

**IOWA ECONOMIC DEVELOPMENT AUTHORITY  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG-NDR) PROGRAM  
NATIONAL RESILIENT DISASTER RECOVERY PHASE ONE AND TWO INFRASTRUCTURE CONTRACT**

|                                  |                    |
|----------------------------------|--------------------|
| <b>RECIPIENT:</b>                | City of Dubuque    |
| <b>CDBG-NDR CONTRACT NUMBER:</b> | 13-NDRI-011        |
| <b>START DATE:</b>               | October 11, 2016   |
| <b>AWARD AMOUNT:</b>             | \$23,309,600       |
| <b>DIRECT LEVERAGE (match):</b>  | \$21,600,000       |
| <b>SUPPORTING LEVERAGE:</b>      | \$38,219,000       |
| <b>END DATE:</b>                 | September 30, 2021 |

THIS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM DISASTER RECOVERY - NATIONAL DISASTER RESILIENCE ("CDBG-NDR") CONTRACT is made by and between the IOWA ECONOMIC DEVELOPMENT AUTHORITY, 200 East Grand Avenue, Des Moines, Iowa 50309 ("Authority" or "IEDA") and City of Dubuque ("Recipient"), effective as of the date stated above.

WHEREAS, the Authority is designated to receive, administer, and disburse CDBG-NDR funds; and

WHEREAS, the Authority submitted an application to HUD for funds from the United State Department of Housing and Urban Development under the Disaster Relief Appropriations Act, 2013, Public Law 113-2, for the Community Development Block Grant National Disaster Resilience (CDBG-NDR) competition on behalf of the Recipient and the Recipient agreed to abide by the application terms and conditions; and

WHEREAS, the Authority received funds under the Disaster Relief Appropriations Act, 2013. (Public Law 113-2) under the CDBG-NDR program; and

WHEREAS, the Authority desires to disburse grant funds to the Recipient for eligible purposes primarily benefiting low and moderate income persons, eliminating slums and blight, or meeting community development needs having particular urgency; and

WHEREAS, the Recipient has certified to the Authority that the primary purpose for obtaining CDBG-NDR funds is to primarily benefit low and moderate income persons, eliminate slums and blight, or meet community development needs having a particular urgency;

NOW, THEREFORE, the Recipient accepts this grant upon the terms and conditions set forth in this Contract. In consideration of the mutual promises contained in this Contract and other good and valuable consideration, it is agreed as follows:

**ARTICLE 1**  
**DEFINITIONS**

As used in this Contract, the following terms shall apply:

1.1 **ACT.** "Act" means Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.) and the regulations now or hereafter promulgated thereunder and the guidance now or hereafter disseminated with respect thereto.

1.2 **ACTIVITY.** "Activity" means the description of eligible work, services, and other accomplishments, as authorized by Section 105 of the "Act" and as further defined in 24 CFR 570.482, as revised April 1, 1997. Activities are line items in the budget and are found in the line items in Attachment A, "Program Description" and the Recipient's "Budget Activity" in IowaGrants.gov account and have specific performance targets.

1.3 **ALLOWABLE COSTS.** "Allowable Costs" are those costs which are identified in the "Budget Activity" as found in the Recipient's IowaGrants.gov account, and consistent with Federal regulations and guidelines applicable to the CDBG-NDR program.

1.4 **APPLICATION.** "Application" means the application submitted by the Iowa Economic Development Authority to the U.S. Department of Housing and Urban Development under the Disaster Relief Appropriations Act, 2013, Public Law 113-2, for the Community Development Block Grant National Disaster Resilience (CDBG-NDR) competition, including the application for National Resilient Disaster Recovery Phase ONE and TWO as approved by HUD on January 29, 2016, and the Recipient agreed to be a party to the Application and abide by the application terms and conditions.

- 1.5 **BUDGET.** "Budget" means the "Budget Activity" as found in the Recipient's IowaGrants.gov account.
- 1.6 **COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG).** "Community Development Block Grant Program" means the grant program authorized by Title I of the Housing and Community Development Act of 1974, as amended.
- 1.7 **CONTRACT.** "Contract" means this Contract and all of the notes, leases, assignments, mortgages, and similar documents referred to in the Contract and all other instruments or documents executed by the Recipient or otherwise required in connection with the Contract, including the CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application together with any related submittal documents.
- 1.8 **DISASTER RELIEF APPROPRIATIONS ACT, 2013 (PUBLIC LAW 113-2)** "Disaster Relief Appropriations Act, 2013 (Public Law 113-2)" means the Disaster Relief Appropriations Act, 2013 (Public Law 113-2) as published in the Federal Register on January 29, 2013.
- 1.9 **END DATE.** "End Date" means the date the Contract ceases to be in force and effect. The Contract expires upon the occurrence of one of the following: a) the Recipient fulfills the conditions and Project activities agreed to herein as of the end date stated above; or b) the Contract is terminated by the Authority due to any default under Article 9.1; or c) the Contract is terminated in accordance with provisions set forth in Sections 8 and 9 of the General Provisions, Attachment C of this Contract.
- 1.10 **GRANT.** "Grant" means the award of CDBG-NDR funds to the Recipient for Project activities.
- 1.11 **HUD.** "HUD" means the U.S. Department of Housing and Urban Development.
- 1.12 **IOWAGRANTS.GOV.** "IowaGrants.gov" means Iowa's Funding Opportunity Search and Grant Management System. This system allows you to electronically apply for and manage grants received by the state of Iowa. Persons accessing the system for this purpose are required to register online at [www.IowaGrants.gov](http://www.IowaGrants.gov).
- 1.13 **LOW- AND MODERATE-INCOME FAMILIES.** "Low- and Moderate-Income Families" means those families earning no more than 80 percent of the higher of the median family income of the county or the statewide nonmetropolitan area as determined by the latest U.S. Department of Housing and Urban Development, Section 8 income guidelines. Unrelated individuals living together shall be considered as one-person families for this purpose.
- 1.14 **LOW- AND MODERATE-INCOME PERSONS.** "Low and Moderate Income Person" means a member of a low- and moderate-income family as defined above.
- 1.15 **LOW- AND MODERATE AREA.** "Low and Moderate Area" means the service area identified for activities is primarily low/mod income.
- 1.16 **NATIONAL RESILIENCE DISASTER RECOVERY PHASE ONE AND TWO.** "National Resilient Disaster Recovery Phase ONE and TWO" (NDR) means the Notice of Funding Availability for the National Resilient Disaster Recovery Phase ONE and TWO FR-5800-N-29A2 Application Due Date: 10/27/2015.
- 1.17 **PROGRAM.** "Program" means the Community Development Block Grant Program Disaster Recovery - National Disaster Resilience ("CDBG-NDR") authorized pursuant to the Program Rules.
- 1.18 **PROGRAM INCOME.** "Program Income" shall have the meaning for such term set forth in 24 CFR 570.500(a), as modified by the Program Rules.
- 1.19 **PROGRAM RULES.** "Program Rules" means the Act, as modified by the Disaster Relief Appropriations Act, 2013 (Public Law 113-2), and the regulations now or hereafter promulgated thereunder and the guidance now or hereafter disseminated with respect thereto including but not limited to HUD Notices published in the Federal Register on January 29, 2013, March 5, 2013, November 18, 2015, and December 7, 2015, and any additional HUD Notices or other guidance that may be disseminated.
- 1.20 **PROJECT.** "Project" means the totality of work, services, and activities to be performed or accomplished by the Recipient as described in this Contract and IowaGrants.gov.
- 1.21 **RECIPIENT.** "Recipient" means the entity identified above that has been selected to receive Program funds to undertake the funded Project and agrees to comply with all applicable CDBG-NDR requirements, including those found in

Disaster Relief Appropriations Act, 2013 (Public Law 113-2), title I of the Housing and Community Development Act of 1974 (42 USC 5302 et seq.), the CDBG program regulations at 24 CFR part 570, the Notice of Funding Availability for HUD's National Community Development Block Grant Resilient Disaster Recovery Allocation and any subsequent published amendments (the CDBG-NDR NOFA), and IEDA's CDBG-NDR NOFA application. For purposes of this agreement the "Recipient" shall also be considered to meet the definition and qualifications as a "Subrecipient" as defined in 2 CFR 200.93 and 2 CFR 200.330 and agrees to receive this "Subaward" as defined in 2 CFR 200.92.

