



COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY  
(CDBG-DR)

INTERAGENCY AGREEMENT  
BETWEEN THE  
PUERTO RICO DEPARTMENT OF HOUSING  
AND THE



PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY ON BEHALF OF THE CENTRAL  
OFFICE FOR RECOVERY, RECONSTRUCTION, AND RESILIENCY

This **INTERAGENCY AGREEMENT** (hereinafter, the "Agreement") is entered into this 21<sup>st</sup> of February, 2020, by and between the **PUERTO RICO DEPARTMENT OF HOUSING** (the "PRDOH"), a public agency of the Government of Puerto Rico created under Act No. 97, of June 10, 1972, as amended, 3 LPRC § 441 *et seq.*, known as the "Department of Housing Organic Act" (the "Organic Act"), with principal offices at 606 Barbosa Ave., San Juan, Puerto Rico, represented herein by its Secretary, Luis C. Fernández Trinchet, of legal age, attorney, single, and resident of Guaynabo, Puerto Rico; and the **Central Office for Recovery, Reconstruction, and Resiliency**<sup>1</sup>, a division of the **PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY**<sup>2</sup>, a public corporation of the Government of Puerto Rico ascribed to the Puerto Rico Fiscal Agency and Financial Advisory Authority<sup>3</sup>, created and authorized to enter into this Agreement by OE-2017-65, as amended, (the "Partner" or "COR3"), 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 Deputy Director, Antonio R. Pavía Vidal, of legal age, married, and resident of Guaynabo, Puerto Rico<sup>4</sup>, collectively the "Parties".

**I. RECITALS AND GENERAL INFORMATION**

**WHEREAS**, on September 2017, Hurricanes Irma and María made landfall in Puerto Rico causing catastrophic island wide damage, knocking out power, water, and telecommunications for the entire island and its island municipalities. Hurricane María caused major structure and infrastructure damage to family homes, businesses and government facilities triggering the displacement of thousands of residents of the Island from their homes and jobs.

**WHEREAS**, the public facilities, which were also impacted by Hurricanes Irma and María, will need to undertake repairs to address the needs of citizens and provide a safe environment to employees and citizens.

**WHEREAS**, given the magnitude of the disaster left by Hurricanes Irma and María, Municipalities, state agencies, and nonprofit organizations play a crucial role in ensuring

<sup>1</sup> 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). PPPA created COR3 through Resolution 2017-39.

<sup>2</sup> The Puerto Rico Public-Private Partnerships Authority (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).

<sup>3</sup> PRFAFAA was created by Act 2-2017, as amended.

<sup>4</sup> PPPA Resolution 2019-63 authorizes COR3 to enter into this Agreement. PPPA Resolution 2019-47 authorizes Antonio R. Pavía Vidal to execute this Agreement.

recovery within their municipal boundaries, agency authority, and communities, thus it is important to provide support for the Municipalities, state Agencies, and nonprofit organizations to continue restoring Puerto Rico.

**WHEREAS**, under the Continuing Appropriations Act, 2018, and Supplemental Appropriations for Disaster Relief Requirements Act, 2017, signed into law September 8, 2017 (Pub. L. 115-56), \$1.5 billion were allocated by the U.S. Department of Housing and Urban Development (HUD) for disaster recovery assistance to the Government of Puerto Rico under the CDBG-DR. These funds are intended to provide financial assistance to address unmet needs that arise and that are not covered by other sources of financial aid.

**WHEREAS**, on February 9, 2018, a Notice was published in the Federal Register, Vol. 83, No. 28 (83 FR 5844), that allocated \$1.5 billion for disaster recovery assistance to the Government of Puerto Rico.

**WHEREAS**, pursuant to a letter dated February 23, 2018, sent by the former Governor of Puerto Rico, Hon. Ricardo Rosselló Neváres, to the Hon. Benjamin Carson, Secretary of HUD, the PRDOH is the governmental agency designated as Grantee of the CDBG-DR funds allocated to the Government of Puerto Rico.

**WHEREAS**, under the Bipartisan Budget Act of 2018, signed into law February 9, 2018 (Pub. L. 115-123), an additional \$8.22 billion were allocated by HUD for disaster recovery assistance to the Government of Puerto Rico under CDBG-DR.

**WHEREAS**, on August 14, 2018, a Notice was published in the Federal Register Vol. 83, No. 157, (83 FR 40314) that made an additional allocation to Puerto Rico of \$8.22 billion for recovery. With these allocations of funding, the PRDOH aims to lead a transparent, comprehensive recovery to benefit the residents of Puerto Rico. PRDOH holds accountability and is committed to the responsible, efficient, and transparent administration of CDBG-DR grant funding.

**WHEREAS**, on September 20, 2018, the Governor of Puerto Rico and the Secretary of HUD signed the Grant Agreement.

**WHEREAS**, according to the approved current Action Plan, Puerto Rico intends to undertake the FEMA Coordination Program (hereinafter, "the Program"). Federal Grant programs that have funded Puerto Rico's response and will continue to provide for the island's long-term recovery are subject to cost-share requirements. PRDOH intends to focus on meeting the non-federal cost share of FEMA's Public Assistance and Individual Assistance programs. The approved current Action Plan allocated a total budget up to one billion dollars (\$1,000,000,000.00) for this program; The PRDOH designated up to One Hundred Million Dollars (\$100,000,000.00) of the mentioned funds to the Partner who will serve as a servicer for the services included in the Scope of Work (SOW) under this Agreement;

**WHEREAS**, the Partner will assist the PRDOH in utilizing CDBG-DR funds to carry out the Program, pursuant to this Agreement;

**WHEREAS**, the CDBG-DR funds made available for use by the Partner under this Agreement constitute a Subaward of the PRDOH's Federal Award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of the PRDOH's Federal Award;

**WHEREAS**, the PRDOH has the legal power and authority, in accordance with its enabling statute, the Organic Act, as amended, *supra*, the federal laws and regulations creating and allocating funds to the CDBG-DR program and the current Action Plan, to issue and award the subaward, enter and perform under this Agreement; and

**WHEREAS**, the Partner, in accordance with its enabling statute, has the legal power and authority to enter into this Agreement and has agreed to undertake the corresponding administrative responsibilities under the Program, and with Resolution No. 2019-63, authorizing the Partner to enter into this Agreement with the PRDOH, and by signing this Agreement, the Partner assures PRDOH that Partner shall comply with all the requirements described herein.

**GENERAL AWARD INFORMATION**

The Subaward from PRDOH to the Partner contemplated hereunder is for carrying out a portion of the Federal Award described in **Section I**; thus, a federal assistance relationship is created with the Partner. This Agreement shall be updated to reflect any changes to the Federal Award and the following award information.

Partner Contact Information:	<u>PO Box 195014</u> <u>San Juan, PR 00918-5014</u> <u>787-273-8209</u>
CDBG-DR Partner Federal Award Identification Number:	PRDOH DUNS #: <b><u>125967484</u></b>
CDBG-DR Partner Federal Award Date:	September 20, 2018
Federal Award project description:	See <b>Exhibits A &amp; B</b> for <u>Scope of Work</u>
Partner Unique Identifier:	DUNS number: <u>138613646</u>
Subaward Period of Performance:	Start Date: Effective Date, as defined in Section IV of this Agreement. End Date (36) months from Start Date
Funds Certification:	Dated: <u>September 17, 2019</u> Amount: <u>\$89,783,000.00</u> Funds Allocation: CDBG-DR <u>B-17-DM-72-0001</u> Account Number: <u>R01121FEMA-DOH-LM,</u> <u>R01121FEMA-DOH-UN</u> See <b>Exhibit E</b> for <u>Funds Certification</u>

**NOW, THEREFORE**, in consideration of the need for recovery from Hurricanes Irma and Maria and the premises and mutual covenants described herein, the Parties mutually agree to the terms described in this Agreement.

**TERMS AND CONDITIONS**

**II. ATTACHMENTS**

The following attachments are incorporated into this Agreement by reference and are hereby made part of this Agreement:

- Exhibit A                      Scope of Work Summary
- Exhibit B                      Detailed Scope of Work, Timelines and Performance Goals
- Exhibit C                      Key Personnel

Exhibit D	Budget
Exhibit E	Funds Certification
Exhibit F	HUD General Provisions

All Attachments hereto are fully incorporated herewith such that the terms and conditions of the Attachments shall be as binding as any terms and conditions of this executed written Agreement. Should any inconsistency appear between the Attachments and this Agreement, the Agreement shall prevail.

### III. SCOPE OF WORK

The Partner shall be responsible for performing the activities detailed in **Exhibit A & B** (hereinafter, the "Scope of Work") of this Agreement, herein attached and made an integral part of this Agreement, which may be amended from time to time with the consent of both Parties. The Partner shall complete the Scope of Work in a manner satisfactory to the PRDOH and consistent with the terms and conditions of this Agreement and applicable Federal and local statutes, laws and regulations.

#### A. Partner Management Responsibilities

1. As a condition of receiving this Subaward, the Partner shall assist the PRDOH in procurement, management, monitoring and reporting of the services included in **Exhibit A & B** for the Program.
2. All services shall be made in accordance with PRDOH guidelines, HUD guidelines and regulations, and other applicable state and federal laws and regulations.
3. The services contracts will be subject to the previous written approval of PRDOH to become effective and will incorporate any clauses or dispositions required by PRDOH, including, but not limited to, the Contract termination for convenience of the PRDOH.
4. The Partner will develop plans in accordance with the **Exhibit A & B** which must be provided to PRDOH. The PRDOH has the sole authority and discretion to review and approve such plans.

#### B. General Administration

**Prohibited Activities:** The Partner may only carry out the roles and responsibilities described in this Agreement and the activities related to the performance of the Scope of Work described in **Exhibit A & B** of this Agreement. Notwithstanding anything to the contrary in this Agreement, the Partner shall not perform any work or services outside the Scope of Work described in **Exhibit A & B** of this Agreement.

The Partner is prohibited from charging to the PRDOH the costs of CDBG and/or CDBG-DR ineligible activities, including those described at 24 CFR § 570.207, unless waived or made eligible by an applicable Federal Register Notice, from using funds provided herein or personnel employed in the administration of activities under this Agreement for political activities, inherently religious activities, or lobbying. The Partner may be financially liable for the carry out of activities outside of the parameters of the Scope of Work of this Agreement.

#### C. National Objectives

All activities funded with CDBG-DR funds in this agreement must meet one of the CDBG-DR program's National Objectives: (i) benefit low-and moderate-income persons; (ii) aid

in the prevention or elimination of slums or blight, or; (iii) meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

PRDOH shall be responsible for determining the appropriate National Objectives for each project funded by the Program and shall retain such pertinent documentation in its project files.

D. Levels of Accomplishment – Performance Goals and Timelines

The Partner shall complete the activities required under the Scope of Work of this Agreement in accordance with the timeframes and performance goals set forth in **Exhibit B** ("Detailed Scope of Work, Timelines and Performance Goals") of this Agreement, herein attached and made an integral part of this Agreement.

