



INFORMATION SHARING ACCESS AND NON-DISCLOSURE AGREEMENT

BETWEEN THE

**PUERTO RICO PUBLIC PARTNERSHIPS AUTHORITY ON BEHALF OF THE CENTRAL
OFFICE OF RECOVERY, RECONSTRUCTION, AND RESILIENCE**

AND THE

PUERTO RICO DEPARTMENT OF HOUSING

**FOR FEMA MAJOR DISASTER DECLARATIONS:
DR-4336-PR; DR-4339-PR; DR-4473-PR;
DR-4493-PR; DR-4671-PR**



This **INFORMATION SHARING ACCESS AND NON-DISCLOSURE AGREEMENT (ISA-NDA or the Agreement)** is entered into in San Juan, Puerto Rico this 7 of February 2024, by and between the **Central Office for Recovery, Reconstruction, and Resiliency¹ (COR3)**, a division of the **PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY²**, a public corporation of the Government of Puerto Rico ascribed to the Puerto Rico Fiscal Agency and Financial Advisory Authority³, created and authorized to enter into this Agreement by OE-2017-65, as amended, with principal offices at Banco Gubernamental de Fomento, Centro Gubernamental Minillas (Roberto Sánchez Vilella) Ave. De Diego, Pda. 22, Santurce, Puerto Rico, represented herein by its Executive Director, Manuel A. J. Laboy Rivera, of legal age, married, and resident of Guaynabo, Puerto Rico,⁴ and the **PUERTO RICO DEPARTMENT OF HOUSING (PRDOH)**, a public agency of the Government of Puerto Rico created under Act. No. 97, of June 10, 1972, as amended, 3 LPRÁ § 441 *et seq.*, known as the "Department of Housing Act" (**Organic Act**), with principal offices at 606 Barbosa Ave., Juan C. Cordero Dávila Building, San Juan, Puerto Rico, represented herein by William O. Rodríguez Rodríguez, of legal age, attorney, single, and resident of Guaynabo, Puerto Rico, in his capacity as PRDOH Secretary, collectively the "**Parties**".

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1. INTRODUCTION AND PURPOSE. The Parties voluntarily enter into this ISA-NDA to govern the collection, use, access, disclosure, security, and retention of shared data and information. The purpose of this ISA-NDA is to enable COR3 to share Federal Emergency Management Agency (**FEMA**) Public Assistance (**PA**) Program and Hazard Mitigation Grant Program (**HMGP**) data, related to government agencies, local governments, or non-government organizations (**NGOs**), that received federal assistance from FEMA under the following disaster declarations: DR-4336-PR, DR-4339-PR, DR-4473-PR, and DR-4493-PR and DR-4671-PR.

The PRDOH needs to have access to PA Program and HMGP data to develop metrics needed to implement the Recovery Tracking Tool, as required by the Subrecipient Agreement (**SRA**) executed between PRDOH and The Rand Corporation (**Rand**), contract number 2024-DR0009. The Recovery Tracking Tool will aid Puerto Rico's recovery goals as established in the CDBG-DR Action Plan, as well as other planning documents as appropriate, across sectors. Rand will also analyze recovery funding data for overlaps and gaps in recovery funding for key infrastructure needs for recovery, as well as an analysis of available geospatial data and analysis and data visualizations of key metrics identified under the SRA.

¹ The Central Office for Recovery, Reconstruction, and Resiliency (COR3) was created pursuant to the Governor's Executive Order OE-2017-65, as amended by OE-2017-69, as a division of the Puerto Rico Public-Private Partnerships Authority (PPPA). The PPPA created the COR3 through Resolution 2017-39.

² The PPPA was created by Act No. 29-2009, as amended, as a public corporation part of the Puerto Rico Fiscal Agency and Financial Advisory Authority (PRFAFAA).

³ The PRFAFAA was created by Act No. 2-2017, as amended.

⁴ The PPPA Resolution 2019-63 authorizes the COR3 to enter into this Agreement.