1.22 **SPECIAL FLOOD HAZARD AREA.** "Special Flood Hazard Area" means an area designated as a special hazard flood area on the most recent National Flood Insurance Program map for such area.

## **ARTICLE 2** **FUNDING**

2.1 **FUNDING SOURCE.** The source of funding for the Grant is a Federal appropriation for the Program.

2.2 **RECEIPT OF FUNDS.** All payments under this Contract are subject to receipt by the Authority of sufficient Federal funds for the CDBG-NDR program. Any termination, reduction or delay of CDBG-NDR funds to the Authority shall, at the option of the Authority, result in the termination, reduction or delay of CDBG-NDR funds to the Recipient.

2.3 **PRIOR COSTS.** If any Recipient has received approval from the Authority to incur certain costs prior to the Start Date of this Contract, then said approval and the terms and conditions therein are incorporated herein and made a part of this Contract by this reference as if fully set forth; provided, however, that no such costs incurred prior to January 29, 2016 shall be reimbursed. Any such costs incurred prior to the Start Date of this Contract are subject to the Special Conditions and General Conditions of this Contract. IEDA approved allowable Application-related costs in the amount of \$52,100 incurred by the Recipient for the submission of the Application to HUD are reimbursable per provisions of 24 CFR 570.489(b) as included in the Recipient's "Budget Activity" in IowaGrants.gov account. Those costs are eligible for reimbursement after execution of the Contract. Refer to Federal Register 5936-N-01.

2.4 **DISBURSEMENT OF LESS THAN THE TOTAL AWARD AMOUNT.** If the total award amount has not been requested by the Recipient within sixty (60) days after the End Date, then the Authority shall be under no obligation for further disbursement. The Authority may allow access to funds after this time for allowable costs associated with the conduct of the audits required in Article 2.0 of the General Provisions, Attachment C to this Contract.

## **ARTICLE 3** **TERMS OF GRANT**

3.1 **TIME OF PERFORMANCE.** The services of the Recipient are to commence as of the Start Date and shall be undertaken in such a manner as to assure their timely and expeditious completion. All of the services required hereunder shall be completed on or before the End Date.

3.2 **MAXIMUM PAYMENTS.** It is expressly understood and agreed that the maximum amounts to be paid to the Recipient by the Authority for any item of work or service shall conform to the budget as presented in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. It is further understood and agreed that the total of all payments to the Recipient by the Authority for all work and services required under this Contract shall not exceed the Award Amount unless modified by written amendment of this Contract as provided for in Section 1.0 of the General Provisions, Attachment C of this Contract.

3.3 **ADMINISTRATION.** This Contract shall be administered in accordance with all applicable State and Federal laws and regulations now in effect and as may be amended from time to time, and including the Iowa Community Development Block Grant Management Guide as which may be amended or changed from time to time, and which can be accessed on the Authority's website, to the extent applicable to the Program and not in conflict with the Program Rules.

3.4 **LOCAL EFFORT REQUIREMENTS.** The Recipient agrees to provide local cash contribution to the Project as defined in the "Local" column of the budget shown in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. Expenditures above this level, necessary to complete the statement of work and services, shall be paid with local funds. Reports of the local funds expended shall be included in the Request for Payment/Activity Status Report specified in Article 8.1(b), "Reports". The Authority does agree to allow a delay in the contribution of local cash. When a delay is allowed, the delay shall be until October 1, 2019 or until two-thirds of the grant amount has been drawn down, whichever comes first, at which time no further Federal funds may be drawn down until sufficient local cash has been expended to attain the ratio of Federal to local funds specified in the Budget.

**ARTICLE 4**  
**PERFORMANCE TARGET ACHIEVEMENT**

- 4.1 **PERFORMANCE TARGETS.** By the End Date, the Recipient shall have accomplished the activities and performance targets as described in the "Budget Activity" as found in the Recipient's IowaGrants.gov account and as further elaborated in Attachment B, National Resilient Disaster Recovery Phase ONE and TWO Application.
- 4.2 **CALCULATION OF PROJECT COMPLETION.** The Authority has the final authority to assess whether the Recipient has met their performance targets at the End Date. The Authority shall determine completion according to the performance targets set forth in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. The Authority reserves the right to monitor and measure at any time during and after the Contract term the achievement of the performance targets.

**ARTICLE 5**  
**USE OF FUNDS**

- 5.1 **GENERAL.** The Recipient shall perform in a satisfactory and proper manner, as determined by the Authority, the work activities and services as written and described in the Recipient's approved Attachment A, "Program Description", "Budget Activity" as found in the Recipient's IowaGrants.gov account, and Attachment B, National Resilient Disaster Recovery Phase ONE and TWO Application.
- 5.2 **PROGRAM INCOME.** Unless otherwise agreed to in a signed amendment to this Contract, proceeds generated from the use of CDBG-NDR funds are considered program income when the total amount of any CDBG-NDR program income received by the Recipient in a fiscal year exceeds \$35,000, at which time the entire \$35,000 and excess are considered program income. Prior to the End Date, all program income shall be expended prior to requesting additional CDBG-NDR funds. Program income received by the Recipient after the End Date shall be returned to the Authority unless the Recipient has submitted, and the Authority has approved, a re-use plan. Any CDBG-NDR proceeds derived from an approved Revolving Loan Fund are considered program income, regardless of the amount received in any year.
- 5.3 **BUDGET REVISIONS.** Budget revisions shall be subject to approval of the Authority through the Contract amendment process. Budget line item decreases that would lower the Recipient's performance level required under this Contract must be first approved by the Authority through the amendment process. In no instance shall a budget revision result in total costs exceeding the total Contract amount. Budget revisions shall be compatible with the terms of this Contract and be of such a nature as to qualify as an allowable cost. Budget revisions requested during the final ninety (90) days of the Contract period will be approved by the Authority only if it determines that the revisions are necessary to complete all activities. The Authority retains the right to amend this contract to reduce the award amount when necessary to achieve an equitable distribution of funds for all areas of the state.
- 5.4 **PROHIBITION ON USE OF FUNDS.** The funds provided under this Contract shall not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers. The funds may be used as matching requirement, share or contribution for any other Federal program when used to carry out an eligible CDBG-NDR activity as authorized by HUD. In addition, no funds provided under this Contract may be used for the purchase of equipment or other personal property.
- 5.5 **ADMINISTRATIVE COST LIMITATIONS.** Federal funds used for reasonable administrative costs, as allowed under Federal and State regulations, shall be limited to two percent (2%) of the total CDBG-NDR funds as specified in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. Program income received by the Recipient during the Contract period is subject to the two percent (2%) administrative cost limitation. Total administrative costs (Federal) on the Project shall not exceed two percent (2%) of total Project Budget. Project delivery costs allocable to a Project site including but not limited to acquisition and environmental review activities are not included in administrative costs for purposes of this section.
- 5.6 **DUPLICATION OF BENEFITS.** 42 U.S.C. 5155 provides that any federal agency administering any program providing financial assistance to person, business concerns or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which it has received financial assistance under any other federal program or from insurance or any other source (the "Duplication of Benefits Rules"). The Recipient covenants to comply with the Duplication of Benefits Rules and to report any information with respect to the Duplication of Benefits Rules to IEDA as a condition to disbursements under this Contract.
- 5.7 **COMPLIANCE WITH PROGRAM RULES.** All activities conducted and services performed pursuant to this contract shall be conducted and performed in compliance with the Program Rules.