E. Nonperformance Standard

If at the end of the **six (6) months** from the Effective Date, as defined in **Section V** of this Agreement, the program activity has not begun or at any time during the **two (2) years** term the program activity has not accomplished the performance objectives set forth by the PRDOH in **Exhibit B** ("Detailed Scope of Work, Timelines and Performance Goals"), the PRDOH, may, at its discretion, terminate this Agreement, de-obligate funds made available under this agreement, and/or recapture funds previously expended by the Partner under this agreement from non-federal funds. No extensions to this Agreement shall be granted unless the Partner can document circumstances beyond its control that prevented start of the activity. In accordance with written policies and procedures, the PRDOH shall review the properly filed and documented circumstances which are alleged to have prevented the initiation of activity and exclusively reserves the right to decide relative to the reasons stated as well as the prevailing circumstances.

F. Staffing

The Partner shall supervise and direct the completion of all activities under this Agreement. Any changes in assigned key personnel (hereinafter, the "Key Personnel") assigned or their responsibilities under the activities are subject to the prior approval of the PRDOH. If possible, it is the best practice for Partner to provide PRDOH with ample written notice to the personnel changes and requests. Ample notice in this context shall be **ten (10) business days**. If that is not possible, then Partner shall make all reasonable effort to notify PRDOH of changes.

At a minimum, Partner shall assign the staff with the identified responsibilities to the identified activities as described in **Exhibit C** ("Key Personnel") of this Agreement, herein attached and made integral part of this Agreement.

Depending on the needs of the Program activity, the Partner shall provide staff and/or procure professional service contractors to assist with the compliance of said activities. The staff who will support the Program activities included in the Scope of Work, shall solely perform those tasks and shall be remunerated hourly.

The Partner shall monitor the performance of its staff, and contractors against the goals and performance standards as stated in the **Exhibit B** ("Detailed Scope of Work, Timelines and Performance Goals").

G. Pre-Award Costs

[[Pre-award costs applicable to the Partner are strictly prohibited.] |

#### IV. PERFORMANCE, MONITORING AND REPORTING

##### A. Monitoring

The PRDOH shall monitor the performance of the Partner as necessary to ensure that the funds allocated to the Partner are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement, including the timeframes and performance goals set forth in **Exhibit B** associated with the activities included in the Scope of Work (**Exhibits A & B**).

This review shall include: (1) reviewing financial and performance reports required by the PRDOH; (2) following-up and ensuring that the Partner takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Partner from the PRDOH detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the Partner from the PRDOH as required by 2 CFR §200.521.

Substandard performance, as specified in policies and procedures reviewed and approved by PRDOH, shall constitute noncompliance with this Agreement.

If action to correct such substandard performance is not taken by the Partner within **fifteen (15) days** after being notified by PRDOH, PRDOH may impose additional conditions on the Partner and suspend or terminate this Agreement, disallow all or part of the cost of the activity or action not in compliance or initiate other remedies for noncompliance, as appropriate and permitted under 2 CFR § 200.338.

##### B. Reporting

The Partner shall submit regular monthly progress reports to the PRDOH, on the form and with the content to be specified and required by the PRDOH. The PRDOH and COR3 staff will jointly determine shall later notify Partner in writing the guidelines and requirements applicable to the submittal of the monthly progress reports, and such notification shall be deemed incorporated by reference to this Agreement.

#### V. EFFECTIVE DATE AND TERM

This Agreement shall be in effect and enforceable between the parties from the date of its execution. The performance period of this Agreement is **thirty six (36) months** from the date of its execution.

The End of Term shall be the later of: (i) **20** of February, 2023 (ii) the date as of which the Parties agree in writing that all Close-Out Requirements<sup>5</sup> have been satisfied or, where no Close-Out Requirements are applicable to this Agreement, the date as of which the Parties agree in writing that no Close-Out Requirements are applicable hereto; or (iii) such later date as the Parties may agree to in a signed amendment to this Agreement.

The Partner hereby acknowledges that this Agreement is subject to the grant agreement between the Government of Puerto Rico or the PRDOH, and HUD (the "Grant Agreement"); and the availability of the allocated CDBG-DR funds. The Partner also acknowledges and agrees that any suspension, cancellation, termination or otherwise unavailability of the CDBG-DR allocation(s) shall result in the immediate suspension, cancellation, or termination of this Agreement, upon PRDOH's notice.

<sup>5</sup> "Close-Out Requirements" means all requirements to be satisfied by each party in order to close-out this Agreement and the CDBG-DR funds provided herein in accordance with applicable Requirements of Law, including the execution and delivery by one or more of the Parties of all close-out agreements or other legal instruments and the taking of any actions by one or more of the Parties in connection with such close-out, in any case as required under applicable Requirements of Law.

A. Agreement Extensions:

PRDOH may, at its sole discretion, extend the Agreement's term for an additional term of **twelve (12) months**, upon mutual written agreement of the parties. The term of this Agreement shall not exceed a period of **four (4) years**, including options for renewal or extension. Likewise, the term of this Agreement cannot exceed the lifetime of the initial Grant Agreement, unless the term of the initial Grant Agreement is extended by HUD.

**VI. BUDGET**

A. Budget

The Partner shall complete all activities in the Scope of Work of this Agreement (**Exhibits A & B**) in accordance with the Budget (**Exhibit D**) attached herein and made integral part of this Agreement (the "Budget") as such Budget may be amended from time to time.

Any proposed budget to be managed by the Partner shall clearly specify proposed funding for administrative costs and/or program delivery costs and/or planning costs, to the extent that such costs are considered applicable categories for funding.

The Budget may include a reserve of the Subaward for PRDOH's activity delivery costs and expenditures related to the Program. The Partner may not access the reserve identified in the Budget without written consent from the PRDOH.

The PRDOH may require a more detailed budget breakdown than the one contained herein, and the Partner shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the PRDOH. Any amendments to the budget must be approved in writing and signed by the PRDOH and the Partner.

B. Indirect Costs

Indirect costs invoiced, if any, must be consistent with the conditions set forth herein. Indirect costs may be charged to PRDOH under a cost allocation plan prepared in accordance with 2 CFR part 200, subpart E, and as approved by PRDOH in accordance with written policies and procedures, shall be included in the Budget (**Exhibit D**).

C. Program Income

The Partner shall report monthly all Program Income<sup>6</sup>, if any, generated by activities carried out with CDBG-DR funds made available under this Agreement.

<sup>6</sup> As defined in section VI(A)(19)(a) of the HUD Notice 83 Fed. Reg. 5844, 5856 (February 9, 2018, as may be amended by HUD), *Program Income* is:

[...] gross income generated from the use of CDBG-DR funds, except as provided in subparagraph (d) of this paragraph and received by a State or a Subrecipient of a State."

[...]

Program income includes, but is not limited to, the following: (a) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds; (b) Proceeds from the disposition of equipment purchased with CDBG-DR funds; (c) Gross income from the use or rental of real or personal property acquired by a State, local government, or Subrecipient thereof with CDBG-DR funds, less costs incidental to generation of the income (i.e., net income); (d) Net income from the use or rental of real property owned by a State, local government, or Subrecipient thereof, that was constructed or improved with CDBG-DR funds; (e) Payments of principal and interest on loans made using CDBG-DR funds; (f) Proceeds from the sale of loans made with CDBG-DR funds; (g) Proceeds from the sale of obligations secured by loans made with CDBG-DR funds; (h) Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund account; (i) Funds collected through special assessments made

All Program Income (as defined at 24 C.F.R. § 570.500) generated by activities carried out with the CDBG-DR Funds must be reported to and returned to PRDOH.

Program Income is subject to all applicable CDBG-DR laws and regulations for so long as it exists. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not Program Income and shall be remitted promptly to the PRDOH.

All Program assets, other than Program Income (property, equipment, etc.), if any, shall revert to PRDOH upon termination of this Agreement in accordance with applicable Federal laws, regulations, HUD Notices, policies, and guidelines.

PRDOH will later notify the Partner in writing the applicable procedures for the return or reversion of Program Income and Program assets to the PRDOH, and such notification shall be deemed incorporated by reference to this Agreement.

D. Reversion of Assets

**Use and Reversion of Assets.** The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 C.F.R. part 84 and 24 C.F.R. § 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

The Partner shall transfer to PRDOH any CDBG-DR funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

Real property under the Partner's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 C.F.R. § 570.208 until **five (5) years** after expiration of this Agreement [or such longer period of time as PRDOH deems appropriate]. If the Partner fails to use CDBG-DR assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Partner shall pay PRDOH an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for acquisition of, or improvement to, the property. Such payment shall constitute Program Income to the PRDOH. The Partner may retain real property acquired or improved under this Agreement after the expiration of the **five (5)-year** period or such longer period of time as PRDOH deems appropriate.

In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be Program Income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Partner for activities under this Agreement shall be (a) transferred to the PRDOH for the CDBG-DR program or (b) retained after compensating the PRDOH [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG-DR funds used to acquire the equipment].

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against nonresidential properties and properties owned and occupied by households not low- and moderate-income, where the special assessments are used to recover all or part of the CDBG-DR portion of a public improvement; (j) Gross income paid to a State, local government, or a Subrecipient thereof, from the ownership interest in a for profit entity in which the income is in return for the provision of CDBG-DR assistance.



## VII. PAYMENT

### A. Amount

This Agreement is based on the reimbursement of funds to the Partner expended on approved CDBG-DR items. Funding is contingent on a CDBG-DR award to PRDOH or a Grant Agreement between the Government of Puerto Rico or the PRDOH, and HUD, and PRDOH's receipt of CDBG-DR funds. It is expressly agreed and understood that the total funding amount to be paid by the PRDOH to the Partner under this Agreement shall not exceed the amount specified in the Budget (**Exhibit D**). Such payment shall be compensation for all allowable services required, performed and accepted under this Agreement. However, PRDOH reserves the right to reduce the funding amount if CDBG-DR funding is not provided at the currently anticipated levels and/or if the actual costs for the approved activities are less than those set forth in the Budget (**Exhibit D**).

Any additional funds to complete the services requested by the PRDOH to the Partner shall be subject to funds availability and shall require an amendment to this Agreement.

### B. Requests for Reimbursements

The Partner shall submit to PRDOH requests for reimbursements of activities under this Agreement and consistent with the approved Budget (hereinafter, the "Request for Reimbursement") and Scope of Work on [a monthly basis]. Each Request for Reimbursement shall be broken down into requested reimbursements against the Budget line items specified in **Exhibit D**.

The Partner shall submit Requests for Reimbursements to the PRDOH, on the form and with the content specified and required by the PRDOH. The Requests for Reimbursements must be submitted with all supporting invoices, bills, time sheets, monthly reports, and any other document necessary to justify the payment, or any other supporting document requested by PRDOH. The Request for Reimbursement must also be accompanied by documentation from the Partner demonstrating that all procurements for which payment is requested have been made in accordance with this Agreement.

If PRDOH determines that the submitted Request for Reimbursement and supporting documents are acceptable, then the invoice shall be approved for payment. An authorized representative of the PRDOH shall review each Request for Reimbursement and, if adequate, shall approve and process its payment. Payments to the Partner shall be made by check or electronic funds transfer (EFT). PRDOH reserves the right to conduct any audit it deems necessary.