2. AUTHORITIES. This ISA-NDA is authorized by:

- a. Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, Pub. L. No. 93-288 (1974), (codified at 42 U.S.C. §§ 5121-5207) (Stafford Act);
- b. Homeland Security Act of 2002, Pub. L. No. 107-296, Title V (2002) (codified as amended at 6 U.S.C. §§ 311-321n);
- c. Privacy Act of 1974, as amended (2012), 5 U.S.C. § 552a et seq. (Privacy Act);
- d. DHS/FEMA 008 - Disaster Recovery Assistance Files System of Records (DRA), 78 FR 25282 (Apr. 30, 2013) (DRA SORN);
- e. FEMA Recovery Policy 9420.1, "Secure Data Sharing" (Sept. 9, 2013).

3. BACKGROUND.

- a. The President declared a Major Disaster under the Stafford Act for the Commonwealth of Puerto Rico on September 10, 2017, as a result of Hurricane Irma (DR-4336-PR), and on September 20, 2017, as a result of Hurricane María (DR-4339-PR).
- b. On December 28th, 2020, the southern portion of Puerto Rico began experiencing earthquakes. On January 7th, 2020, the largest earthquake (Magnitude of 6.4) was recorded near the coast of Guánica.
- c. On January 16, 2020, the President signed a new Major Disaster Declaration for Puerto Rico associated with these earthquakes (DR-4473-PR), authorizing FEMA to provide FEMA Individual Assistance (**IA**) and assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance under the PA program pursuant to the Stafford Act, subject to completion of Preliminary Damage Assessments (**PDAs**).
- d. On March 27, 2020, the President declared a Major Disaster under the Stafford Act for the Commonwealth of Puerto Rico as a result of the COVID-19 pandemic (DR-4493-PR).
- e. Initially, DR-4493-PR authorized FEMA to assist with emergency protective measures (Category B), including direct Federal assistance, under the PA program. The Major Disaster Declaration was later amended to include IA limited to the Crisis Counseling Program and COVID-19 Funeral Assistance under Other Needs Assistance.
- f. The President declared another Major Disaster under the Stafford Act for the Commonwealth of Puerto Rico on September 9, 2020, as a result of Tropical Storm Isaias (DR-4560-PR), authorizing FEMA to provide IA in the designated areas and Hazard Mitigation throughout Puerto Rico.
- g. On November 5, 2020, the President signed a new Major Disaster Declaration for Puerto Rico because of damages caused by severe storm and flooding on September 13, 2020, in the Municipality of Arecibo (DR-4571-PR), authorizing FEMA to provide IA limited to the designated area.
- h. On September 21, 2022, the President declared another Major Disaster under the Stafford Act for the Commonwealth of Puerto Rico as a result of Hurricane Fiona (DR-4671-PR).
- i. FEMA collects, maintains, uses, and disseminates PA Program information for those applicants who have successfully received

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funding under the Program. FEMA's PA Program, funded by FEMA and administered by the Government of Puerto Rico, is the largest grant program providing funds to government agencies or NGOs, such as the municipalities of Puerto Rico, to assist with recovery after a major disaster. Part of these funds may have been used to repair and rebuild damaged facilities and infrastructure impacted by Hurricanes Irma and María.

- j. FEMA's HMGP provides funding to state, local, tribal, and territorial governments so they can develop hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster losses in their communities. This grant funding is available after a presidentially declared disaster.
- k. COR3 works directly with FEMA to implement all FEMA recovery programs, including the PA Program and HMGP, and has access to data and documentation that was collected and turned over to COR3 and FEMA by program applicants and that is stored in several databases maintained by FEMA and COR3.
- l. On August 22, 2023, PRDOH and Rand executed an SRA under the Analytic Support Initiative for Puerto Rico Disaster Recovery Planning Project with funds from the Program Management Planning under CDBG-DR.
- m. The Analytic Support Initiative for Puerto Rico Disaster Recovery Planning Project is intended to provide PRDOH with immediate analytic support to ensure that Puerto Rico has the needed information, analysis, studies, access to experts, problem identification tools, disaster resilience plans, recovery action plans, and policy recommendations to support its recover/ progress and resilience to future storms. Rand will provide a set of studies, data analysis, and plans that will assess recovery progress since Hurricanes Irma and Maria five (5) years ago, consider ways to address recovery barriers and make recommendations on how recovery can be implemented more quickly in key areas. The tasks to be undertaken under the SRA also have the purpose of ensuring alignment of the CDBG-DR portfolio with the federally mandated 2018 "Transformation and Innovation in the Wake of Devastation: An Economic and Disaster Recover/ Plan for Puerto Rico" plan submitted to the United States Congress.