5.8 **DISASTER RELIEF REQUIREMENT.** Use of all funds pursuant to this Contract shall be for necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure, housing and economic revitalization in areas covered by the declarations of major disasters declared under Title IV of the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C., Section 5721 et Seq.) in 2011, 2012, and 2013.

5.9 **SPECIAL FLOOD HAZARD AREA.** No funds under this Project shall be expended with respect to property located in a Special Flood Hazard Area or equivalent in FEMA's most recent and current data source unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain accordance with Executive Order 11988 and 24 CFR part 55.

5.10 **FLOOD INSURANCE REQUIREMENTS.** The following requirements shall apply to this Contract:

(a) No funds under this Contract may be used for repair, replacement or restoration for damage to any personal, residential or commercial property if that person at any time has received federal flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable federal law on such property.

(b) The Recipient shall notify property owners receiving disaster assistance for which the owner is required to obtain flood insurance as set forth herein that such property owners have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so. The following duties and requirements shall apply:

(i) The transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of ANY requirements to (A) obtain flood insurance in accordance with applicable federal law with respect to such property, if the property is not so insured as of the date on which such property is transferred; and (B) maintain flood insurance in accordance with applicable federal law, which written notification shall be contained in the deed or other document evidencing the transfer of ownership of the property.

(ii) If the transferor of such property fails to provide notice as described in this subsection c and, subsequent to the transfer of such property (A) the transferee fails to obtain or maintain flood insurance in accordance with applicable federal law, with respect to such property; (B) such property is damaged by a flood disaster; and (C) federal disaster relief assistance is provided for the repair, replacement, or restoration of such property as a result of such damage, then the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of federal disaster release assistance provided with respect to such property.

(iii) The notification requirements of this section apply to personal, commercial or residential property for which federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement or restoration of such property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable federal law with respect to such property.

(c) For purposes of this section, the term "Federal disaster relief assistance" applies to HUD or other federal assistance for disaster relief in "flood disaster areas," and the term "flood disaster area" has the meaning given such term in Section 582(d)(2) of the National Flood Insurance Reform Act of 1994, as amended, and includes an area receiving a presidential declaration of a major disaster or emergency as a result of flood conditions.

## **ARTICLE 6** **CONDITIONS TO DISBURSEMENT OF FUNDS**

Unless and until the following conditions have been satisfied, the Authority shall be under no obligation to disburse to the Recipient any amounts under this Contract:

6.1 **CONTRACT EXECUTED.** The Contract shall have been properly executed and, where required, acknowledged.

6.2 **COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC PRESERVATION REQUIREMENTS.**

Funds shall not be released under this Contract for non-exempt activities until the Recipient has satisfied the environmental review and release of funds requirements set forth in 24 CFR Part 58, "Environmental Review Procedures for the Community Development Block Grant Program", and summarized in the Iowa Community Development Block Grant Management Guide, each to the extent applicable to the Program and not in conflict with the Program Rules. In addition, construction contracts for

non-exempt activities shall not be executed and construction shall not begin prior to providing the Authority with documentation of the Recipient's compliance with Section 106 of the National Historic Preservation Act and 36 CFR Part 800, "Protection of Historic Properties." The Recipient shall comply with any Programmatic Agreement between the Iowa Economic Development Authority and the Iowa State Historic Preservation Office, applicable to any activities included in this contract. The Recipient shall comply with any lead agency agreement between FEMA and IEDA applicable to any activity included in this contract. If a property being acquired is located in an area designated as a special flood hazard area on the most current flood advisory maps of the Federal Emergency Management Agency (FEMA), additional environmental review must be performed that complies with the requirements of 24 CFR Part 55 and Executive Order 11988.

6.3 **FINANCIAL COMMITMENTS.** The Recipient shall have submitted a firm written commitment from each source of funds to the Project identified in the "In the "Budget Activity" as found in the Recipient's IowaGrants.gov account". Each agreement shall include the amount, terms, estimated time of contributions, and conditions of the financial commitment, as well as any schedules. These commitments must be in a form and amount acceptable to the Authority.

6.4 **PERMITS AND LICENSES.** The Authority reserves the right to withhold funds until the Authority has reviewed and approved all material, such as permits or licenses from other state or Federal agencies, which may be required prior to Project commencement.

6.5 **EXCESSIVE FORCE POLICY.** The Authority, prior to release of funds under this Contract, shall review and approve the Recipient's policy on protecting individuals engaged in nonviolent civil rights demonstrations from the use of excessive force by law enforcement agencies within its jurisdiction, and enforcing state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction, consistent with the provisions of Section 906 of the National Affordable Housing Act of 1990 and Subsection 104(l) of the Housing and Community Development Act of 1974, as amended.

6.6 **CONDITIONS TO DISBURSEMENT FOR A SPECIFIC ACTIVITY.** For each activity number listed below, the Recipient shall comply with the corresponding applicable conditions prior to release of funds for that activity. If no applicable conditions are identified below, none of the conditions in Article 6.6 shall apply to the activities funded by this Contract.

| ACTIVITY NUMBER(S) | APPLICABLE CONDITIONS                        |
|--------------------|--|
| 69                 | (a) DEPARTMENT OF NATURAL RESOURCES APPROVAL |

(a) **DEPARTMENT OF NATURAL RESOURCES APPROVAL.** Construction shall not begin prior to the written approval of the Iowa Department of Natural Resources.

(b) **REVIEW OF HANDICAPPED ACCESSIBILITY.** Prior to release of funds for construction, the Authority shall receive and review a signed statement from the Project architect that proposed construction will meet all handicapped accessibility and ADA requirements based on approved design plans.

(c) **DEPARTMENT OF HEALTH APPROVAL.** Construction shall not begin prior to receipt of written approval from the Iowa Department of Health.

(d) **FRANCHISE ORDINANCE/28E AGREEMENT.** Prior to the release of funds for construction, the Recipient shall submit, as appropriate, either an ordinance authorizing the franchise or an executed 28E Agreement for the activity for the Authority's review.

(e) **BULK PURCHASE AGREEMENT.** Prior to release of funds for construction, the Recipient shall submit an executed "Bulk Purchase Agreement" for the Authority's review.

(f) **RURAL WATER CONNECTION FEE PROJECTS.** Prior to release of funds for payment of a connection fee, the Authority shall receive and review a copy of the water purchase agreement which outlines the basis for determining the connection fee; a signed letter with the engineer's seal from the project engineer which certifies that construction is complete and water service is available to the Recipient; and a formal invoice from the Subrecipient which requests payment of the connection fee and provides a breakdown of the Federal and local dollar amounts. The Request for Payment/ Activity Status Report for the connection fee will not be processed until the Authority has received the required documentation listed in this Article.

(g) **STATE BUILDING CODE BUREAU APPROVAL.** Bidding for construction shall not be conducted prior to the written approval of the final plans by the State Building Code Bureau of the Iowa Department of Public Safety.

(h) **FAÇADE EASEMENTS.** Prior to release of funds for construction, the Recipient shall submit, as appropriate, signed copies of all façade easements and construction agreements with property owners when required for downtown revitalization projects.