In order for the Partner to receive payment for any work performed hereunder, the following certification must be included in each Request for Reimbursement submitted to the PRDOH:

**"Under penalty of absolute nullity, I certify that no public servant of the Partner or of the Government is a party to or has an interest in the profits or benefits that are the product of the contract subject of this invoice, and to be a party to or have an interest in the profits or benefits of resulting from the contract, under this invoice a prior dispensation has been issued. The sole consideration to furnish the contracted goods or services subject of the contract is the payment agreed upon with the authorized representative of the parties. The amount that appears in the invoice is fair and correct. The work has been performed, the products have been delivered and the services rendered, and no payment has been received for them."**

The PRDOH shall pay to the Partner CDBG-DR funds available under this Agreement (See **Exhibit E, "Funds Certification"**) based upon information submitted by the Partner for allowable costs permitted under this Agreement and consistent with the approved Budget. With the exception of advances, payments shall be made for eligible and allowed expenses actually incurred by the Partner, and not to exceed actual cash requirements. PRDOH reserves the right to adjust payments in accordance with advance fund and program income balances available in Partner accounts.

### VIII. NOTICES

All notices, requests, approvals, and consents of any kind made pursuant to this Agreement shall be in writing and shall be deemed to be effective as of the date sent by certified mail, return receipt requested, or email. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CDBG-DR Grantee:

Luis C. Fernández Trinchet, Secretary  
Puerto Rico Department of Housing  
606 Barbosa Avenue  
Juan C. Cordero Building  
Rio Piedras, Puerto Rico 00918

Partner:

Antonio R. Pavía Vidal, Deputy Director  
Central Office for Recovery, Reconstruction, and  
Resiliency  
PO Box 195014  
San Juan, P.R. 00918-5014  
apavia@cor3.pr.gov

### IX. AMENDMENT AND TERMINATION

#### A. Amendments

This Agreement may be amended provided that such amendments make specific reference to this Agreement, comply with programmatic policies, procedures, and guidelines, are executed in writing and signed by a duly authorized representative of each party, and approved by PRDOH. Such amendments shall not invalidate this Agreement, nor relieve or release the Parties from their obligations under this Agreement.

This Agreement may be amended by the parties hereto, for the purpose of including any other CDBG-DR funded program included in the HUD-approved Hurricanes Irma and María current Action Plan.

The PRDOH may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications shall be incorporated only by written amendment signed by both the PRDOH and the Partner.

However, PRDOH reserves the right to notify in writing to Partner any applicable policies, procedures, regulations, requirements or guidelines, whether existing or to be established, as well as changes and/or amendments thereof, and the notified policies, procedures, regulations, requirements or guidelines shall be deemed incorporated by reference to this Agreement without the need of executing a separate written and signed amendment.

B. Suspension or Termination

1. Termination for Cause

The PRDOH may terminate this Agreement, in whole or in part, upon **thirty (30) days'** notice, whenever it determines that the Partner has failed to comply with any term, condition, requirement, or provision of this Agreement. Failure to comply with any terms of this Agreement, include (but are not limited to) the following:

- a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, PRDOH's Program Guidelines, policies or directives as may become applicable at any time;
- b. Failure, for any reason, of the Partner to fulfill in a timely and proper manner its obligations under this Agreement;
- c. Ineffective or improper use of funds provided under this Agreement; or
- d. Submission of reports by the Partner to the PRDOH that are incorrect or incomplete in any material respect.

The Partner shall have up to **thirty (30) days** to resolve issues listed above to the satisfaction of PRDOH.

2. Termination for Convenience of the PRDOH

The PRDOH may terminate this Agreement any time by a notice in writing from the PRDOH to the Partner. If the Agreement is terminated by the PRDOH as provided herein, the Partner shall be paid the total compensation as the allowable services actually performed up until the date of termination. Any compensation under this paragraph must be for documented costs that are CDBG-DR eligible, and allowable, allocable, and reasonable in accordance with Uniform Administrative Requirements.

This Agreement may also be terminated in whole or in part by either the PRDOH or the Partner, or based upon Agreement by both the PRDOH and the Partner in accordance with the requirements in 2 CFR part 200, subpart D.

3. Notification and Recoupment of Costs Incurred Prior to Termination

The PRDOH shall promptly notify the Partner, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect and any other notifications required under 2 C.F.R. part 200, subpart D. Upon termination, the PRDOH retains the right to recover any improper expenditures from the Partner and the Partner shall return to the PRDOH any improper expenditures no later than **thirty (30) days** after the date of termination. In the case of a Termination for Convenience only, the PRDOH may, at its sole discretion, allow the Partner to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this Agreement, 2 C.F.R. part 200, subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations or requirements.

4. Unilateral Termination

The PRDOH may terminate this Agreement, in whole or in part, at PRDOH's sole discretion, with or without cause, at any time. The PRDOH will terminate this Agreement by delivering to the Partner a **thirty (30) day** notice of termination specifying the extent to which the performance of the work under this Agreement is terminated, and the effective date of termination. Upon receipt of such notice, the Partner shall immediately discontinue all services affected and deliver to the PRDOH all information, studies and other materials property of the PRDOH. If the Partner does not deliver to the PRDOH all information, studies, and other materials property of the PRDOH within the established timeframe, and the PRDOH invests any additional funds to reproduce the information, studies, and other materials not provided by the Partner upon termination, then the PRDOH will disallow from payments to the Partner under this Agreement the funds expended for the PRDOH to reproduce such information, studies, and other materials. In the event of a termination by Notice, the PRDOH shall be liable only for payment of services rendered up to and including the effective date of termination.

5. Suspension

The PRDOH may suspend this Agreement in whole or in part at any time for the PRDOH's convenience. The PRDOH shall give the Partner **five (5) days'** written notice of such suspension. Upon receipt of said notice the Partner shall immediately discontinue all Services affected.

6. Immediate Termination

In the event the Partner is subjected to a criminal or civil action, suit, proceeding, inquiry or court of applicable jurisdiction, or any governmental agency, or the Partner shall be subject to an order, judgment, or opinion, issued by any federal or local authority, a court of applicable jurisdiction, or any governmental agency, in connection with the execution, delivery, and performance by the Partner of this Agreement or the Partner of this Agreement has been noncompliant, breach, inaccuracy of any representation, warranties, covenants, or the certifications provided herein, whether the noncompliance, breach or inaccuracy takes place before or after the execution of this Agreement, the PRDOH shall have the right to the immediate termination of this Agreement notwithstanding, any provisions to the contrary herein. This section will apply in the event of any judgment that may obligate the PRDOH to terminate the Agreement pursuant to Act No. 2 of January 2, 2018, as amended, known as the "Anti-Corruption Code for the New Puerto Rico". The Partner has a continuous obligation to report to PRDOH any proceedings which apply to the Partner under this paragraph.

In the event that the grant of funds by HUD under any allocations of the CDBG-DR is suspended, withdrawn or canceled, this Agreement will be immediately suspended or terminated.

7. Period of Transition

Upon termination of this Agreement, and for **ninety (90) consecutive calendar days** thereafter (the Transition Period), Partner agrees to make himself available to assist the PRDOH with the transition of services assigned to Partner by the PRDOH. Partner shall provide to the PRDOH the assistance reasonably requested to facilitate the orderly transfer of responsibility for performance of the Services to the PRDOH or a third party designated by the PRDOH. The Parties agree to execute a Transition Services Agreement for the Transition Period and Partner will be paid at a reasonable, agreed upon hourly rate for any work performed for the PRDOH during the Transition Period.

#### 8. Availability of Funds

This Agreement is contingent upon the availability of funds from HUD. It is expressly understood and agreed that the obligation to proceed under this Agreement is conditioned upon the receipt of Federal funds. If the funds anticipated for the continuing fulfillment of the Agreement are, at any time, not forthcoming or insufficient, either through the failure of the Federal government to provide funds or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to PRDOH, the PRDOH have the right upon **ten (10) working days** written notice to the Partner, to terminate this Agreement without damage, penalty, cost or expenses to PRDOH of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

#### **X. COMPLIANCE WITH FEDERAL STATUTES, REGULATIONS AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD AND ADDITIONAL PRDOH REQUIREMENTS**

The "HUD General Provisions", which are attached to, and made an integral part of this Agreement as **Exhibit F**, set forth certain requirements imposed by HUD with respect to the PRDOH's Federal award or CDBG-DR Grant. The Partner agrees to carry out its obligations under this Agreement in compliance with all the requirements described in **Exhibit F** to this Agreement to the extent that such requirements are applicable to the programs that are contained in this Agreement.

This Agreement also includes terms and conditions of the PRDOH's Federal Award or CDBG-DR Grant that are imposed on the Partner, and the Partner agrees to carry out its obligations in compliance with all the obligations described in this Agreement.

##### A. General Compliance

The Partner shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 C.F.R. § 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this Agreement. See Federal Register Notice 83 FR 5844 (February 9, 2018). Notwithstanding the foregoing, (1) the Partner does not assume any of the PRDOH's responsibilities for environmental review, decision-making, and action, described in 24 C.F.R. part 58 and (2) the Partner does not assume any of the PRDOH's responsibilities for initiating the review process under the provisions of 24 C.F.R. part 52. The Partner shall also comply with all other applicable Federal, state and local laws, regulations, and policies that govern the use of the CDBG-DR funds in complying with its obligations under this Agreement, regardless of whether CDBG-DR funds are made available to the Partner on an advance or reimbursement basis.

Where waivers or alternative requirements are provided for in the applicable Federal Register Notice dated February 9, 2018, at 83 FR 5844 or any future Federal Register Notice published by HUD ("HUD Notices"), such requirements, including any regulations referenced therein, shall apply.

The Partner also agrees to comply with all other applicable Federal, State, and local laws, regulations, HUD Notices, policies, and guidelines, whether existing or to be established, provided the same are applied to activities occurring after the date the policy or guideline was established, governing the Grant Funds provided under this Agreement. In the event a conflict arises between the provisions of this Agreement and any of the foregoing, the Federal, State, and local laws, regulations, HUD Notices, policies, and guidelines shall control and this Agreement shall be interpreted in a manner so as to allow for the terms contained herein to remain valid and consistent with such Federal, State, and local laws, regulations, HUD Notices, policies and guidelines.

The Subrecipient shall also comply with applicable PRDOH's policies and guidelines as established in Program Guidelines and their amendments, if any, as found in the CDBG-DR Website ([www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov)) which are herein included and made integral part of this Agreement, as it may be updated from time to time.

B. Duplication of Benefits

The Partner shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5155) and described in Appropriations Act. The Partner must comply with HUD's requirements for duplication of benefits, imposed by Federal Register notice on the PRDOH, which are published in a separate notice entitled "Clarification of Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Partners" (76 FR 71060, published November 16, 2011). The Partner shall carry out the activities under this Agreement in compliance with the PRDOH's procedures to prevent duplication of benefits.

C. Drug-Free Workplace

The Partner must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. § 701-707).

D. Insurance & Bonding

The Partner shall carry sufficient insurance coverage and bonding from insurers licensed to conduct business in the Government of Puerto Rico to protect all Agreement assets from loss due to any cause, including but not limited to theft, fraud, and/or physical damage. The Government of Puerto Rico, the Puerto Rico Department of Housing and the Puerto Rico Public Housing Administration shall be named as additional insured on all such insurance. The Partner shall meet all other insurance requirements as the PRDOH may impose from time to time. In addition, all insurance carriers and bonding companies shall meet minimum size and financial stability/financial rating requirements as may be imposed by the PRDOH from time to time. Certificates of insurance shall be provided to the PRDOH and full and complete copies of the policies and/or bonds shall be provided to the PRDOH upon its request for same.