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4. DEFINITIONS. As used in this Agreement, the following terms will have the following meanings:

- a. BREACH: Occurs when confidential information is viewed, leaked, or accessed by anyone who is not someone authorized to have access to this information, as part of their official duties.
- b. CONFIDENTIAL AND/OR SENSITIVE INFORMATION: Refers to information or data pertaining to government agencies or NGOs that the government agencies or NGOs would not want to be disclosed to unauthorized parties.
- c. CONFIDENTIALITY: The protection of sensitive information.
- d. FEMA: Refers to the Federal Emergency Management Agency.
- e. HUD: Refers to the United States Department of Housing and Urban Development.
- f. INCIDENT: (a) The loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than

authorized users, and for another than authorized purpose, have access or potential access to the confidential information in usable form, whether physical or electronic; and/or (b) any violation of any of the terms of this Agreement. The term encompasses both suspected and confirmed incidents involving confidential information.

- g. NONDISCLOSURE: The act of not making something known.
- h. PERSONALLY IDENTIFIABLE INFORMATION (**PII**): Any information that permits the identity of an individual to be directly or indirectly inferred, including other information that is linked or linkable to an individual. 2 C.F.R. § 200.79. For example, when linked or linkable to an individual, such information includes, but is not limited to, an address, name, social security number, date and place of birth, mother's maiden name, account number, license number, vehicle identifier number, license plate number, device identifier or serial number, internet protocol address, biometric identifier (e.g., photograph, fingerprint, iris scan, voice print), educational information, financial information, medical information, criminal or employment information, and information created specifically to identify or authenticate an individual (e.g., a randomly generated number). PII constitutes "Controlled Unclassified Information."
- i. SUBRECIPIENT: A public or private nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR funds from the recipient or another subrecipient to undertake CDBG-DR-eligible activities. 24 C.F.R. § 570.500(c). It is further defined at 2 C.F.R. § 200.93, as a non-Federal entity that receives a subaward from a passthrough entity to carry out part of a Federal program.

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5. RESPONSIBILITIES.

- a. COR3's responsibilities under this ISA-NDA are as follows:
 - 1. Provide PRDOH and Rand direct access to all FEMA PA and HMGP data, including:
 - a. Provide user login credentials and instructions on proper handling and protection of data.
 - b. Grant direct access to read and download FEMA PA and HMGP documentation maintained in COR3's database, Disaster Recovery System (**DRS**), including, if available, FEMA Form 90-91 and the FEMA Cost Estimating Format (**CEF**), among other sources of data and documentation.
 - 2. COR3 is responsible for providing technical assistance to the PRDOH related to accessing, navigating, or otherwise using its systems of record.
 - 3. COR3 is responsible for providing PRDOH consistent FEMA PA and HMGP payment data.
 - 4. COR3 will work to establish online or real-time access to the relevant data; but, if the COR3 cannot provide such access or if access is delayed, COR3 will provide the FEMA PA and HMGP data to the PRDOH and Rand via other secure means (such as encrypted document sent via email and/or encrypted media).
- b. The PRDOH's responsibilities under this ISA-NDA are as follows:
 - 1. PRDOH understands that COR3 has disclosed or may disclose confidential documentation and data relating to FEMA PA and

HMGP, and that at no time will the PRDOH transfer, sell, rent, distribute, or otherwise disclose or make available any associated Information to third parties, except as provided herein, and will not copy or reverse engineer any such information.