(i) **STORMWATER DESIGN AND CONSTRUCTION DOCUMENTS.** Prior to bidding, the Recipient shall submit project final design and construction documents for the Authority to review for consistency with "Budget Activity" subsequently approved by the Authority. Recipient shall also consult with Iowa Department of Agriculture and Land Stewardship (IDALS) Urban Conservation Program Team on project stormwater management designs at 30, 60, 90 percent, and final design. The Recipient shall then secure and upload to [www.iowaGrants.gov](http://www.iowaGrants.gov) a letter from IDALS confirming stormwater management designs meet the requirements of the Iowa Green Streets Criteria and the Iowa Stormwater Management Manual (as applicable).

(j) **PERPETUAL RESTRICTIONS.** Prior to release of funds for acquisition, the Recipient shall provide the Authority evidence that appropriate perpetual deed restrictions and agreement for covenants and restrictions as required pursuant to Sections 5.9 and 5.10 of this Contract.

(k) **DESIGN.** Prior to the Grantee's obligation of funds for construction, the Grantee will demonstrate that the engineering design for a Project is feasible, prior to obligation of funds by the Grantee 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 (as applicable).

6.7 **CONDITIONS TO DISBURSEMENT NECESSITATING OUTSIDE AGENCY ACTION FOR A SPECIFIC ACTIVITY.** For each activity number listed below, the Recipient shall comply with the corresponding applicable conditions prior to release of funds for that activity. If no applicable conditions are identified below, none of the conditions in this Section shall apply to the activities funded by this Contract as described in the "Budget Activity" as found in the Recipient's [iowaGrants.gov](http://iowaGrants.gov) account to the Contract.

| <u>ACTIVITY NUMBER(S)</u> | <u>APPLICABLE CONDITIONS</u> | <u>OUTSIDE AGENCY</u> |
|---------------------------|------------------------------|-----------------------|
|---------------------------|------------------------------|-----------------------|

(a) **FUNDING.** Funding shall be contingent upon receipt of adequate funds from the identified agency to complete the Project described. The Recipient must submit a copy of the notification of said funding commitment to the Authority before funds can be released to the Recipient. If there is a reduction in the amount of the funds available from this source, the Recipient shall identify an alternative source of funds, and the change in funding sources shall be reflected in an amendment to this Contract. If the funds from the identified agency are rejected, this award is no longer valid.

(b) **CONTINGENT FUNDING.** The Authority has awarded these funds contingent upon receipt of other funding from the identified agency.

(c) **LONG TERM LEASE AGREEMENT.** Prior to release of funds, the Authority shall review and approve a Long Term Lease Agreement or any other binding agreement deemed appropriate by the Authority between two identified agencies. The agreement shall guarantee that the constructed facility as described in this Contract will be allowed to physically remain and continue to be used for the specified purpose. In the event that the use of the facility changes, the Recipient may be required to repay all or part of the grant award as described in Article 9.4 of this Contract.

6.8 **SUB-RECIPIENT AGREEMENT.** Prior to release of funds under this Contract and prior to the Recipient entering into a Sub-Recipient Agreement for the administration of this award, the Recipient shall seek and obtain the Authority's review and approval of the Recipient's proposed Sub-Recipient Agreement (as applicable).

## **ARTICLE 7** **REPRESENTATIONS AND WARRANTIES OF RECIPIENT**

To induce the Authority to make the Grant referred to in this Contract, the Recipient represents, covenants and warrants that:

7.1 **AUTHORITY.** The Recipient is duly authorized and empowered to execute and deliver the Contract. All required actions on the Recipient's part, such as appropriate resolution of its governing board for the execution and delivery of the Contract, have been effectively taken.

7.2 **FINANCIAL INFORMATION.** All financial statements and related materials concerning the Project provided to the Authority are true and correct in all material respects and completely and accurately represent the subject matter thereof as of the Start Date of the statements and related materials, and no material adverse change has occurred since that date.

7.3 **CLAIMS AND PROCEEDINGS.** There are no actions, lawsuits or proceedings pending or, to the knowledge of the Recipient, threatened against the Recipient affecting in any manner whatsoever their rights to execute the Contract or the ability of the Recipient to make the payments required under the Contract, or to otherwise comply with the obligations of the Contract. There are no actions, lawsuits or proceedings at law or in equity, or before any governmental or administrative authority pending or, to the knowledge of the Recipient, threatened against or affecting the Recipient or any property involved in the Project.

7.4 **PRIOR AGREEMENTS.** The Recipient has not entered into any verbal or written contracts, agreements or arrangements of any kind which are inconsistent with the Contract.

7.5 **START DATE.** The covenants, warranties and representations of this Article are made as of the Start Date of this Contract and shall be deemed to be renewed and restated by the Recipient at the time of each advance or request for disbursement of funds.

**ARTICLE 8**  
**COVENANTS OF THE RECIPIENT**

8.1 **AFFIRMATIVE COVENANTS.** Until the Project has been closed out, audited, and approved by IEDA, the Recipient covenants with IEDA that:

(a) **PROJECT WORK AND SERVICES.** The Recipient shall perform the work and services detailed in the CDBG-NDR Attachment A, "Program Description" and the "Budget Activity" as found in the Recipient's IowaGrants.gov account by the End Date.

(b) **REPORTS.** The Recipient shall prepare, review and sign the requests and reports as specified below in the form and content specified by the Authority. The Recipient shall review all Requests for Payment and verify that claimed expenditures are allowable costs. The Recipient shall maintain documentation adequate to support the claimed costs. The Recipient shall submit Request for Payment at least quarterly for each "Budget Activity".

| <b>REPORT</b>  | <b>DUE DATE</b>                                     |
|--|---|
| 1. Request for Payment   | At least every three (3) months                     |
| 2. Activity Status Report  | At least every three (3) months                     |
| 3. Section 3 Report (if applicable)  | Submitted annually                                  |
| 4. Updates to the Applicant/Recipient Disclosure Report (HUD Disclosure Form 2880) | As needed due to changes                            |
| 5. Outcome Value reported – Annually   | As specified by IEDA                                |
| 6. Final request for Payment / Status Report                                       | Within 30 days of End Date                          |
| 7. Single Audit Form (required)  | Within 30 days of receipt                           |
| 8. Audit Reports (if applicable)   | Within 30 days of audit completion                  |
| 9. Deliverables and Outcome Values   | As specified in Attachment A, "Program Description" |
| 10. Other reports as required by the Authority and the Program Rules               | As needed   |

The Authority reserves the right to require more frequent submission of the Activity Status Report than as shown above if, in the opinion of the Authority, more frequent submissions would help improve the Recipient's CDBG-NDR program.

(c) **RECORDS.** The Recipient shall maintain books, records, documents and other evidence pertaining to all costs and expenses incurred and revenues received under this Contract in sufficient detail to reflect all costs, direct and indirect, of labor, materials, equipment, supplies, services and other costs and expenses of whatever nature, for which payment is claimed under this Contract. The Recipient shall maintain books, records and documents in sufficient detail to demonstrate compliance with the Contract and shall maintain these materials for a period of five (5)



years beyond the date upon which the final audit of the Project is accepted by IEDA or December 31, 2026, whichever is later. Records for non-expendable property acquired under this Contract shall be retained for a five (5) year period after the final disposition of property. Records shall be retained beyond the prescribed period if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records shall be retained until the litigation, audit or claim has been finally resolved.

(d) ACCESS TO RECORDS/INSPECTIONS. The Recipient shall, without prior notice and at any time, permit HUD or its representatives, the General Accounting Office or its representatives, and the Authority, its representatives or the State Auditor to examine, audit and/or copy (i) any plans and work details pertaining to the Project, (ii) all of the Recipient's books, records and accounts, and (iii) all other documentation or materials related to this Contract; the Recipient shall provide proper facilities for making such examination and/or inspection.

