agrees with the response, the audit process ends, and RISE will notify the Awardee in writing. If RISE is not in agreement, the Awardee will be contacted in writing and informed what corrective actions must be taken. This action may include the repayment of disallowed costs or other remediation.
- 3) RISE shall not approve reimbursement for any expenditures for the audit, prior to receiving an acceptable audit report.
- 4) If so directed by RISE upon termination of this Agreement, the Awardee shall cause all records, accounts, documentation and all other materials relevant to the grant activities to be delivered to RISE as depository.

30. Signs

The Awardee shall insure recognition of the role of HUD and RISE in providing funding, services and efforts through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to role of HUD and of RISE. In addition, the Awardee will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement, see Exhibit C – HUD and Awarder Recognition.

If the Awardee places signs stating that the activity is funded with private or public dollars and RISE is also providing financing, it shall indicate in a typeface and size commensurate with RISE's funding portion of the project that RISE is a source of financing through the CDBG-NDR Program.

31. Flood Disaster Protection

- A. This Agreement is subject to the requirements of the Flood Disaster Protection Act (FDPA) of 1973 (Public Law 93-234). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under FDPA, Section 3(a) of said act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to FDPA, Section 102(d) of said act.
- B. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the

national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of FDPA, Section 102(a) of said act.

- C. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain certain provisions. These provisions will apply if such land is located in an area identified by the Secretary of HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.
- D. These provisions shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under FDPA, Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

32. Procurement

The Awardee shall comply with the procurement provisions, administrative requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian tribal governments and 2 CFR 200.318 through 200.326, per RISE's certification of these procurement standards.

In accordance with federal register notice FR-5936-N-01, a Data Universal Numbering System (DUNS) number must be collected.

33. Obligations of Awardee with Respect to Certain Third-Party Relationships

The Awardee shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Scope of Work with respect to which assistance is being provided under this Agreement to the Awardee. The Awardee shall comply with all lawful requirements of RISE necessary to ensure that the Scope of Work, with respect to which assistance is being provided under this Agreement to the Awardee, is carried out in accordance with RISE's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of RISE under Section 104(g) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(g)].

34. Energy Policy and Conservation Act

This Agreement is subject to mandatory standards and policies relating to energy efficiency which are contained in the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

35. Grant Reduction

If, after RISE is awarded funds and enters into a grant agreement with HUD, RISE then or subsequently proposes to make a substantial amendment to any of the CDBG-NDR project activities, then HUD and RISE reserve the right to amend the award and change the budget amounts under this Agreement.

36. Financial Controls

The NDRC NOFA requires that any party involved in the CDBG-NDR projects, whether directly or indirectly, must agree to provide any information RISE requires in order to maintain proficient financial controls.

37. Administrative and National Policy Requirements

Certain Administrative and National Policy Requirements apply to all HUD funding, including CDBG-NDR funding. See NDRC NOFA, Exhibit E, for a list of these requirements. Any party involved in a CDBG-NDR project, whether directly or indirectly, must agree to provide any information RISE requires in order to meet the aforementioned administrative and national policy requirements.'

38. Reporting

HUD requires Awardees under the NDRC NOFA to report the sources and uses of all amounts expended and other information for HUD's annual report to Congress or other purposes as determined by HUD. All recipients of CDBG-NDR funding for project implementation, whether directly or indirectly, shall report amounts shown in project sources and uses forms and all amounts expended on eligible activities under this Agreement. Parties shall provide information as requested by RISE for purposes of reporting to federal, state and local entities including but not limited to CDBG-NDR quarterly report to HUD, and HUD's annual report to Congress or other purposes as determined by HUD.

Appendix A of the NDRC NOFA contains the requirements applicable to Community Development Block Grant (CDBG) funds made available by the Disaster Relief Appropriations Act, 2013 (PL113-2, approved January 29, 2013) Appropriations Act and awarded under the National Disaster Resilience Competition as CDBG-NDR grants. Appendix A to the NDRC NOFA was subsequently incorporated into Federal Register Notice FR-5936-N-01.

39. Performance Measures and Related Remedies

Performance Measures and Penalties provisions are set forth in Exhibit A.