Notwithstanding the above, for construction or facility improvement performed by the subcontractors or third parties, the Partner shall ensure that the subcontractors or third parties, at a minimum, comply with the bonding requirements at 2 C.F.R. part 200, subpart D.

E. Hold Harmless

The Partner shall and hereby agrees to hold harmless, defend (with counsel acceptable to the PRDOH) and indemnify the PRDOH and each and all of its successors, affiliates, or assigns, and any of their employees, officers, directors, attorneys, consultants, agents, managers, and affiliates, from and against any and all damages, costs, attorneys' fees, claims, expenses, injuries, property damage, causes of action, violations of law, violations of this Agreement, and losses of any form or nature arising from or related to the conduct of the Partner in the performance of the efforts called for in this Agreement. This indemnity shall expressly include, but is not limited to, the obligation of the Partner to indemnify and reimburse the PRDOH for any and all attorneys' fees and other litigation or dispute resolution costs incurred or to be incurred in the PRDOH's enforcement of this Agreement or any portion thereof against the Partner or otherwise arising in connection with the

Partner's breach, violation, or other non-compliance with this Agreement. This clause shall survive indefinitely the termination of this Agreement for any reason.

F. PRDOH Recognition

Unless otherwise directed by the PRDOH, the Partner shall ensure recognition of the role of HUD and the PRDOH in providing funding, services, and efforts through this Agreement. Unless otherwise directed by the PRDOH, all activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to role of HUD and of the PRDOH. In addition, the Partner shall include a reference to the support provided herein in all publications made possible with funds made available under this Agreement. The PRDOH reserves the right to direct specific reasonable recognition requirements on a case-by-case basis, including but not limited to, the size and content, waiver, removal or addition of such recognition.

G. Logos Clause

The Parties hereto will not use the name of the other party, seals, logos, emblems or any distinctive trademark/ trade name, without the prior written express authorization of the other party.

H. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

The Partner shall comply with the applicable provisions in 2 C.F.R. part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. These provisions include:

I. Financial & Program Management

The Partner shall expend and account for all CDBG-DR funds received under this Agreement in accordance with 2 C.F.R. Part 200 subpart D §302 - §303 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

The Partner shall administer its program in conformance with Cost Principles as outlined in 2 CFR Part 200 Subpart E, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

J. Documentation and Record Keeping

The Partner, through the executed Non-Disclosure Agreement, will grant access to PRDOH to transfer to its data warehouse all records required by applicable law to be maintained, including but not limited to the Federal regulations specified in (1) 2 C.F.R. part 200; (2) 24 C.F.R. § 570.506; and (3) the applicable HUD Notices that are pertinent to the activities to be funded under this Agreement, as well as any additional records required by the PRDOH. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR programs, as modified by the HUD Notices;
- c. Records required to determine the HUD eligibility of activities;
- d. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG-DR funds;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG-DR program;
- f. Financial records as required by (1) 24 C.F.R. 570.502; and (2) 2 C.F.R. Part 200;

- g. Other records necessary to document compliance with Subpart K of 24 C.F.R. part 570.

K. Access to Records

The Partner shall furnish and cause each of its own subcontractors to furnish all information and reports required hereunder and shall permit access to its books, records and accounts by the PRDOH, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

L. Record Retention and Transmission of Records to the PRDOH

The Partner shall retain all official records on programs and individual activities shall be retained for the greater of **five (5) years**, starting from the closeout of the grant between PRDOH and HUD, or the end of the affordability period for each housing activity, whichever is longer. If any other laws and regulations as described in 24 C.F.R. § 570.490 applies to a project, the record retention period may be extended. All records involved in litigation, claims, audits, negotiations, or other actions, which have started before the expiration date of their retention, will be kept until completion of the action and resolution of all issues or the end of the regular **five (5) year** period, whichever is longer. (See 2 C.F.R. § 200.333 and 24 C.F.R. § 570.490(d).)

Records shall be made available to PRDOH upon request.

M. Client Data and Other Sensitive Information

In the event that the Partner comes to possess client data and other sensitive information as a result of this Agreement, then the Partner shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to PRDOH monitors or their designees for review upon request.

The Partner must comply with 2 C.F.R. §200.303 and shall take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information HUD or the PRDOH designates as sensitive or the Partner considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

The Partner shall comply with all Puerto Rico requirements concerning the privacy of personal records and consistent with 24 C.F.R. 570.508 (and 570.490).

PRDOH will comply with the Non-Disclosure Agreement regarding all information shared by Partner.

N. Close-Out

The Partner obligation to PRDOH shall not end until all close-out requirements are completed. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the PRDOH), properly addressing Program Income (as that term is defined in section VI (A)(19)(a) of the HUD Notice 83 Fed. Reg. 5844, 5856 (February 9, 2018, as may be amended by HUD)), balances, and accounts receivable to the PRDOH), determining the custodianship of records, and the Partner certification of compliance with the terms of this Agreement. Notwithstanding the foregoing, the terms of this



Agreement shall remain in effect during any period that the Partner has control over CDBG-DR funds, including Program Income.

Notwithstanding the terms of 2 C.F.R. 200.343, upon the expiration of this Agreement, the Partner shall transfer to the recipient any CDBG-DR funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-DR funds, further, any real property under the Partner's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the Partner in the form of a loan) shall be treated in accordance with 24 C.F.R. 570.503(b)(7).

O. Audits and Inspections

All Partner records with respect to any matters covered by this Agreement shall be made available to the PRDOH, HUD, and the Comptroller General of the United States, or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Partner within **thirty (30) days** after receipt by the Partner. Failure of the Partner to comply with the above audit requirements shall constitute a violation of this Agreement and may result in the withholding of future payments and/or termination.

All records relative to this Program held by PRDOH during the term set forth under section L – "Record Retention and Transmission of Records the PRDOH" must also be available to COR3, FEMA, and the Department of Homeland Security Office of Inspector General, or any of their authorized representative, within thirty (30) days upon written request, to audit, examine, and make excerpts of transcripts of all relevant data. Failure of PRDOH to comply with these audit requirements shall constitute a violation of this Agreement and may result in the termination of this Agreement.

P. Single Audit

The Partner must be audited as required by 2 C.F.R. part 200, subpart F when it is expected that the Partner's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

Q. Inspections and Monitoring

The Partner shall permit the PRDOH and auditors to have access to the Partner's records and financial statements as necessary for the PRDOH to meet the requirements of 2 C.F.R. part 200.

R. Corrective Actions

The PRDOH may issue management decisions and may consider taking enforcement actions including but not limited to corrective actions in 24 C.F.R. § 570.910 if noncompliance is detected during monitoring and audits. The PRDOH may require the Partner to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Partner from the pass-through entity detected through audits, on-site reviews, and other means. A timely and appropriate action shall be predicated on reasonable standard wherein the Partner utilizes all available resources to correct the noted issue or issues. In response to audit deficiencies or other findings of noncompliance with this Agreement, the PRDOH may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

S. Procurement and Contractor Oversight

The Partner shall not enter into any contract for goods or services with any entity without the written consent of the PRDOH prior to the execution of such contract. Unless specified

otherwise within this Agreement, the Partner shall procure all materials, property, equipment, or services in accordance with the requirements of the PRDOH's procurement policies and procedures, and 2 C.F.R. 200.318-326, as applicable, including but not limited to the need to appropriately assess the lease versus purchase alternatives. PRDOH's procurement policies and procedures as found in the CDBG-DR Website ([www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov)) is herein included and made integral part of this Agreement, as it may be updated from time to time.

The Partner shall comply with the requirements of PRDOH's Procurement Policies and Procedures and 2 C.F.R. part 200, as applicable in any contract entered into under this Agreement. Partner shall also require all contractors to flow down the PRDOH's Conditions, as well as termination for convenience of the PRDOH, to all subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors. These Conditions include required terms for project contracts, HUD General Provisions, Participation by Minority Group Members and Women Requirements and Procedures for Contracts with Housing Trust Fund Corporation, Standard Clauses for Contracts with the PRDOH and required diversity forms.

The Partner must comply with CDBG-DR regulations regarding debarred or suspended entities at 24 C.F.R. 570.609 or 24 C.F.R. 570.489(l) as appropriate. CDBG-DR funds may not be provided to excluded or disqualified persons.

The Partner shall maintain oversight of all activities under this Agreement and shall ensure that for any procured contract or Agreement, its contractors perform according to the terms and conditions of the procured contracts or Agreements, and the terms and conditions of this Agreement.

T. Nondiscrimination

The Partner shall comply with 24 C.F.R. part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309, "HCDA"). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, 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 Federal financial assistance.

The Partner shall adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. § 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, the Partner shall comply with regulations of 24 C.F.R. part 8, which implement Section 504 for HUD programs, and the regulations of 24 C.F.R. part 146, which implement the Age Discrimination Act for HUD programs.

U. Architectural Barriers Act and the Americans with Disabilities Act

The Partner shall ensure that its Activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act.

The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 C.F.R. § 40.2 or the definition of

"building" as defined in 41 C.F.R. § 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 C.F.R. part 40 for residential structures, and appendix A to 41 C.F.R. part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. § 12131; 47 U.S.C. § 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

The Partner agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 C.F.R. § 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

V. Title VI of the Civil Rights Act of 1964 (24 C.F.R. part 1)

a. General Compliance:

The Partner shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended and 24 C.F.R. § 570.601 and 570.602. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Agreement. The specific nondiscrimination provisions at 24 C.F.R. § 1.4 apply to the use of these funds. The Partner shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 C.F.R. part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 C.F.R. part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 24 C.F.R. part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

b. Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Partner assures that the program or activities described in this Agreement shall be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided shall be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this Agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Partner's assurance herein shall obligate the Partner or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the Partner for the period during which Federal financial assistance is extended pursuant to this Agreement or application.

This assurance gives the PRDOH and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to the Partner Under this Agreement, the instrument effecting any disposition by the Partner of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If the Partner receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

c. Women- and Minority-Owned Businesses (W/MBE)

For work performed by the Partner that is directly attributable to the Programs implementation after execution of this agreement, the Partner shall take the affirmative steps listed in 2 C.F.R. § 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the Partner procures property or services under this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian- Americans, and American Indians. The Partner may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

d. Notifications

The Partner will send to each labor union or representative of workers with which it has a collective bargaining Agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Partner's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Partner shall, in all solicitations or advertisements for employees placed by or on behalf of the Partner, state that it is an Equal Opportunity or Affirmative Action employer.

W. Labor Standards

The Partner shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended, and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act, as amended (40 U.S.C. 3141, et seq.), and 29 C.F.R. part 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

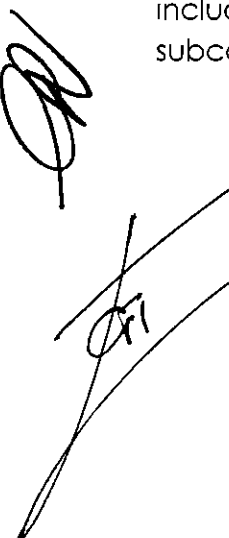
The Partner agrees to comply with the (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 C.F.R. part 3 and part 5. The Partner shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the PRDOH for review upon request.

The Partner is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; or nepotism activities.