(e) USE OF GRANT FUNDS. The Recipient shall expend funds received under the Contract only for the purposes and activities described in the CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application, this Contract, the "Budget Activity" as found in the Recipient's IowaGrants.gov account, and as approved by the Authority.

(f) DOCUMENTATION. The Recipient shall deliver to IEDA, upon request, (i) copies of all contracts or agreements relating to the Project, (ii) invoices, receipts, statements or vouchers relating to the Project, (iii) a list of all unpaid bills for labor and materials in connection with the Project, and (iv) budgets and revisions showing estimated Project costs and funds required at any given time to complete and pay for the Project.

(g) NOTICE OF PROCEEDINGS. The Recipient shall promptly notify IEDA of the initiation of any claims, lawsuits or proceedings brought against the Recipient.

(h) INDEMNIFICATION. The Recipient shall indemnify and hold harmless the Authority, its officers and employees from and against any and all claims or losses accruing or resulting from any and all claims of subcontractors, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract (singularly, a "Vendor" and, collectively, "Vendors") and from any and all claims and losses accruing or resulting from any person, firm or corporation who may be injured or damaged by the Recipient in the performance of this Contract, including but not limited to claims under worker's compensation acts, claims of damages because of bodily injury including personal injury, sickness or disease, death, injury to or destruction of tangible property including but not limited to loss of use therefrom; and from claims arising out negligent errors, omissions or acts of the Recipient. The Recipient shall require that any subrecipient or Vendor provide such indemnification to the Authority in addition to the indemnification provided by the Recipient.

(i) NOTICE TO AUTHORITY. In the event the Recipient becomes aware of any material alteration in the Project, initiation of any investigation or proceeding involving the Project, or any other similar occurrence, the Recipient shall promptly notify the Authority.

(j) CERTIFICATIONS. The Recipient certifies and assures that the Project will be conducted and administered in compliance with all applicable Federal and State laws, regulations and orders. Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. The Recipient certifies and assures compliance with the applicable orders, laws and implementing regulations, including but not limited to, the following, as modified by the waivers and alternative requirements contained in the Program Rules:

(i) Financial Management guidelines issued by the U.S. Office of Management and Budget, OMB 2 CFR part 200, subpart E.

(ii) Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.); and regulations which implement these laws.

(iii) Title VI of the Civil Rights Act of 1964 as amended (Public Law 88-352; 42 U.S.C. 2000d et seq.); Title VIII of the Civil Rights Act of 1968 as amended (Public Law 90-284; 42 U.S.C. 3601 et seq.); the Iowa Civil Rights Act of 1965; Chapter 19B.7, Code of Iowa, and Iowa Executive Order #34, dated July 22, 1988; Iowa Code Chapter 216, Presidential Executive Order 11063, as amended by Executive Order 12259; Presidential Executive Order 11246, as amended by Presidential Executive Order 11375; Section 504 of the Vocational Rehabilitation Act of 1973 as amended (29 U.S.C. 794); the Age Discrimination Act of 1975 as amended (42 U.S.C. 6101 et seq.); the Americans with Disabilities Act, as applicable, (P. L. 101-336, 42 U.S.C. 12101-12213); and related Civil Rights and Equal Opportunity statutes; and regulations which implement these laws.

- (iv) Fair Housing Act, Public Law 90-284. The Public Fair Housing Act is part of Title VIII of the Civil Rights Act of 1968 as amended (42 U.S.C. 3601 et seq.); Section 109 of the Title I of the Housing and Community Development Act of 1974, as amended; Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u); and regulations which implement these laws.
- (v) Department of Housing and Urban Development regulations governing the CDBG program, 24 Code of Federal Regulations, Part 570.
- (vi) Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235), and implementing regulations.
- (vii) Requirements for the Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule (24 CFR Part 35, et al.); Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821 - 4846), as amended, and implementing regulations.
- (viii) Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5), where applicable under Section 110 of the Housing and Community Development Act of 1974, as amended; Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); the Copeland Anti-Kickback Act (18 U.S.C. 874); and regulations which implement these laws.
- (ix) National Environmental Policy Act of 1969 and implementing regulations.
- (x) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA)(42 U.S.C. 4601 - 4655) and implementing regulations; Section 104(d) of the Housing and Community Development Act of 1974, as amended, governing the residential antidisplacement and relocation assistance plan; Section 105(a)(11) of the Housing and Community Development Act of 1974, as amended, governing optional relocation assistance.
- (xi) Financial and Program Management guidelines issued by the Iowa Economic Development Authority: the Iowa CDBG Management Guide and the IEDA Audit Guide, to the extent applicable to the Program and not in conflict with the Program Rules.
- (xii) Government-wide Restriction on Lobbying Certification [Section 319 of Public Law 101-121] and implementing regulations.
- (xiii) Fair Labor Standards Act and implementing regulations.
- (xiv) Hatch Act (regarding political partisan activity and Federally funded activities) and implementing regulations.
- (xv) Citizen participation, hearing and access to information requirements found under sections 104(a)(2) and 104(a)(3) of Title I of the Housing and Community Development Act of 1974.
- (xvi) Subsection 104(l) of Title I of the Housing and Community Development Act of 1974, as amended, regarding the prohibition of the use of excessive force in nonviolent civil rights demonstrations and the enforcement of state and local laws on barring entrance to or exit from facilities subject to such demonstrations.
- (xvii) Drug-Free Workplace Act.
- (k) MAINTENANCE OF PROJECT PROPERTY AND INSURANCE. The Recipient and any subrecipient shall maintain the Project property in good repair and condition, ordinary wear and tear excepted, and shall not suffer or commit waste or damage upon the Project property. The Recipient or subrecipient shall pay for and maintain insurance as is customary in their industry. This insurance shall be in an amount not less than the full insurable value of the Project property. In addition, the Recipient shall purchase and maintain liability insurance sufficient to afford coverage for any acts for which the Recipient is required to indemnify the Authority pursuant to this Section 8.1. The subrecipient shall name the Recipient and Authority as a mortgagee and/or an additional loss payee, as appropriate, and the Recipient shall name the Authority as a mortgagee and/or an additional loss payee, as appropriate. The Recipient or subrecipient shall maintain copies of the policies as appropriate.

8.2 **NEGATIVE COVENANTS.** During the Contract term the Recipient covenants with IEDA that it shall not, without the prior written disclosure to and prior written consent of IEDA, directly or indirectly:

- (a) **ASSIGNMENT.** Assign its rights and responsibilities under this Contract.
- (b) **ADMINISTRATION.** Discontinue administration activities under the Contract.

## **ARTICLE 9** **DEFAULT AND REMEDIES**

9.1 **EVENTS OF DEFAULT.** The following shall constitute Events of Default under this Contract:

- (a) **MATERIAL MISREPRESENTATION.** If at any time any representation, warranty or statement made or furnished to the Authority by, or on behalf of the Recipient in connection with this Contract or to induce the Authority to make a grant to the Recipient shall be determined by the Authority to be incorrect, false, misleading or erroneous in any material respect when made or furnished and shall not have been remedied to the Authority's satisfaction within thirty (30) days after written notice by the Authority is given to the Recipient.
- (b) **NONCOMPLIANCE.** If there is a failure by the Recipient to comply with any of the covenants, terms or conditions contained in this Contract.
- (c) **END DATE.** If the Project, in the sole judgment of the Authority, is not completed on or before the End Date.
- (d) **MISSPENDING.** If the Recipient expends Grant proceeds for purposes not described in the CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO application, this Contract, or as authorized by the Authority.
- (e) **INSURANCE.** If loss, theft, damage or destruction of any substantial portion of the property of the Recipient occurs for which there is either no insurance coverage or for which, in the opinion of the Authority, there is insufficient insurance coverage.