2. PRDOH will hold the information and data disclosed under this ISA-NDA in strict confidence and will take all reasonable precautions to protect such information (including, without limitation, all precautions the PRDOH employs with respect to its own confidential materials) to avoid unauthorized access, use or disclosure.
3. PRDOH will ensure that Rand will not disclose, publish, or disseminate Confidential and/or Sensitive Information to any third party, nor use it for any purpose other than as explicitly authorized under this ISA-NDA. PRDOH will ensure that Rand:

a) abides by the terms and conditions outlined in in this Agreement, including, without limitation, its provisions relating to compliance with the protection of FEMA Information, and Notice of Security and/or Privacy Incident;

(b) restricts the use of information only to the performance of services to PRDOH in connection with PRDOH's performance of its obligations under this ISA-NDA,

(c) will not use any information to obtain an unfair competitive advantage to participate in any capacity in a procurement process involving COR3 or any of its Subrecipients, and

(d) certifies in writing, upon completion of the performance of services, that Rand has immediately un-installed, removed, and/or destroyed all copies of the Information within thirty (30) days of Rand's performance of services to PRDOH.

4. If PRDOH comes to possess client data and other sensitive information as a result of this Agreement, where such data includes PII, which may be categorized according to the following:
 - a. Participant Names
 - b. Addresses
 - c. Phone Numbers
 - d. Amounts Received
 - e. Award Types
 - f. Damaged Dwelling Address
 - g. Total Costs
 - h. Duplication of benefits analyses and documentation

The PRDOH must comply with 2 C.F.R. § 200.303 and the PRDOH Personally Identifiable Information, Confidentiality, and Nondisclosure Policy (PII Policy) and shall take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. § 200.82.

5. PRDOH will not further disclose any information or data provided by COR3 or contained in COR3's System of Record to outside third parties without the express consent of FEMA or the applicant to whom the information pertains to.

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6. Instruct all individuals with access to the information regarding the confidential nature of the information and the safeguard requirements of this Agreement.
7. Employ appropriate technical, physical, and administrative safeguards to secure any and all data shared under the provisions of this Agreement, whether in physical or electronic form and store it only in places and in a manner that is safe from access by unauthorized persons or for unauthorized use.
8. Ensure login credentials include a unique username and password for each user. These are considered private and confidential. Login credentials must not be shared. Passwords must be construed as strong passwords, changed at regular intervals, and not be allowed to be included in the automated login process or saved by browsers.
9. PRDOH understands the personal and confidential nature of the information and agrees that it and all entities shall comply with all applicable laws, regulations, policies, and provisions of this Agreement to protect the confidentiality of the Information. PRDOH understands that it and all entities are responsible for any privacy incidents concerning the Information while in their possession and/or control of the aforementioned entities.
10. In the event of a breach of this ISA-NDA or any exposure, unauthorized release, or misuse of the information shared under the provisions of this ISA-NDA, PRDOH will immediately report the incident to the COR3 Chief Legal Counsel Sebastián Batista Bustelo, Esq. by phone at 787-273-8196 or by email at sbatista@cor3.pr.gov.

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6. POINTS OF CONTACT.

- a. PRDOH's points of contact are as follows:

Maretzie Díaz Sánchez, Disaster Recovery Deputy Secretary
mdiaz@vivienda.pr.gov
787.274.2527, ext. 6615

Carlos R. Olmedo Álvarez, Esq., PPL
Director Planning and Grant Management
colmedo@vivienda.pr.gov
787-274-2527 ext. 4292

- b. COR3's points of contact are as follows:

Sebastián Batista Bustelo, Esq.
Chief Legal Counsel and Chief of Staff
COR3
sbatista@cor3.pr.gov

Mayté Bayolo Alonso
Project Management Office (PMO) Director
COR3
mbayolo@cor3.pr.gov

7. **SEVERABILITY.** Nothing in this ISA-NDA is intended to conflict with current laws or regulations or the directives of DHS/FEMA. If a term of this ISA-NDA is inconsistent with such authority then that term shall be invalid, but the remaining terms and conditions of this ISA-NDA shall remain in full force and effect.