40. Disputes

Except as otherwise provided in this Agreement, any dispute arising under or relating to the performance of this Agreement, which is not disposed of, by mutual agreement of the parties shall be decided by a two-tier process. First, the Awardee will present their dispute documentation to Executive Director of RISE for review and resolution. If the dispute cannot be resolved by the Executive Director, then it will be presented to the Board of Directors. The decision of the Board of Directors shall be final, conclusive and binding.

41. Federal Register Notice(s)

The parties agree that in addition to complying with all other terms and conditions set forth in the Agreement and the various Exhibits thereto, to the extent additional requirements or conditions are imposed upon RISE by HUD in any Federal Register Notice (“FRN”) relating to the NDRC project, the parties will be required to comply with such additional requirements or conditions, as will their respective recipients of CDBG NDR funding. In connection therewith, the parties acknowledge having reviewed the following three FRNs issued by HUD prior to the date hereof: (i) 81 FRN 109, page 36557 [Docket No. FR-5936-N-01] dated June 7, 2016; (ii) 80 FRN 21, page 5570 [Docket No. FR-5831-N-03] dated February 2, 2015; and (iii) 79 FRN 202, page 62654 [Docket No. FR-5753-N-11] dated October 20, 2014. The parties further acknowledge that additional FRNs relative to the NDRC project will be issued by HUD in the future, and that each party must also comply with any requirements and conditions set forth in such subsequent FRNs.

42. Duplication of Benefit

Duplication of benefits (DOB) requirements in section 312 of the Stafford Act and in the Appropriations Act applies to the use of CDBG-NDR funds. RISE has developed a process for documenting any DOB for project activities. This process is based on HUD Federal Register notice 76 FR 71060 published on November 16, 2011 and other HUD published guidance. Prior to release of any project activity funding, Awardee must follow RISE process for documentation of DOB. The DOB calculations must be completed and approved in writing by RISE as part of clearing general conditions for each project activity under this Agreement upon clearance of general conditions, project funding will be released.

43. Non-Discrimination Language from 41 CFR Part 60-1.4(b)

Awardee shall comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity”, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapters 60).

44. Project Design/Feasibility

Awardee will demonstrate that the engineering design for a facility or infrastructure under this Agreement is feasible prior to obligation of funds for construction. This demonstration is satisfied if a registered professional engineer (or other design professional) certifies that the design meets the appropriate code or industry design and construction standards.

Awardee will design projects that to the greatest degree possible, use construction methods that are high quality, green construction, energy and water efficient, healthy indoor environments, resilient and mitigating the impact of future disasters.

45. Required Federal Language from 2 CFR Part 200 Appendix II

Appendix II to CFR Part 200 sets forth mandatory provisions which must be incorporated into non-Federal entity contracts involving federal funds awards. This requirement applies to the subject matter of this Agreement. Accordingly, Appendix II to CFR Part 200 is hereby incorporated into and made part of this Agreement by reference. Awardee acknowledges having reviewed such provisions and agrees to the terms thereof. Awardee further acknowledges that RISE is requiring that all other recipients of CDBG-NDR funding incorporate Appendix II to CFR Part 200 into their agreements.

46. Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

47. Rights to Inventions Made Under a Contract or Agreement

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of recipient or subrecipient must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, “ and any implementing regulation issued by the awarding agency.

EXHIBIT C

HUD AND AWARDER RECOGNITION

Please find below guidelines for recognition of HUD and RISE in any work done as a result of this Agreement. Note, any public information and all of the items below must be approved by RISE in advance of publication or posting.

Written documents:

All written documents must include the following language, unless otherwise specified in writing by RISE:

1. “This Urban Mobility Resilience Challenge is made possible by a grant from RISE, which is funded through Community Development Block Grants from the U.S. Department of Housing and Urban Development and administered through the Virginia Department of Housing and Community Development.”
2. Written documents should also include the RISE logo.

Internet information and e-mail information:

1. Internet information must include all of the items required for written documentation and a link to RISE’s website.

Offices open to the public providing services funded by RISE:

1. All offices must include a sign including all of the items required for written documentation.

Construction Signs:

1. All construction signs must include a sign including all of the items required for written documentation.
2. All construction signs must also include the name of the project, an expected end date for the project, the name of the Awardee, and a phone number for the public to call to obtain information about the project. This must be a phone number maintained by the Awardee or one of its subcontractors.

Completed Projects:

1. All completed projects must include permanent recognition of RISE. The Awardee is required to submit to RISE for written approval of the proposed permanent recognition.