9.2 **NOTICE OF DEFAULT.** IEDA shall issue a written notice of default providing therein a fifteen (15) day period in which the Recipient shall have an opportunity to cure, provided that cure is possible and feasible.

9.3 **REMEDIES UPON DEFAULT.** If, after opportunity to cure, the default remains, IEDA shall have the right, in addition to any rights and remedies available to it to do one or more of the following:

- (a) exercise any remedy provided by law,
- (b) require immediate repayment of up to the full amount of funds disbursed to the Recipient under this Contract plus interest.

9.4 **FAILURE TO MEET PERFORMANCE TARGETS.** If the Recipient is determined by the Authority to be in default of this Contract due to meeting less than one hundred percent (100%) of its Performance Targets, the Authority may require full Grant repayment or, at its discretion, the Authority may require partial repayment of Grant proceeds which allows partial credit for the performance targets which have been met, or the Authority may require other remedies that the Authority determines to be appropriate.

## **ARTICLE 10** **INCORPORATED DOCUMENTS**

10.1 **DOCUMENTS INCORPORATED BY REFERENCE.** The Recipient shall comply with the terms and conditions of the following documents which are hereby incorporated by reference:

- (a) Attachment A, "Program Description" and the "Budget Activity" as found in the Recipient's IowaGrants.gov account.
- (b) Attachment B, "CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application" as found on the Authority's website at [www.iowaeconomicdevelopment.com/Community/NDR](http://www.iowaeconomicdevelopment.com/Community/NDR).
- (c) Attachment C, "CDBG Program General Provisions," dated February 24, 2016.
- (d) "Iowa Community Development Block Grant Management Guide", as found on the Authority's website at [www.iowaeconomicdevelopment.com/Community/CDBG](http://www.iowaeconomicdevelopment.com/Community/CDBG).

- (e) Future HUD Guidance related to reporting program metrics and long-term commitments as stated in Iowa's NDR Phase Two application as applicable. To be found on the Authority's website at [www.iowaeconomicdevelopment.com/Community/CDBG](http://www.iowaeconomicdevelopment.com/Community/CDBG) when made available by HUD.

10.2 **ORDER OF PRIORITY.** In the event of a conflict between documents of this Contract, the following order of priority shall govern:

- (a) Articles 1 through 11 herein.
- (b) Attachment C, "CDBG Program General Provisions," dated February 24, 2016.
- (c) Attachment A, "Program Description" and the "Budget Activity" as found in the Recipient's IowaGrants.gov account.
- (d) Attachment B, "CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application" as found on the Authority's website at [www.iowaeconomicdevelopment.com/Community/NDR](http://www.iowaeconomicdevelopment.com/Community/NDR).
- (e) "Iowa Community Development Block Grant Management Guide", as found on the Authority's website at [www.iowaeconomicdevelopment.com/Community/CDBG](http://www.iowaeconomicdevelopment.com/Community/CDBG).
- (f) Future HUD Guidance related to reporting program metrics and long-term commitments as stated in Iowa's NDR Phase Two application as applicable. To be found on the Authority's website at [www.iowaeconomicdevelopment.com/Community/CDBG](http://www.iowaeconomicdevelopment.com/Community/CDBG) when made available by HUD.

10.3 **SUPERSEDING AUTHORITY.** Notwithstanding any provision herein to the contrary, in the event of any provision of this Contract, including Attachments A, B and C, conflicts with any of the Program Rules, such conflicting provisions shall be of no force and effect, the Program Rules shall apply in lieu thereof as though fully set forth herein.

## **ARTICLE 11** **MISCELLANEOUS**

11.1 **LIMIT ON GRANT PROCEEDS ON HAND.** The Recipient shall request Project funds only as needed and shall not have more than five hundred dollars (\$500.00) of Grant proceeds, including earned interest, on hand for a period of longer than ten (10) working days, after which time any surplus amount shall be returned to the Authority.

11.2 **BINDING EFFECT.** This Contract shall be binding upon and shall inure to the benefit of the Authority and Recipient and their respective successors, legal representatives and assigns. The obligations, covenants, warranties, acknowledgments, waivers, agreements, terms, provisions and conditions of this Contract shall be jointly and severally enforceable against the parties to this Contract.

11.3 **SURVIVAL OF CONTRACT.** If any portion of this Contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable. The provisions of this Contract shall survive the execution of all instruments herein mentioned and shall continue in full force until the Project is completed as determined by the Authority.

11.4 **GOVERNING LAW.** This Contract shall be interpreted in accordance with the laws of the State of Iowa, and any action relating to the Contract shall only be commenced in the Iowa District Court for Polk County or the United States District Court for the Southern District of Iowa.

11.5 **NOTICES.** Whenever this Contract requires or permits any funding request, notice, report, or written request by one party to another, it shall be delivered through IowaGrants.gov. Alternately the Authority may rely on the United States Mail as the Authority deems appropriate. Any such notice given hereunder shall be deemed delivered upon the earlier of actual receipt or two (2) business days after posting. The Authority may rely on the address of the Recipient set forth heretofore, as modified from time to time, as being the address of the Recipient.

11.6 **WAIVERS.** No waiver by the Authority of any default hereunder shall operate as a waiver of any other default or of the same default on any future occasion. No delay on the part of the Authority in exercising any right or remedy hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy by the Authority shall preclude future exercise thereof or the exercise of any other right or remedy.

11.7 **LIMITATION.** It is agreed by the Recipient that the Authority shall not, under any circumstances, be obligated financially under this Contract except to disburse funds according to the terms of the Contract.

11.8 **HEADINGS.** The headings in this Contract are intended solely for convenience of reference and shall be given no effect in the construction and interpretation of this Contract.

11.9 **INTEGRATION.** This Contract contains the entire understanding between the Recipient and the Authority and any representations that may have been made before or after the signing of this Contract, which are not contained herein, are nonbinding, void and of no effect. None of the parties have relied on any such prior representation in entering into this Contract.

11.10 **COUNTERPARTS.** This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.11 **IOWAGRANTS.GOV.** The Authority reserves the right to require the Recipient to utilize the IowaGrants.gov system to conduct business associated with this Contract.

11.12 **TIME IS OF THE ESSENCE.** Time is of the essence with respect to the performance of the terms of the Contract and Related Documents.

IN WITNESS WHEREOF, the parties have executed this Contract as of the Start Date first stated.

**RECIPIENT: City of Dubuque**

BY: \_\_\_\_\_  
Mayor  
50 West 13th St.  
Second Floor  
Dubuque, IA 52001

\_\_\_\_\_  
Typed or Printed Name and Title

**IOWA ECONOMIC DEVELOPMENT AUTHORITY:**

BY: \_\_\_\_\_  
Timothy R. Waddell, Division Administrator

**ATTACHMENT A  
“PROGRAM DESCRIPTION”**

The following “Program Description” is incorporated into the recipient’s IowaGrants.gov account. Cost projections and tasks per quarter considered a starting point. Future modifications to be requested through IowaGrants.gov.

