

**NORTH CAROLINA
DEPARTMENT OF COMMERCE**

**FISCAL AGENT AGREEMENT
APPALACHIAN REGIONAL COMMISSION GRANT PROGRAM**

Recipient Name:	Yadkin County	Grant No.
Project Name:	Water System Improvement	

Pursuant to its authority under 40 U.S.C. § 14321, the Appalachian Regional Commission ("ARC") has agreed to provide to Yadkin County ("Recipient") grant funding under ARC Contract Number NC-18024 dated September 16, 2015, as may be amended ("ARC Grant Agreement"). The North Carolina Department of Commerce ("DOC") serves as Fiscal Agent under the ARC Grant Agreement and enters into this agreement with Recipient ("Fiscal Agent Agreement").

1. **Definitions.** The following definitions are used in this Fiscal Agent Agreement:
- a. "Application" means Recipient's application for assistance in the ARC construction grant program, in which Recipient describes the scope of proposed work and budget if grant funds are awarded, forming the basis of the ARC Grant Agreement. The Application is attached hereto and fully incorporated by reference, along with any approved modifications or amendments.
 - b. "ARC" has the meaning set forth in the preamble.
 - c. "ARC Grant Agreement" has the meaning set forth in the preamble.
 - d. "DOC" has the meaning set forth in the preamble.
 - e. "Fiscal Agent Agreement" has the meaning set forth in the preamble, and includes all items incorporated herein by reference.
 - f. "MOU" means the Registered State Basic Agency Memorandum of Understanding between ARC and DOC dated June 24, 2015 regarding the State's authority to administer ARC construction grants, attached hereto and fully incorporated by reference, as well as any amendment thereto.
 - g. "Program Design" means the DOC's Program Design Proposal regarding parameters and requirements for ARC construction grants and other items dated May 31, 2015 and subsequently approved by ARC, attached hereto and fully incorporated by reference, as well as any amendment thereto.
 - h. "Project" means the scope of work and all other items set forth in the Application.
 - i. "Recipient" has the meaning set forth in the preamble.

2. **Obligations of the Recipient.** Recipient shall perform the Project precisely as set forth in the Application, unless a modification to the Project is allowed by DOC or ARC. Recipient shall comply with all lawful requirements of DOC and ARC, all applicable requirements of the General Statutes of the State of North Carolina, 40 U.S.C. §§ 14101-14526, and any other applicable laws, rules, regulations, requirements, policies and Executive Orders currently or hereafter in force. Recipient agrees that it is responsible for the Project's conformity with all requirements set forth in the MOU and the Program Design, and shall ensure that all requirements set forth in the Program Design and MOU are fully adhered to, even where such requirements appear only to reference an obligation by DOC to ensure program compliance. For example, on all Project-related items, Recipient will ensure compliance with:

- a. applicable OMB financial management standards, cost principles and related audits;
- b. procurement procedures as mandated by DOC;

- c. environmental reviews under the National Environmental Policy Act ("NEPA") guidelines and procedures prior to commencement of any construction;
- d. a non-discrimination policy adopted by the Grantee in conformance with the requirements of the Program Design;
- e. applicable labor standards, including the Davis-Bacon Act, Copeland "Anti-Kickback" Act and Contract Work Hours and Safety Standards Act, as such are described in the Program Design;
- f. the Uniform Relocation and Real Property Acquisition Policies Act;
- g. the conflict of interest guidelines set forth in the Program Design;
- h. the US Department of Labor's Equal Employment Opportunity requirements; and
- i. the recordkeeping, reporting and other obligations of program recipients set forth elsewhere in the Program Design.

Recipient shall provide DOC with such other additional reports as may be requested by DOC.

3. Obligations of Recipient with respect to Certain Third Party Relationships.

Recipient agrees that it is responsible for complying with the provisions of this Fiscal Agent Agreement even when Recipient designates a third party or parties to undertake all or any part of the Project.

4. Conflict of Interest. None of the following or their immediate family members, during the tenure of the subject person or for one year thereafter, shall have any direct or indirect financial interest in any contract, subcontract or the proceeds thereof for work to be performed in connection with the program assisted under this agreement: employees or agents of Recipient who exercise any function or responsibility with respect to the Project, and officials of Recipient, including members of the governing body. The same prohibition shall be incorporated in all such contracts or subcontracts relating to the Project.

5. Reimbursement to DOC for Improper Expenditures. Recipient will reimburse DOC for any amount of grant assistance improperly expended. DOC may consider any portion of grant assistance to be improperly expended where program non-compliance is found that affects that portion. Where non-compliance affects the entire grant, then DOC may consider the entire amount of the grant to be improperly expended and subject to repayment.

6. Access to Records. Recipient shall provide any duly authorized representative of ARC, DOC, the North Carolina State Auditor, the North Carolina Office of Budget and Management, and the Comptroller General, or their designees, at all reasonable times access to and the right to inspect, copy, monitor, and examine all of the books, papers, records, and other documents relating to the grant for a period of three years following the completion of all close-out procedures.

7. Project Savings. Recipient is obligated to contribute 100 percent of its pledged cash contribution to the Project even if the Project experiences a savings after authorized activities are completed. Any Project savings accrue to the ARC program and shall be refunded to DOC or ARC.

8. Indemnification and Release. To the extent allowed by law, Recipient hereby agrees to release, indemnify and hold harmless the State (including, without limitation, DOC), and its respective members, officers, directors, employees, agents and attorneys (together, the "Indemnified Parties"), from any third party claims arising out of the Project. Additionally, Recipient releases the Indemnified Parties from any claims or potential claims it may have regarding the Project.

9. **Choice of Law and Forum Selection.** This Fiscal Agent Agreement shall be construed and governed by the laws of the State of North Carolina. Recipient agrees and submits, solely for matters concerning this Fiscal Agent Agreement, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purposes, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Fiscal Agent Agreement, and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract, tort, or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined.


10. **Availability of Funds.** Any obligation of DOC to provide any payment to Recipient under this Fiscal Agent Agreement or the ARC Grant Agreement is contingent upon and subject to the availability of funds to DOC for this purpose. Additionally, a suspension or required clawback of funds involving Grantee in a different DOC grant program may result in a suspension of funds under this program as well.

11. **Restrictions of Use.** The assistance provided under the ARC Grant Agreement or this Fiscal Agent Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining ARC or DOC approval of the Application for such assistance, or ARC or DOC approval of applications for additional assistance, or any other approval or concurrence of ARC or DOC required under this Agreement; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

Upon execution of this Fiscal Agent Agreement by DOC and Recipient in the spaces below, Recipient hereby accepts the assistance on the terms of this Fiscal Agent Agreement, effective on the date indicated below, and further certifies that the official signing below has been duly authorized by Recipient's governing body to execute this Fiscal Agent Agreement.

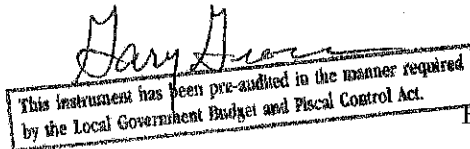
Signature of Department of Commerce
Authorized Official


Date: September 23, 2015

By: 
John Hommani, General Counsel

Date: OCTOBER 5, 2015

WAKE COUNTY
Name of Recipient Government



By: 
Signature of Authorized Official

COUNTY MANAGER
(Title)