X. Section 3 of the Housing and Urban Development Act of 1968

The Partner shall comply with the provisions of Section 3 of the HUD Act of 1968, as amended, 12 U.S.C. 1701u, and thereby implementing its regulations set forth in 24 C.F.R. § 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon Partner, Partner, and any of Partner's Partner, contractors, and subcontractors. Failure to fulfill these requirements shall subject 'Partner, contractors, and subcontractors, as well as their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. Partner certifies and agrees that no contractual or other impediment exists that would prevent compliance with these requirements.

Partner further agrees to comply with the Section 3 requirements stated below and to include verbatim this language in all subsequent Partner Agreements, contracts, and subcontracts executed under this Agreement:



"A. The work to be performed under this Agreement 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 Agreement agree to comply with HUD's regulations in 24 C.F.R. part 135, which implement Section 3. As evidenced by their execution of this Agreement, the Parties to this Agreement 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 135.

F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this Agreement 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 Agreement. 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 sub contracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement 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)."

Partner further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-DR funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-DR funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area of the neighborhood in which the project is located, and to low- and very low- income participants in other HUD programs.

The Partner agrees to submit, and shall cause its subcontractors to submit, quarterly reports to the PRDOH detailing the number of new employees hired, the number of new Section 3 employees hired, and any affirmative efforts made to direct hiring efforts to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing during the previous quarter, only for those hires made directly pursuant to this Agreement.

Partner certifies and agrees that no contractual or other legal impediment exists that would prevent compliance with these requirements.

Y. Conduct

1. Subcontracts

- a. Approvals: The Partner shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the PRDOH prior to the execution of such agreement.
- b. Monitoring: The Partner will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
- c. Content: The Partner shall cause all the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.
- d. Selection Process: The Partner shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the PRDOH along with documentation concerning the selection process.
- e. Notification: The Partner shall notify and provide a copy of any and all subcontracts related to this Agreement and CDBG-DR funds to the Contract Administration Area of the PRDOH CDBG-DR Legal Division within **three (3) days** of its execution.

2. Contracts

The Partner shall notify and provide a copy of any and all contracts related to this Agreement and CDBG-DR funds to the Contract Administration Area of the PRDOH CDBG-DR Legal Division within **three (3) days** of its execution.

3. Hatch Act

The Partner shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Partner agrees to abide by the provisions of 2 C.F.R. part 200, as applicable, and 24 C.F.R. 570.611, which include (but are not limited to) the following:

- a. It is presumed that the Partner is subject to state and local ethic laws and regulations related to the conduct of its officers, employees or agents engaged in the award and administration of this Agreement.
- b. In the event the Partner is not, the Partner shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of this Agreement. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would rise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties

indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or Parties to sub Agreements. However, recipients may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-DR assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or Agreement with respect to the CDBG-DR assisted activity, or with respect to the proceeds from the CDBG-DR assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of **one (1) year** thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the PRDOH, the Partner, or any designated public agency.
- d. Clause of Governmental Ethics Certification of Absence of Conflict of Interests - The Partner certifies that: (1) No public server of the Partner has pecuniary interest in this Agreement. (2) No public server of the Partner has solicited or accepted, directly or indirectly, for him (her), for any member of his family unit or for any other person, gifts, allowances, favors, services, donations loans or any other thing of monetary value. (3) No public server of the Partner related to this transaction, asked for or accepted any good of economic value, from any person or organization as payment for the duties and responsibilities of his employment. (4) No public server of the Partner has solicited, directly or indirectly, for him (her), any member of his family unit, neither for any other person, business or organization, any good of economic value, including gifts, loans, promises, favors or services in exchange for his obligations and performance of said public employment, to influence or favor any organization. (5) No public server of the Partner has kinship relationship, within the fourth degree of consanguinity and second by affinity, with nobody in public employment that has faculty to influence and to participate in the institutional decisions of this Agreement.

#### XI. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Partner shall at all times remain an "independent contractor" with respect to the efforts to be performed under this Agreement. The PRDOH shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Partner is an independent entity.

#### XII. ASSIGNMENT

The Partner shall not assign or transfer any interest in this Agreement without the prior written consent of the PRDOH.



**XIII. SEVERABILITY**

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

**XIV. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

**XV. WAIVER**

The PRDOH's failure to act with respect to a breach by the Partner does not waive its right to act with respect to subsequent or similar breaches. The failure of the PRDOH to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**XVI. GOVERNING LAW: JURISDICTION**

This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the Government of Puerto Rico and any applicable federal laws and regulations. The Parties further agree to assert any claims or causes of action that may arise out of this Agreement in the Puerto Rico Court of First Instance, San Juan Part, notwithstanding jurisdiction may be averred in any U.S. District Court, including for diversity of citizenship.

**XVII. COMPLIANCE WITH LAW**

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

**XVIII. SUBROGATION**

The Partner acknowledges that funds provided through this Agreement are Federal funds administered by HUD under the CDBG-DR Program and that all funds provided by this Agreement are subject to audit, disallowance, and repayment. Any disagreement with adverse findings may be challenged and subject to Federal regulation, however, the Partner shall promptly return any and all funds to the PRDOH, which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause. This clause shall survive indefinitely the termination of this Agreement for any reason.

**XIX. COMPTROLLER REGISTRY**

The PRDOH shall remit a copy of this Agreement to the Office of the Comptroller for registration within **fifteen (15) days** following the date of execution of this Agreement and any subsequent amendment hereto. The services object of this Agreement may not be invoiced or paid until this Agreement has been registered by the PRDOH at the Comptroller's Office, pursuant to Act No. 18 of October 30, 1975, as amended by Act No. 127 of May 31, 2004.

**XX. COMPLIANCE WITH FEDERAL LAW, REGULATIONS & EXECUTIVE ORDERS**

The Partner acknowledges that HUD financial assistance will be used to fund the Agreement only. Also, the Partner shall comply with all applicable federal, state or local rules, regulations, or policies relating to CDBG-DR and CDBG program services. This

includes without limitation, applicable Federal Registers; 2 C.F.R. § 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Community Development Act of 1974; 24 C.F.R. part 570 Community Development Block Grant; applicable waivers; Fair Housing Act, 24 C.F.R. § 35, 24 C.F.R. part 58, 24 C.F.R. part 135; National Historic Preservation Act, and any other applicable state laws or regulations, including the requirements related to nondiscrimination, labor standards and the environment; and Action Plan amendments and HUD's guidance on the funds. Also, Partner shall comply, without limitation, those set forth in **Attachment F**.

#### **XXI. BANKRUPTCY**

In the event that CONTRACTOR files for bankruptcy protection, the Government of Puerto Rico and PRDOH may deem this Agreement null and void, and terminate this Agreement without notice.

#### **XXII. ENTIRE AGREEMENT**

This Agreement and all its attachments represent the entire and integrated agreement between PRDOH and the CONTRACTOR and supersede all prior negotiations, representations, agreements and/or understandings of any kind. This Agreement may be amended only by written document signed by both PRDOH and the CONTRACTOR.

#### **XXIII. MODIFICATION OF AGREEMENT**

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if written and signed by both parties, and its authorized representatives.

#### **XXIV. BINDING EFFECT**

This Agreement shall be binding upon and shall inure to the benefit of PRDOH and the CONTRACTOR, their successors and assigns.

The CONTRACTOR shall not assign this Agreement, in whole or in part, without the prior written consent of PRDOH, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect.

#### **XXV. ASSIGNMENT OF RIGHTS**

The rights of each party hereunder are personal to that party and may not be assigned or otherwise transferred to any other person, CONTRACTOR, corporation, or other entity without the prior, express, and written consent of the other party.

#### **XXVI. NON-WAIVER**

The failure or delay of either party to insist upon the performance of and/or the compliance with any of the terms and conditions of this Agreement shall not be construed as a waiver of such terms and conditions or the right to enforce compliance with such terms and conditions.

## XXVII. GOVERNING LAW JURISDICTION

This Agreement shall be governed by, interpreted and enforced in accordance with, the laws of the Government of Puerto Rico and any applicable federal laws and regulations. The parties further agree to assert any claims or causes of action that may arise out of this Agreement in the Puerto Rico Court of First Instance, Superior Court of San Juan, Puerto Rico.

## XXVIII. CONSOLIDATIONS, MERGERS, OR DISSOLUTIONS

In the event that participating entities are consolidated or merged with another entity or agency, CONTRACTOR will notify PRDOH of such action within a **fifteen (15) day** period of being notified of it. PRDOH will have **fifteen (15) days** to state its position. With PRDOH's written approval, CONTRACTOR must ensure that the resulting entity becomes responsible for CONTRACTOR's tasks under this legal agreement. A timeframe of no more than **fifteen (15) days** from the date that any merger or consolidation becomes effective will be provided to make amendments or transitory changes, so that the tasks assigned to personnel at CONTRACTOR under this Agreement are carried out by the resulting entity with little or no lapse in performance objectives and the ability to fulfill the scope of work for the program as outlined provide notice to any other agency or entity it may consider consolidating or merging with in advance, to advise and provide orientation on CONTRACTOR's duties under this Agreement and make the survival or transfer of those in **Attachments D and E**. CONTRACTOR is to tasks a condition to any merger, consolidation, or dissolution involving CONTRACTOR during the time span of this Agreement.

## XXIX. HEADINGS

The titles to the paragraphs of this Agreement are solely for reference purposes and the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

## XXX. FEDERAL FUNDING

The fulfillment of this Agreement is based on those funds being made available to the PRDOH as the lead administrative agency for Recovery. All expenditures under this Agreement must be made in accordance with this Agreement, the policies and procedures promulgated under the CDBG-DR Program, and any other applicable laws. Further, CONTRACTOR acknowledges that all funds are subject to recapture and repayment for non-compliance.

## XXXI. RECAPTURE OF FUNDS

PRDOH may recapture payments it makes to CONTRACTOR that (i) exceed the maximum allowable rates; (ii) are not allowed under applicable laws, rules, or regulations; or (iii) are otherwise inconsistent with this Agreement, including any unapproved expenditures. CONTRACTOR must refund such recaptured payments within **thirty (30) days** after the PRDOH issues notice of recapture to CONTRACTOR.

## XXXII. OVERPAYMENT

CONTRACTOR shall be liable to the PRDOH for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Agreement. CONTRACTOR shall

reimburse such disallowed costs from funds other than those CONTRACTOR received under this Agreement.

**XXXIII. SEVERABILITY**

If any provision of this Agreement shall operate or would prospectively operate to invalidate the Agreement in whole or in part, then such provision only shall be deemed severed and the remainder of the Agreement shall remain operative and in full effect.

**XXXIV. COUNTERPARTS**

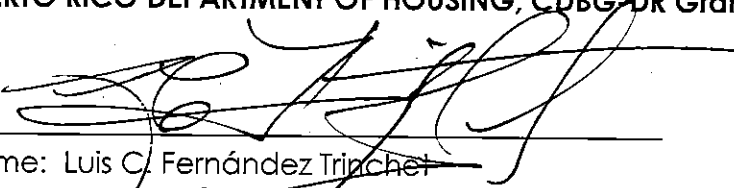
This Agreement may be executed in any number of counterparts, each of whom shall be deemed to be an original, however, all of which together shall constitute one and the same instrument. If the Agreement is not executed by the PRDOH within **thirty (30) days** of execution by the other party, this Agreement shall be null and void.