**City of Dubuque**

| <b>Deliverables</b>   |   |
|---|---|
|   | <b>Deliverables</b>   |
| - (69-01) Storm Water Improvements Base of Bee Branch (506 Garfield Ave (Activity #1) | Install six 8-foot dia. culverts by tunneling from the Lower Bee Branch Creek, approximately 165 feet through Canadian Pacific railroad right-of-way, to a proposed junction box. Incl. construction of five – 12’ w x 10’ h box sewers towards Garfield Ave.   |
| - 22 <sup>nd</sup> St. & Kaufman Ave. (Activity #2)                                   | Install 10’ x 6’ RCB storm sewer from 22 <sup>nd</sup> & Elm to Kaufmann & Kane, incl. inlets and local sewer connections to the new RCB incl. const./reconst. of underground utilities along street ROW corridor.  |
| - 17 <sup>th</sup> & West Locust Streets (Activity #3)                                | Install 96-inch diameter pipe from the Lower Bee Branch Creek through the CP railroad tracks and a 10’ x 5’ RCB to W. Locust and a 10’ x 4’ RCB to the west towards Angella St. incl. inlets and local sewer connections to the new RCB incl. const./reconst. of underground utilities along street ROW corridor. |

**Disaster Tie-back**

The *City of Dubuque* experienced severe flooding in July 2011, causing substantial damage, especially in the historic Bee Branch Creek Watershed. Dubuque’s unmet infrastructure needs as a result of the flooding include three storm water management projects to safely convey water.

**311 - Outcome Values**

Resilience            3 infrastructure improvement projects that improve the stormwater management system with practices that increase capacity of conveyance to reduce flooding.

**City of Dubuque – CDBG-NDR Construction Costs:**

**\$23,100,000**

|   |              |
|---|--------------|
| - (69-01) Storm Water Improvements Base of Bee Branch (506 Garfield Ave (Activity #1) | \$23,100,000 |
| - 22 <sup>nd</sup> St. & Kaufman Ave. (Activity #2)                                   |              |
| - 17 <sup>th</sup> & West Locust Streets (Activity #3)                                |              |

**172-01 – Watershed Planning    Pre-Agreement Expenses - \$52,100**

**309 – Supporting Leverage**

Alternative supporting leverage deliverables as approved by IEDA may be substituted as long as the total supporting leverage provided is not reduced.

City of Dubuque will track the following activities outside the scope of the funded work as supporting leverage as committed in the Phase 2 grant application.

| Deliverables  | Deliverable Goal   |
|---|--|
| Complete the following supporting leverage projects:<br>1. Construction of green flood management infrastructure in the Upper Bee Branch Creek watershed. Funding through the Clean Water State Revolving Loan Fund with repayment through stormwater fees collected from Dubuque residents and businesses<br>2. Construction of 70 pervious alleys in Bee Branch Creek watershed. Funding through the Clean Water State Revolving Loan Fund with repayment through stormwater fees collected from Dubuque residents and businesses<br>3. Iowa Finance Authority funds targeted in the identified neighborhoods to assist first time homeowners<br>CDBG micro lending program in identified neighborhoods | 3<br><br><br><br><br><br><br><br><br><br>TOTAL: \$38,219,000 |
| Annual supporting leverage progress reporting through IowaGrants.gov  | 5  |

**181-01 - Administration**

**\$157,500**

**Cost Projections & Activity per Quarter**

(See attached spreadsheet)

**ATTACHMENT C**  
**GENERAL PROVISIONS**  
**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**  
**October 4, 2016**

**1.0 AMENDMENT.**

(a) WRITING REQUIRED. The Contract may only be amended through written prior approval of the Authority through IowaGrants.gov. Examples of situations where amendments are required include extensions for completion of Project activities, changes to the Project including, but not limited to, alteration of existing approved activities or inclusion of new activities.

(b) UNILATERAL MODIFICATION. Notwithstanding paragraph "a" above, the Authority may unilaterally modify the Contract at will in order to accommodate any change in the Act or any change in the interpretation of the Act or any applicable Federal, State or local laws, regulations, rules or policies. A copy of such unilateral modification will be given to the Recipient as an amendment to this Contract.

(c) AUTHORITY REVIEW. The Authority will consider whether an amendment request is so substantial as to necessitate reevaluating the Authority's original funding decision on the Project. An amendment will be denied if it substantially alters the circumstances under which the Project funding was originally approved or if it conflicts with the Program Rules.

**2.0 AUDIT REQUIREMENTS.**

(a) SINGLE AUDIT. The Recipient shall ensure that an audit is performed in accordance with the Single Audit Act Amendment of 1996; OMB 2 CFR part 200, subpart E; and OMB 2 CFR part 200, subpart F, as applicable, and the Iowa CDBG Management Guide.

(b) ADDITIONAL AUDIT. As a condition of the grant to the Recipient, the Authority reserves the right to require the Recipient to submit to a post Project completion audit and review in addition to the audit required above.

**3.0 COMPLIANCE WITH LAWS AND REGULATIONS.** The Recipient shall comply with all applicable State and Federal laws, rules, ordinances, regulations and orders including all Federal laws and regulations described in 24 CFR subpart K.

**4.0 UNALLOWABLE COSTS.** If the Authority determines at any time, whether through monitoring, audit, closeout procedures or by other means or process, that the Recipient has expended funds which are unallowable, the Recipient will be notified of the questioned costs and given an opportunity to justify questioned costs prior to the Authority's final determination of the disallowance of costs. Appeals of any determinations will be handled in accordance with the provisions of Chapter 17A, Iowa Code. If it is the Authority's final determination that costs previously paid by the Authority are unallowable under the terms of the Contract, the expenditures will be disallowed and the Recipient shall repay to the Authority any and all disallowed costs. Real property under the Recipient's control in excess of \$25,000 and equipment that was acquired or improved in whole or in part with CDBG-NDR funds shall be used to meet one of the National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of the Agreement. If Recipient fails to use CDBG-NDR assisted real property that meets a National Objective during the five (5) year period the Recipient shall pay IEDA an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-NDR funds for acquisition or improvement to the real property.

**5.0 PROGRAM INCOME.** All program income, as defined in 2 CFR part 200, subpart E and 24 CFR 570.489, shall be added to the Project "Budget Activity" and used to further eligible Project objectives as defined in the Contract and the "Budget Activity" in the CDBG-NDR Application. Program income not used to further Project objectives will be deducted from the total Project "Budget Activity" for the purpose of determining the amount of reimbursable costs under the Contract. In cases of dispute, final decisions regarding the definition or disposition of program income shall be made by the Authority.

**6.0 INTEREST EARNED.** To the extent that interest is earned on advances of CDBG-NDR funds, this interest shall be returned to the Authority, except that the Recipient may keep interest amounts of up to \$100 per year for administrative expenses.

**7.0 SUSPENSION.** When the Recipient has failed to comply with the Contract, award conditions or standards, the Authority may, on reasonable notice to the Recipient, suspend the Contract and withhold future payments, or prohibit the Recipient from incurring additional obligations of CDBG-NDR funds. Suspension may continue until the Recipient completes the



corrective action as required by the Authority. The Authority may allow such necessary and proper costs which the Recipient could not reasonably avoid during the period of suspension provided the Authority concludes that such costs meet the provisions of HUD regulations issued pursuant to OMB 2 CFR part 200, subpart E.

## **8.0 TERMINATION.**

- (a) **FOR CAUSE.** The Authority may terminate the Contract in whole, or in part, whenever the Authority determines that the Recipient has failed to comply with the terms and conditions of the Contract.
- (b) **FOR CONVENIENCE.** The Parties may terminate the Contract in whole, or in part, when all parties agree that the continuation of the Project would not produce beneficial results commensurate with the future disbursement of funds.
- (c) **DUE TO REDUCTION OR TERMINATION OF CDBG-NDR FUNDING.** At the discretion of the Authority, the Contract may be terminated in whole, or in part, if there is a reduction or termination of CDBG-NDR Federal block grant funds to the State.