- 8. NO PRIVATE RIGHT.** This ISA-NDA is an agreement between PRDOH and COR3. It does not create nor confer any right or benefit that is substantive or procedural, enforceable by any third party against the Parties, the Government of Puerto Rico, the United States, or other officers, employees, agents, or associated personnel thereof. Nothing in this ISA-NDA is intended to restrict the authority of either party to act as provided by law, statute, or regulation, or to restrict any party from administering or enforcing any laws within its authority or jurisdiction. Accordingly, the terms of this Agreement do not constitute or imply the grant, by the United States of America or the Government of Puerto Rico, of any other consent, accord, satisfaction, advice, or waiver of its rights, power, or authority.
- 9. ASSIGNMENT OF RIGHTS.** Neither party shall assign or transfer any interest in this Agreement without the prior written consent of the other party.
- 10. FUNDING.** This ISA-NDA is not an obligation or commitment of funds, nor a basis for the transfer of funds. Each party shall bear its own costs in relation to this ISA-NDA. Expenditures by each party will be subject to its budgetary processes and to the availability of funds pursuant to applicable laws, regulations, and policies. The Parties expressly acknowledge that this in no way implies that Congress will appropriate funds for such expenditures.
- 11. ISSUE RESOLUTION.** PRDOH and COR3 understand that during the course of this ISA-NDA, they may have to resolve issues such as: scope, interpretation of provisions, unanticipated technical matters, and other proposed modifications. Both parties agree to appoint their respective points of contact to work in good faith towards resolution of such issues.
- 12. USE OF CONTRACTOR/SUBRECIPIENT WITH ACCESS TO COR3 INFORMATION.** When PRDOH utilizes a contractor/subrecipient in connection with the performance of its obligations under this ISA-NDA and the PRDOH provides such contractor/subrecipient with access to confidential information, the PRDOH shall not share data until notice of the identity of such contractor/subrecipient and the extent of the role that such contractor/subrecipient will play in connection with the purpose of this ISA-NDA has been provided to and approved by COR3. Moreover, all contractors/subrecipient given access to any information provided under this ISA-NDA must agree to: (a) abide by the terms and conditions set forth in in this Agreement, including, without limitation, its provisions relating to compliance with the protection of COR3 Information, and Notice of Security and/or Privacy Incident; (b) restrict the use of information only to the performance of services to PRDOH in connection with PRDOH's performance of its obligations under this ISA-NDA, and (c) certify in writing, upon completion of the performance of services by a contractor/subrecipient, that the contractor/subrecipient has immediately un-installed, removed, and/or destroyed all copies of the Information within thirty (30) days of the contractor's/subrecipient's performance of services to PRDOH.
- 13. RETURN OR DESTRUCTION OF COR3 INFORMATION.** If at any time during the term of this ISA-NDA any part of the information, in any form, that PRDOH obtains from COR3 ceases to be required by the PRDOH for the performance of the purpose under this ISA-NDA, or upon termination of this ISA-NDA, whichever occurs first, the PRDOH shall, within fourteen (14) days thereafter, promptly notify COR3 and securely return the information to COR3, or, at COR3's written request destroy, uninstall and/or remove all copies of the information in the PRDOH's possession or control, and certify to the COR3 that such tasks have been completed.
- 14. ENTIRE AGREEMENT.** This ISA-NDA constitutes the entire agreement between the Parties with regard to information sharing.