**XXXV. SURVIVAL OF TERMS AND CONDITIONS**

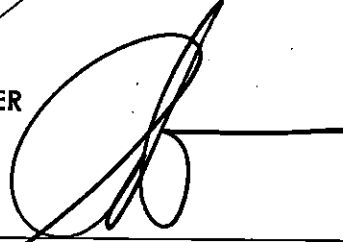
The terms and conditions of this Agreement related to the following subjects shall survive the termination or expiration of this Agreement: interpretive provisions; consideration; warranties; general affirmations, federal assurances, federal and state certifications; CDBG-DR and state funding, recapture of CDBG-DR and/or state funds, overpayment of CDBG-DR and/or state funds; ownership and intellectual property, copyright; records retention methods and time requirements; inspection, monitoring and audit; confidentiality; public records; indemnification and liability; infringement of intellectual property rights; independent CONTRACTOR relationship; compliance with laws; notices; choice of law and venue; severability; dispute resolution; consolidations, merger and dissolution. Terms and conditions that, explicitly or by their nature, evidence the Parties' intent that they should survive the termination or expiration of this Agreement shall so survive.

**IN WITNESS THEREOF**, the Parties hereto execute this Agreement in the place and on the date first above written.

**PUERTO RICO DEPARTMENT OF HOUSING, CDBG-DR Grantee**

By:   
Name: Luis C. Fernández Triñchet  
Title: Secretary  
Employer Social Security Number: 660-55-8579

**PARTNER**

By:   
Name: Antonio R. Pavía Vidal  
Title: Deputy Director  
Employer Social Security Number: 66-0735092



## EXHIBIT A

### SCOPE OF WORK

#### [FEMA COORDINATION PROGRAM] SUMMARY SCOPE OF WORK

##### 1. Program Overview/Background

[Hurricane Irma (DR-4336) and Hurricane María (DR-4339), two (2) federally declared disasters, catastrophically devastated Puerto Rico in September 2017. In response, the Federal Emergency Management Agency (FEMA) began to provide immediate Federal disaster relief assistance to Puerto Rico to address the wide range of recovery needs facing the Island. FEMA programs come with a non-Federal share, or "local match," that can be met with HUD CDBG-DR funds. This Interagency Agreement covers two FEMA disaster relief grant sources: FEMA Public Assistance (**PA**) and Individual Assistance (**IA**) programs. By the time work in those two programs concludes, it is anticipated that close to twenty billion dollars (\$20,000,000,000) in FEMA funding will have been provided, requiring the Government of Puerto Rico, municipalities, and nonprofits to certify or provide in excess of two billion dollars (\$2,000,000,000) of non-federal share ("local match").

The PRDOH FEMA Coordination Program has been established to ensure that FEMA disaster recovery resources provided to the Government of Puerto and other eligible entities Island-wide are supplemented with CDBG-DR dollars to facilitate and ensure recovery from Hurricanes Irma and María. For Hurricane Irma, a 25% cost share is required, and for Hurricane María, a 10% cost share is needed. PRDOH will be providing the majority of cost share for the FEMA Project Worksheets (**PWs**) associated with these disasters by working directly with eligible applicants to obtain documentation required by HUD to make the cost share payments. The primary partner to PRDOH is the Central Office for Recovery, Reconstruction and Resilience (**COR3**).

Similar to PRDOH's relationship with HUD, COR3 works directly with FEMA to implement all FEMA recovery programs, including the **PA** and **IA** programs, which are covered by this Interagency Agreement. To minimize the burden on applicants of providing similar documentation multiple times and make the match reimbursement process simpler for applicants, PRDOH and COR3 are closely collaborating to implement this program. COR3 has multiple responsibilities with regard to these programs, including providing PRDOH with



access to data and documentation that was collected and turned over to COR3 and FEMA by the applicants, ensuring that match payments that are provided by PRDOH are sent using COR3's financial system, and working with PRDOH to ensure that communication with applicants and FEMA related to the FEMA Coordination Program is done in a unified manner. Information will be provided by COR3 in accordance with the Non-Disclosure Agreement.]]

## 2. National Objective

PRDOH anticipates that three (3) national objectives will be used in the FEMA Coordination Program. PRDOH will work with entities who are funded through this Program to evaluate the service area and determine the national objective for each project. Due to the nature of how FEMA programs operate, PRDOH anticipates that the two (2) national objectives that will be used most frequently are Low-and-moderate-income (**LMI**)-area benefit and Urgent Need (**UN**).

Projects in the Program will meet of one of these national objectives:

- Benefit to **LMI** Persons (24 C.F.R. § 570.483(b))
  - Area Benefit
  - Limited Clientele
- Urgent Need (**UN**) activities (24 C.F.R. § 570.483(d))
- Aid in prevention or elimination of Slums or Blight (**SB**) (24 C.F.R. § 570.483(c))]]

## 3. Program Description

PRDOH will work collaboratively with COR3 to execute the FEMA Coordination Program to provide the match for entities who are eligible to be in the PA program, and provide the match to COR3 for the IA program. The FEMA Coordination Program will utilize data and documentation that is stored in several databases maintained by FEMA and COR3. This information is needed to determine HUD eligibility and ensure compliance with record retention requirements. Information will be used in accordance with the Non-Disclosure Agreement signed by PRDOH and COR3. Due to differing programmatic requirements between FEMA Public Assistance and CDBG-DR, PRDOH will need, in some cases, to work directly with PA applicants to obtain additional documentation that is not contained in these databases. The Program will utilize COR3's financial distribution system to provide the non-federal share or "local match" to participants in the Program. The COR3 financial system currently facilitates all reimbursements to FEMA PA Program applicants through a dedicated account that each applicant previously established to be in the FEMA program. Through this Interagency Agreement, PRDOH will transfer match payments to COR3, and COR3 will use its system to provide the match payment into the same account, resulting in the applicant receiving all reimbursements through one financial system.

The FEMA PA Program is one of the largest FEMA's recovery programs in terms total dollars, as it provides grants to units of governments and nonprofit entities to rebuild and repair disaster-impacted facilities. FEMA categorizes work based



on the type of facility that needs to be repaired or replaced following a disaster. These categories are

<b>FEMA Public Assistance Category</b>	<b>Category</b>
Category A – Debris Removal	Emergency Work
Category B – Emergency Protective Measures	Emergency Work
Category C – Roads & Bridges	Permanent Work
Category D – Water Control Facilities	Permanent Work
Category E – Building and Equipment	Permanent Work
Category F – Utilities	Permanent Work
Category G – Parks, Recreational, and Other	Permanent Work

PA projects can also be categorized as either being for emergency, response-related work or for permanent, long-term recovery work. Emergency work takes place immediately after an event and falls into two (2) FEMA categories while permanent work is done to repair or replace a damaged facility or asset based on pre-disaster value and falls into five (5) categories. PA Applicants may have work at the same facility that is both response and recovery related; however, FEMA, when obligating funds, clearly segregates the scopes of work, so that funding is not being duplicated for the same scope.

While the PA program assists units of government, the Individual Assistance Program helps individuals who were directly impacted by disasters. Within the suite of IA programs, FEMA offers a program known as Transitional Sheltering Assistance (**TSA**), which provides "short-term lodging assistance for evacuees who are not able to return home for an extended or indeterminate period following a disaster." Under TSA, hurricane survivors who register with FEMA are eligible to stay in hotel or motel lodging for a limited period and have the cost of the room and taxes covered by FEMA, which then pays the hotel directly for the stay. After the completion of the IA program, FEMA requires the State to reimburse FEMA the non-Federal cost share. In previous disasters, HUD has issued guidance to CDBG-DR grantees that only the TSA program is eligible for cost share match. As a result, PRDOH will only be funding the cost share match for the TSA program.

With the initial one hundred million dollars (\$100,000,000) in the FEMA Coordination Program, eighty nine million seven hundred thousand dollars (\$89,700,000) will be provided to COR3 for Activity costs, match reimbursements, and activity delivery costs for the COR3 Finance. PRDOH anticipates spending most of the available activity funds to address the needs of units of government who have cost share requirements for FEMA's emergency work. When additional funding is added to this program, PRDOH expects to primarily fund cost share needs in permanent work categories.] |



#### 4. Tasks

[The FEMA Coordination Program has six (6) tasks or scopes of work that PRDOH and COR3 have mutually agreed to collaborate on. These areas are detailed in more depth in **Exhibit B** but consist of:

1. COR3 providing PRDOH with direct access to FEMA specific data and documentation in accordance with the Non-Disclosure Agreement
2. COR3 providing PRDOH with consistent Federal and payment data
3. Collaborating to transfer local match payments to PA applicants
4. Coordinated communication between agencies about the Program
5. Defining roles for Program-specific Technical Assistance (TA) and direct outreach to PA Match Applicants to ensure CDBG-DR compliance
6. Sharing status of Federal and State audits pertinent to the Program, deobligations, and Reconsideration Requests related to funding.]

#### 5. Time Performance

[The FEMA Coordination program is expected to operate for the life of CDBG-DR grant. Depending on the activities, some scope of work will begin in January 2020 and will not be completed until PRDOH initiates program close-out in September 20, 2024. More specific periods of performance for each scope of work within this agreement are shown in **Exhibit B**]

#### 6. Budget

[The FEMA Coordination program will initially provide eighty nine million seven hundred eighty three thousand dollars (\$89,783,000) for activities in this Program. Nearly all of the funding in this agreement, provide eighty nine million two hundred and eighty three thousand dollars (\$89,283,000) will be provided as Project Costs, for the non-federal share with five hundred thousand dollars (\$500,000) of the total allocation provided as Activity Delivery Costs that COR3 will use and be reimbursed for on an hourly basis for work performed to provide match payments to the PA applicants. It is anticipated that the activity delivery cost allocation of five hundred thousand dollars (\$500,000) will last for most of the life of program. There are no Administrative or Planning Costs for COR3 staff in this budget, nor are there any staffing or key personnel identified in the Agreement for activity delivery costs, as both parties recognize that due to the sporadic nature of the work and on an hourly basis that differing COR3 finance staff maybe working on the project. Both Parties also recognize the need to devote as much of this initial limited funding to project costs, since units of government across Puerto Rico are in an acute need to have non-federal share funds provided for actual project work that has been completed. More detail on the budget for this Program is shown in **Exhibit D**]





## EXHIBIT B

# DETAILED SCOPE OF WORK, TIMELINES AND PERFORMANCE GOALS

## FEMA COORDINATION PROGRAM] DETAILED SCOPE OF WORK, TIMELINES, AND PERFORMANCE GOALS

The FEMA Coordination Program has six (6) distinct scopes of work that PRDOH and COR3 have mutually agreed to collaborate on these detailed scopes of work, timelines, and performance goals. These areas are:

1. COR3 will provide PRDOH with direct access to FEMA specific data and documentation.
  - a. FEMA PA applicants provide COR3 with a substantial amount of documentation that is needed by FEMA to obligate projects and ensure program compliance. The PRDOH match team also needs this information to determine CDBG-DR eligibility. PRDOH must maintain all documentation in its project files for HUD review and compliance, per HUD's requirements. PRDOH will have direct access to read and download documentation maintained in FEMA and COR3's databases, including the Puerto Rico Disaster Recovery System (DRS), FEMA's Grants Portal and EMMIE.
  - b. To ensure that both parties are aware of how the FEMA Coordination Program is operating, as the Program is initiated, both parties agree to hold a bi-weekly call to discuss the program, mitigate, and address any issues that may develop. **Six (6) months** after launch of the Program, both parties will assess the effectiveness of these meetings and determine if bi-weekly calls are still needed or if they can be held on ad hoc basis.
  - c. Information will be used in accordance with the Non-Disclosure Agreement signed by PRDOH and COR3

### TIMELINE:

January 2020 - January 2023

### PERFORMANCE GOALS

Scope of work (a): For the FEMA PA Program, provide PRDOH with direct access to FEMA related documentation through computer systems. For the FEMA IA program, COR3 will provide information on the Transitional Sheltering Assistance program that PRDOH needs to determine eligibility so that PRDOH can prepare a match payment for this program.