## **9.0 PROCEDURES UPON TERMINATION.**

- (a) **NOTICE.** The Authority shall provide written notice to the Recipient of the decision to terminate, the reason(s) for the termination, and the effective date of the termination. If there is a partial termination due to a reduction in funding, the notice will set forth the change in funding and the changes in the approved "Budget Activity". The Recipient shall not incur new obligations beyond the effective date and shall cancel as many outstanding obligations as possible. The Authority's share of noncancellable obligations which the Authority determines were properly incurred prior to notice of cancellation will be allowable costs.
- (b) **RIGHTS IN PRODUCTS.** All finished and unfinished documents, data, reports or other material prepared by the Recipient under the Contract shall, at the Authority's option, become the property of the Authority.
- (c) **RETURN OF FUNDS.** The Recipient shall return to the Authority all unencumbered funds within one week of receipt of the notice of termination. Any costs previously paid by the Authority which are subsequently determined to be unallowable through audit, monitoring, or closeout procedures shall be returned to the Authority within thirty (30) days of the disallowance.

**10.0 ENFORCEMENT EXPENSES.** The Recipient shall pay upon demand any and all reasonable fees and expenses of the Authority, including the fees and expenses of its attorneys, experts and agents, in connection with the exercise or enforcement of any of the rights of the Authority under this Contract.

**11.0 INDEMNIFICATION.** The Recipient shall indemnify and hold harmless the Authority, its officers and employees, from and against any and all losses, accruing or resulting from any and all claims subcontractors, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Recipient in the performance of this Contract.

## **12.0 CONFLICT OF INTEREST.**

- (a) **GENERAL.** Except for the use of CDBG-NDR funds to pay salaries and other related administrative or personnel costs, no persons identified in paragraph (b) below who exercise or have exercised any functions or responsibilities with respect to CDBG-NDR assisted activities or who are in a position to participate in a decision making process or gainside information with regard to such activities may obtain a personal or financial interest or benefit from a CDBG-NDR assisted activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- (b) **PERSONS COVERED.** The conflict of interest provisions described above apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the Recipient, or of any designated public agencies, or subrecipients which are receiving CDBG-NDR funds.
- (c) **CONFLICTS OF INTEREST.** Chapter 68B, Code of Iowa, the "Iowa Public Officials Act", shall be adhered to by the Recipient, its officials and employees.

**13.0 USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS OR SUBRECIPIENTS.** CDBG-NDR funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the service of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement ineligible status under the provisions of 24 CFR Part 24 or any applicable law or regulation of the Department of Labor.

**14.0 CIVIL RIGHTS.**

(a) **DISCRIMINATION IN EMPLOYMENT.** The Recipient shall not discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, national origin, age, sexual orientation, gender identity, familial status, physical or mental disability. The Recipient may take affirmative action to ensure that applicants are employed and that employees are treated without regard to their race, color, religion, sex, national origin, age, sexual orientation, familial status, gender identity, or physical or mental disability. Such action shall include, but may not be limited to, the following: employment, upgrading, promotion, demotion or transfers; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including an apprenticeship. The Recipient agrees to post notices setting forth the provisions of the nondiscrimination clause in conspicuous places so as to be available to employees. Upon the State's written request, the Recipient shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

(b) **CONSIDERATION FOR EMPLOYMENT.** The Recipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, sexual orientation, gender identity, physical or mental disability, or familial status.

(c) **SOLICITATION AND ADVERTISEMENT.** The Recipient shall list all suitable employment openings in the State Employment Service local offices.

(d) **CIVIL RIGHTS COMPLIANCE IN EMPLOYMENT.** The Recipient shall comply with all relevant provisions of the Iowa Civil Rights Act of 1965 as amended; Chapter 19B.7 and Chapter 216, Code of Iowa; Federal Executive Order 11246, as amended; Title VI of the U.S. Civil Rights Act of 1964 as amended (42 U.S.C. Section 2000d et seq.); the Fair Labor Standards Act (29 U.S.C. Section 201 et seq.); The Americans with Disabilities Act, as applicable, (P.L. 101 336, 42 U.S.C. 12101-12213); Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. Section 794); and the Age Discrimination Act of 1975 as amended (42 U.S.C. Section 6101 et seq.). The Recipient will furnish all information and reports requested by the State of Iowa or required by or pursuant to the rules and regulations thereof and will permit access to payroll and employment records by the State of Iowa to investigate compliance with these rules and regulations.

(e) **CERTIFICATION REGARDING GOVERNMENT-WIDE RESTRICTION ON LOBBYING.** The Recipient certifies, to the best of his or her knowledge and belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, 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 awarding any Federal contract, making any Federal grant, making any Federal loan, entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Federal Lobbying" in accordance with its instruction.

(iii) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(f) PROGRAM NONDISCRIMINATION. The Recipient shall conform with requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and HUD regulations issued pursuant thereto contained in 24 CFR Part 1. No person in the United States shall, on the basis of race, color, national origin, sex or religion or religious affiliation, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through this Contract. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified individual with a disability as provided in the Americans with Disabilities Act, as applicable, (P.L. 101 336, 42 U.S.C. 12101 12213) or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) shall also apply to any such program or Project.

(g) FAIR HOUSING. The Recipient shall comply with Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), generally known as the Fair Housing Act, and with HUD regulations found at 24 CFR Part 107, issued in compliance with Federal Executive Order 11063, as amended by Federal Executive Order 12259. The recipient shall also comply with Section 109, Title I of the Housing and Community Development Act of 1974, as amended.

(h) SECTION 3 COMPLIANCE. The Recipient shall comply with provisions for training, employment, and contracting in accordance with 24 CFR part 135, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

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

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

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

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

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(i) **NONCOMPLIANCE WITH THE CIVIL RIGHTS LAWS.** In the event of the Recipient's noncompliance with the nondiscrimination clauses of this Contract or with any of the aforesaid rules, regulations, or requests, this Contract may be canceled, terminated, or suspended either wholly or in part. In addition, the State of Iowa may take further action, imposing other sanctions and invoking additional remedies as provided by the Iowa Civil Rights Act of 1965 (Chapter 216, Code of Iowa) or as otherwise provided by law.

(j) **INCLUSION IN SUBCONTRACTS.** The Recipient will include the provisions of the preceding paragraphs of Section 14 in every subcontract unless exempt by the State of Iowa, and said provisions will be binding on each subcontractor. The Recipient will take such action with respect to any subcontract as the State of Iowa may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event the Recipient becomes involved in or is threatened by litigation with a subcontractor or vendor as a result of such direction by the State of Iowa, the Recipient may request the State of Iowa to enter into such litigation to protect the interests of the State of Iowa.

**15.0 POLITICAL ACTIVITY.** No portion of program funds shall be used for any partisan political activity or to further the election or defeat of any candidate for public office. Neither the program nor the funds provided therefore, nor the personnel employed in the administration of this Contract, shall be in any way or to any extent engaged in the conduct of political activities in contravention of The Hatch Act (5 U.S.C. 15).

**16.0 LIMIT ON RECOVERY OF CAPITAL COSTS.** The Recipient will not attempt to recover any capital costs of public improvements assisted in whole or part under this Contract by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (i) funds received under this Contract are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Housing and Community Development Act of 1974, as amended, or (ii) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Recipient has certified to the Authority that it lacks sufficient funds received under Title I of the Housing and Community Development Act of 1974, as amended, to comply with the requirements of clause (i) above.

**17.0 FEDERAL GOVERNMENT RIGHTS.** If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**18.0 IOWA ECONOMIC DEVELOPMENT AUTHORITY FRAUD AND WASTE POLICY.** The Authority has zero tolerance for the commission or concealment of acts of fraud, waste, or abuse. Allegations of such acts will be investigated and pursued to their logical conclusion, including legal action where warranted.