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- 15. MODIFICATION.** This ISA-NDA may be modified upon the mutual written consent of the Parties.
- 16. COUNTERPARTS.** This ISA-NDA, when executed in any number of counterparts and by different parties on separate counterparts, each of which counterparts when so executed and delivered shall be deemed to be an original, and all of which counterparts taken together shall constitute but one and the same Agreement.
- 17. EFFECTIVE DATE, DURATION AND TERMINATION.** This ISA-NDA will become effective upon the signature of both Parties and will end on **April 21, 2025**. The agreement may be extended by mutual written agreement of the Parties. Either party may terminate this agreement upon written notice to the other party.
- 18. NOTICE OF SECURITY AND/OR PRIVACY INCIDENT.** If PRDOH, its personnel, contractors or subrecipients, suspect, discover, or are notified of a data security incident or potential breach of security and/or privacy relating to any information provided under this Agreement, PRDOH shall immediately, but in no event later than one day **twenty-four (24) hours** from suspicion, discovery or notification of the incident or potential breach, notify COR3 Chief Legal Counsel, Sebastián Batista Bustelo, Esq., by email at sbatista@cor3.pr.gov.
- 19. SECURITY AND/OR PRIVACY INCIDENT HANDLING.** In the event of a privacy incident emanating from this ISA-NDA, COR3 will investigate the incident pursuant to DHS standard procedures and will consult PRDOH in order to diagnose, mitigate, and manage the privacy incident. PRDOH will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.
- 20. INDEMNIFICATION.** PRDOH shall bear all costs, losses, and damages resulting from PRDOH's breach of the ISA-NDA. PRDOH agrees to release, defend, indemnify, and hold harmless COR3 for claims, losses, penalties, and damages and reasonable attorneys' fees and costs to the extent arising out of PRDOH's, its personnel, contractors, or subrecipients', negligence, unauthorized use or disclosure of FEMA information, and/or PRDOH's, its personnel, contractors or subrecipients', breach of its obligations under this ISA-NDA. PRDOH shall inform all of its principals, officers, employees, agents, subrecipients, and contractors assigned to handling the information provided under this ISA-NDA of the obligations contained in this Agreement.
- 21. PENALTIES.** PRDOH understands that if it or one of its employees, agents, subrecipients, or contractors willfully discloses any confidential information and/or personally identifiable information to a third party not authorized to receive it, COR3 will revoke the PRDOH's access to the information and penalties may apply. See 5 U.S.C. 552a(i).

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[SIGNATURES ON THE FOLLOWING PAGE]

APPROVED BY:

CENTRAL OFFICE FOR RECOVERY, RECONSTRUCTION, AND RESILIENCY

Manuel Laboy
Manuel Laboy (Feb 7, 2024 12:32 AST)

Manuel A. J. Laboy Rivera
Executive Director
COR3

2/7/24

Date

PUERTO RICO DEPARTMENT OF HOUSING

William O. Rodríguez Rodríguez
William O. Rodríguez Rodríguez (Feb 7, 2024 10:01 AST)

William O. Rodríguez Rodríguez, Esq.
Secretary of Housing
Puerto Rico Department of Housing

2/7/2024

Date

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





ISA-NDA PRDOH COR3 Planning

Final Audit Report

2024-02-07

Created:	2024-02-06
By:	Mariana Feliciano (mfeliciano@vivienda.pr.gov)
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"ISA-NDA PRDOH COR3 Planning" History

-  Document created by Mariana Feliciano (mfeliciano@vivienda.pr.gov)
2024-02-06 - 4:24:45 PM GMT
-  Document emailed to w.rodriquez@vivienda.pr.gov for signature
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-  Email viewed by w.rodriquez@vivienda.pr.gov
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-  Signer w.rodriquez@vivienda.pr.gov entered name at signing as William O. Rodríguez Rodríguez
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-  Document e-signed by William O. Rodríguez Rodríguez (w.rodriquez@vivienda.pr.gov)
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-  Document emailed to Manuel Laboy Rivera (mlaboy@cor3.pr.gov) for signature
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-  Email viewed by Manuel Laboy Rivera (mlaboy@cor3.pr.gov)
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-  Signer Manuel Laboy Rivera (mlaboy@cor3.pr.gov) entered name at signing as Manuel Laboy
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-  Document e-signed by Manuel Laboy (mlaboy@cor3.pr.gov)
Signature Date: 2024-02-07 - 4:32:16 PM GMT - Time Source: server
-  Agreement completed.
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