Scope of work (b): Participation in biweekly meetings.

2. Providing Consistent Federal and Payment Data (COR3 and PRDOH Roles)
  - a. COR3 will provide payment data relating to the PA program in an electronic format that identifies that disbursed Federal Share (FEMA) and, when applicable, Government of Puerto Rico payments for all PWs. Data will be provided to PRDOH in a consistent format that allows PRDOH to integrate the financial data into its systems. Payment data will be provided on a biweekly basis. COR3 and PRDOH staff will jointly determine the type of electronic file that the data will be received in along with what data fields will be included.
  - b. Prior to each anticipated draw from HUD, PRDOH will provide to COR3 the projected HUD draw amounts for match reimbursement. PRDOH will provide this in an electronic format that shows, by PW, the applicant, the applicant ID, the category of work, and the amount of local match being requested for each PW. COR3 will have up to **five (5) business days** to review the proposed draw so that COR3 can confirm that for each PW, the local match amount being requested can and will be distributed to the PA applicant via the COR3 financial system. COR3 and PRDOH staff will jointly determine the type of electronic file along with what data fields will be included in the report. COR3, knowing in advance what is being requested by PRDOH from HUD for each PW, will have adequate time for its finance staff time to prepare for transfer of CDBG-DR match funds to the applicant when the HUD funds are received by PRDOH.

TIMELINE:  
January 2020 – January 2023

PERFORMANCE GOAL

Scope of work (a): Provide PRDOH with access to payment data in electronic format in a consistent format on a biweekly basis.

Scope of work (b): Provide PRDOH within **five (5) days** after receiving notice that a draw is being planned, confirmation if the draw amount for each applicant can be reimbursed in an electronic format using the COR3 finance system.

3. Transfer of Local Match to PA applicants (COR3 and PRDOH Roles)
  - a. PRDOH will request from HUD, via its draw process, the local match reimbursement for each PW using HUD's system, known as Disaster Recovery Grant Reporting System (DRGR). PRDOH will make the draw request in DRGR only after it (i) completes its review of the specific PW, and PRDOH has obtained the documentation that is needed to substantiate the draw and; (ii) confirms with COR3 that the amount of funding requested on each PW can be transferred by COR3 to the PA applicant once the funds are provided by HUD to PRDOH. When the CDBG-DR funds are sent back to PRDOH, COR3 will distribute the funds to the specific PA applicant using the COR3 financial system.
  - b. After COR3 transfers the CDBG-DR funds to applicants via the COR3 financial system, COR3 within **five (5) business days** will record the ACH number for each applicant on the draw form and provide this to PRDOH so that PRDOH can document in the system of record and financial system that the match payment was deposited in the applicant's bank account. After the Funds are transferred

Interagency Agreement CDBG-DR Program  
FEMA Coordination Program  
**Exhibit B – Detailed Scope of Work Timelines and Performance Goals**

by ACH to the PA applicant, COR3, within **five (5) business days** will return to PRDOH the spreadsheet or form used for recording the voucher or EFT or ACH number for each PW that was reimbursed. This final spreadsheet transfer will verify for PRDOH that the funds were transferred to the applicant. The PRDOH match program staff will then record the EFT or ACH or voucher number in the specific project file.

**TIMELINE:**


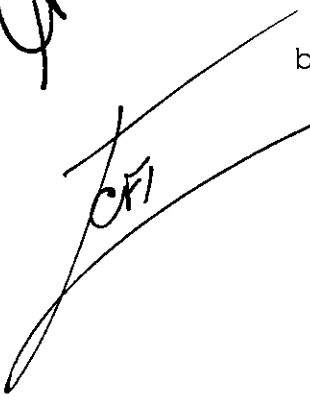
January 2020 – January 2023

**PERFORMANCE GOAL**

Scope of work (a): PRDOH will confirm to COR3 that a draw request to HUD has been made within **two (2) business days** of the draw being submitted in DRGR to HUD. When funds are returned from HUD to PRDOH, PRDOH within **one (1) business day** will transfer the funds to COR3 for transfer to applicants in the Program.

Scope of work (b): COR3 will provide PRDOH with confirmation that within five (5) days of receiving CDBG-DR funds from PRDOH that funds have been transferred to the applicant using the COR3 finance system. COR3 within **five (5) business days** after transferring the funds will provide PRDOH with the ACH number showing that funds have been successfully transferred to the applicant's bank account.

4. Coordinated Communication Plan on Match Program to PA Applicants

-   

- a. Key to the success of the PA match program is ensuring that PA applicants know which agency to contact when they have questions about the specific program. Questions relating to the FEMA PA program, eligibility rules, regulations, project status etc., will be routed to COR3. All questions relating specifically to the PA match program, CDBG-DR requirements and processes, must be routed to the PRDOH Match team.
  - b. To ensure to the greatest extent possible this is achieved, COR3 and PRDOH jointly agree to collaborate and develop materials that both agencies will use to direct PA applicants to the appropriate granting agency. These materials, with slight modification, need to also be provided to FEMA so that FEMA does not misinform PA applicants about the program or which granting agency to contact. PRDOH and COR3 agree to begin development of these initial communication materials immediately. To ensure that as the Program is initiated and updates to communication materials occur continually, both parties agree that as part of the standing meeting between the teams, that two (2) "placeholder" items in the agenda will be established for discussion: "Communications - Internal Program Coordination - FEMA/COR3/PRDOH challenges" and "Communications – External Program Coordination – Applicant focused."
  - c. COR3, working with PRDOH, agrees to schedule a kickoff meeting with FEMA JRO PA staff to discuss the PA Match program. This meeting with FEMA staff will be jointly hosted with roles to be determined, but will include, at a minimum, a PowerPoint presentation for FEMA JRO PA staff to brief them on the PA Match coordination program, so that FEMA field staff are informed about the Program and to which granting agency to direct applicants when questions arise. In

addition to briefing a PowerPoint, both parties agree to develop a "one-page desk handout" or "cheat sheet" that FEMA attendees can maintain as a reference document. COR3 will also schedule follow-up meetings with FEMA PA staff located at the JRO on an ongoing basis as needed.

**TIMELINE:**

Scope of Work: January 2020 and February 2020

**PERFORMANCE GOAL**

Scope of work (a and b): COR3 and PRDOH will collaborate and develop outreach materials that will be provided to PA applicants so that they understand how the program will operate. The materials will include handouts, contact information, and frequently asked questions (FAQs) that will assist applicants in determining who to contact if they have a question about FEMA and or HUD eligibility. These materials will include but are not limited to major areas that HUD focusses on during monitoring and oversight such as procurement, record keeping, Labor Compliance and Equal Employment Opportunity considerations for the use of CDBG-DR funds. Materials will be distributed by COR3 with PRDOH copied on the correspondence.

Scope of work (c): COR3 working with PRDOH will inform FEMA JRO Staff about the FEMA Coordination PA Match program within **thirty (30) business days** of the launch of the Program. COR3 will work in coordination with PRDOH to provide materials to the FEMA staff about the program that may include handouts and presentation materials that will assist FEMA in understanding how the program will operate.

5. Program Specific Technical Assistance (TA) and Direct Outreach to PA Match Applicants

- a. To ensure HUD compliance, PRDOH will work directly with PA applicants who opt-in to the PA match program providing TA on a wide range of HUD issues that could impact eligibility and the potential for PRDOH to make a match payment on the applicant's behalf. PRDOH will use processes that have been successfully employed in other disaster-declared states and will follow guidelines that HUD issues regarding what types of information needs to be shared with recipients who receive HUD funding. Technical Assistance will include, but is not limited to, working with applicants who have upcoming FEMA Category C-G work (permanent work), providing TA on Davis Bacon, Equal Opportunity Employment (EEO) and Section 3 compliance requirements, and providing TA on procurement and record keeping requirements. Once projects are in construction, PRDOH will work with applicants to ensure that other reporting and site visit monitoring requirements are met. PRDOH, as it develops materials and plans to implement TA, will share and inform COR3 about TA as a standing line item in the bi-weekly meeting agenda and, as needed, the COR3/PRDOH team agrees to meet to discuss TA topics.
- b. Document Collection. A key component of the PRDOH/COR3 working relationship is the ability for PRDOH to obtain as much CDBG-DR required documentation as possible from available databases to prevent PRDOH from burdening PA applicants for the same information multiple times. In the event that HUD required documentation is not available from PRDOH, PA Match

Interagency Agreement CDBG-DR Program  
FEMA Coordination Program  
**Exhibit B – Detailed Scope of Work Timelines and Performance Goals**

program staff will meet with COR3 to discuss and share documents in detail about how the PRDOH document collection teams will work. Information will be used in accordance with the Non-Disclosure Agreement signed by PRDOH and COR3.

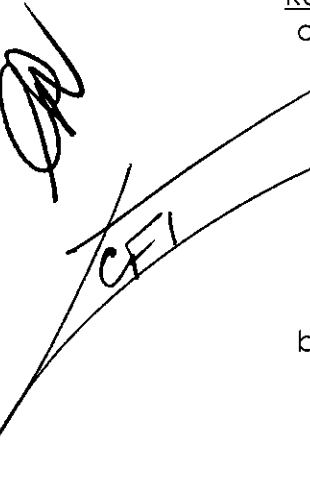
TIMELINE:  
January 2020- January 2023

PERFORMANCE GOAL

Scope of work (a): PRDOH will work directly with applicants who participate in PRDOH PA match program, providing TA on a wide range of HUD issues that could impact eligibility. PRDOH will work with and inform COR3 about any Technical Assistance (TA) trainings that will take place at least **one (1) week** prior to any trainings, so that COR3 is aware of the trainings and can assist with materials in advance of TA taking place by PRDOH with the applicant.

Scope of work (b): When HUD required documentation is not available in COR3 or FEMA's computer systems, PRDOH will obtain the needed documentation from the applicant. Prior to contacting the applicant for the documentation, PRDOH will inform COR3 about the need for document retrieval **two (2) business days** before the letter being sent by PRDOH.

6. Informing and Sharing the Status of Federal and State Audits, De-Obligations, and Reconsideration Requests

- 
- a. Both COR3 and PRDOH are subject to Federal and State audits as a result of receiving Federal funds. COR3 will be monitored and audited by FEMA, and PRDOH will be monitored and audited by HUD. To ensure that both parties are aware of upcoming Federal audits by their respective Federal partners, COR3 and PRDOH agree to inform each other about audits. To the extent that it is necessary, PRDOH and COR3 agree to work collaboratively to satisfy any requests that occur as a result of audit or monitoring event. After the audit is concluded and when reports are finalized, both agencies also agree to inform each other about the report.
  - b. In the event that PRDOH makes a match payment on a PW that COR3 or FEMA, at PA closeout or a later date, has determined needs to be "de-obligated" or have funds reduced, COR3 agrees to inform PRDOH of the reduction or de-obligation so that PRDOH and COR3 can determine a course of action to address for the match that was paid.
  - c. In the event that an applicant submits a Reconsideration Request to PRDOH, the Program will assess the relationship of Reconsideration Request to the Program within **fifteen (15) days** of its receipt. This process is necessary in order to determine if the request is tied to a FEMA-related decision or a CDBG-DR-related decision. As part of this assessment, PRDOH will need to coordinate with COR3 on any administrative review or appeal request for this Program to determine if the request is tied to a FEMA determination. If COR3 determines that the request received is tied to a FEMA determination, the participant will be referred to COR3. The participant will then need to work through the COR3/FEMA appeals

Interagency Agreement CDBG-DR Program  
FEMA Coordination Program  
**Exhibit B – Detailed Scope of Work Timelines and Performance Goals**

process as shown in 44 C.F.R. § 206.206. As part of the COR3 and PRDOH coordination effort and in the Interagency Agreement signed by COR3 and PRDOH, a process to address audits and other functions is described and defined. On the contrary, if the request is not tied to a FEMA determination, the FEMA Coordination Program will review and address the Reconsideration Request within **fifteen (15) days** of its receipt. Applicants will be notified of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification. Applications with an approved Reconsideration Request will return to active Program status and continue with the process as normal. Applications with a denied Reconsideration Request will remain ineligible for the FEMA Coordination Program.

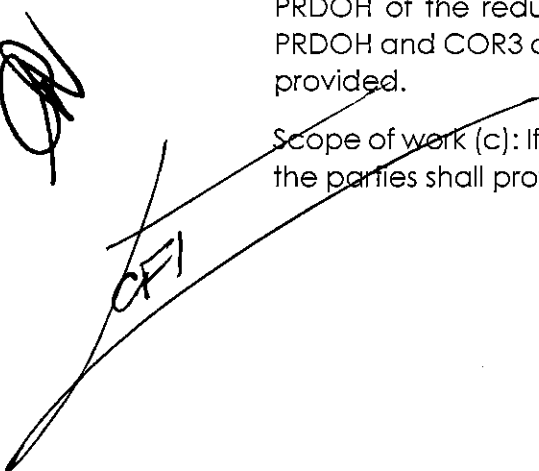
TIMELINE:  
January 2020- January 2023

PERFORMANCE GOAL

Scope of work (a): In the event either entity is notified of an audit, the parties agree to inform each other within **fifteen (15) business days** of the notification to inform each other and as needed to assist the audited entity obtain any needed information for the audit.

Scope of work (b): If PRDOH makes a match payment that COR3 determines needs to be "de-obligated" or have the overall size of the PW be reduced, COR3 will inform PRDOH of the reduction or de-obligation within **fifteen (15) business days** so that PRDOH and COR3 can determine how to best address the match payment that was provided.

Scope of work (c): If a determination is made pursuant to a Reconsideration Request, the parties shall provide notice within **fifteen (15) days**.



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# EXHIBIT C

## KEY PERSONNEL

### FEMA COORDINATION PROGRAM – KEY PERSONNEL

Below is the Staffing Plan for the CDBG-DR **FEMA Coordination** Program which reflects a combination existing employees or new hired employees dedicated for the CDBG-DR **FEMA Coordination** Program.

All personnel funded through this agreement will be conducting activity delivery work, performed by the COR3 Finance staff, who are distributing match payments to applicants. This initial allocation of funding is providing up to \$500,000, of CDBG-DR funds, to be billed at an hourly rate basis. PRDOH expects that this initial allocation will last for most of the Program. Expenditures made by the COR3 Finance staff related to the distribution of match payments must billed to PRDOH as a reimbursable expense on an hourly basis in strict accordance with HUD record keeping requirements that PRDOH will need to certify as being in place and in HUD compliant manner prior to any funds being requested. This will include the COR3 staff documenting which projects (PW's) were reimbursed and recording and supplying to PRDOH the ACH number for the project as part of the billable work.

There are not any key personnel identified in the agreement, as both parties recognize that due to the intermittent nature of the program's needs, that differing COR3 finance staff maybe working on the project over the life of the project. Instead of identifying key personnel, COR3 will provide to PRDOH job classification(s) and a roster of finance staff that maybe enlisted to provide the match payment when needed.

I. Please complete the table below. Add or delete rows as needed.

Job Title	% Allocation to Program	Total Salary and Fringes 36 months	Max Cost Allocated to Program for 36-month period
Treasury Manager	25%	\$190,024	\$47,506.08
Ayudante Especial I (Special Aid)	25%	\$157,939	\$39,484.83
Ayudante Especial I (Special Aid)	25%	\$157,939	\$39,484.83
Treasury Officer	25%	\$115,033	\$28,758.33

Interagency Agreement CDBG-DR Programs  
 Exhibit C: Key Personnel  
 December 13, 2019

<b>Accounting Manager</b>	20%	\$220,033	\$44,006.66
<b>Payment and Processing Manager</b>	25%	\$220,033	\$44,006.66
<b>Senior Attorney</b>	15%	\$243,037	\$36,455.60
<b>Accounting Manager</b>	20%	\$220,033	\$44,006.66
<b>Finance Director</b>	20%	\$279,007	\$55,801.46
<b>Grants Management Lead Manager</b>	20%	\$265,024	\$53,004.86
<b>Recovery Operation Director</b>	20%	\$301,024	\$60,204.86

II. Roles Description:

<b>Role</b>	<b>Description</b>
<b>Accounting Manager</b>	Oversees COR3 accounting processes, financial reporting, and payroll orientation. Process and keep updated the forecast of payroll.
<b>Treasury Manager</b>	Oversees transactions to process payment for all sub applicant. Maintain communication with sub applicant in regards of reimbursements and provide status of their PW.
<b>Treasury Officer</b>	Process sub applicant PW payment and notify them the amount approved to be paid.
<b>Ayudante Especial I (Special Aid) Treasury</b>	Process sub applicant PW payment and notify them the amount approved to be paid.
<b>Payment and Processing Manager</b>	Oversees COR3 contracts and ensure that each contract and invoice comply with all the terms and conditions establish during the contractual process.
<b>Ayudante Especial I (Special Aid) Payment Processing</b>	Process and audit invoices from contractors. Ensure that each invoice is in compliance with the applicable terms and conditions. Accelerate invoices process to generate payment to contractors.
<b>Recovery Public Assistance Operations Director</b>	Oversees COR3 operations related to Public Assistance Recovery area. Manage areas like Close Out Projects, Project Formulation and Grant Management.
<b>Finance Director</b>	Oversees COR3 Finance and Accounting area. Ensure that Finance and Accounting area comply and follow all the regulations.

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<b>Audit &amp; Investigation Manager</b>	From the point of compliance, these positions ensure that each area comply with the procedures establish by Federal Government.
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<b>Grant Management Lead Manager</b>	Review and process applications of PW assist sub applicant in fulfill the applications based on the FEMA requirements. Process all reports related to pending reimbursements to identify the root cause.
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III. Notes



Handwritten signature and initials, possibly 'CFI', with a large flourish.



## **EXHIBIT D – SECTION 1**

### **BUDGET**

#### **FEMA COORDINATION PROGRAM BUDGET**

##### **DESCRIPTION SERVICES**

The FEMA Coordination Program will have an initial budget of eighty nine million seven hundred eighty three thousand dollars (\$89,783,000). Funding in this Agreement will be provided primarily as Project Costs and will be distributed as the non-federal share by COR3. There are no Planning or Administrative costs for COR3 in this budget and all Activity Delivery Costs are dedicated solely toward the COR3 finance staff. The exact staff who will work in the Program will be determined at a later date with a roster provided to PRDOH as key personnel. All Activity Delivery costs and functions will be reimbursed on an hourly basis, as both Parties recognize that the finance related work to be performed will be sporadic in nature, and both agencies recognize the need to devote as much funding to project costs, since units of government across Puerto Rico are in an acute need to have non-federal share funds provided for actual project work that has been completed.

##### **PLEASE PROVIDE BACKGROUND INFORMATION FOR THE CREATION OF EXHIBIT D SECTION 2 BUDGET AND HOW THOSE SERVICES RELATE TO DELIVERING THE SCOPE WORK.**

The budget for the FEMA Coordination – Public Assistance (PA) Match Program is primarily dedicated toward Project Costs for match obligations with five hundred thousand dollars (\$500,000) of the total COR3 budget provided as activity delivery costs to support COR3 Finance staff who will transfer the match payment into the applicant's accounts for the life of the grant. For the Individual Assistance (IA) Match Program, since there is only a single payment that PRDOH will make, no administrative or activity delivery costs funding is needed.

The PRDOH FEMA Coordination Program will utilize data provided by FEMA and COR3 for the PA and IA program to determine HUD eligibility, creating a project file with sufficient supporting documentation that will allow PRDOH to submit a request for CDBG-DR funds. After funds are requested by PRDOH and provided by HUD, PRDOH will transfer the funds to COR3, which will then transfer the funds to the appropriate applicant using the COR3 Financial system which is also used to provide the Federal share. After the transfer of the CDBG-DR funds, COR3 will provide confirmation to PRDOH that the funds have been deposited in the applicant's bank account, and COR3 will also certify to FEMA that the match payment has been made for both programs.

Interagency Agreement CDBG-DR Program  
FEMA Coordination Program  
**Exhibit D – Budget**

**Administrative Costs** – COR3 and PRDOH have agreed that no Administrative costs are needed for this Program as initially budgeted. After PRDOH and HUD execute subsequent grant agreements, COR3 and PRDOH will re-assess if Administrative funding is needed for COR3 finance staff to assist with distributing match payment to PA applicants.

**Planning** - No Planning Costs are provided for this program, as FEMA has obligated projects through the PA program via project worksheets (PWs) to each applicant. The FEMA Coordination Program also only provides the match, or non-Federal share reimbursement, for work that has been performed by eligible applicants, so planning-related activities have already occurred.

**Project Costs** - COR3 and PRDOH have agreed that eighty nine million two hundred and eighty three thousand dollars (\$89,283,000) of the CDBG-DR funds requested for the FEMA Coordination Program will be directed toward Project Costs. Project Costs will be used as the non-Federal share, or "local match," for specific projects. PRDOH expects that this Program will primarily use two HUD National Objectives: Urgent Need and LMI- Area Benefit.

For the IA Program, PRDOH will use the eligible activity of Public Services, 105(a)(8). To facilitate the wide range of the remaining projects that FEMA funds through the PA Program, PRDOH will use specific Eligible Activities that correspond to each FEMA category, in addition to the Non-Federal share eligible activity 105(a)(9). The respective FEMA and HUD categories are:

<b>FEMA Public Assistance Category</b>	<b>HUD Eligible Activity</b>
Category A – Debris Removal	Debris Removal – 105(a)(4)
Category B – Emergency Protective Measures	Public Services – 105(a)(8)
Category C – Roads & Bridges	Public Facilities – 105(a)(2)
Category D – Water Control Facilities	Public Facilities – 105(a)(2)
Category E – Building and Equipment	Public Facilities – 105(a)(2)
Category F – Utilities	Public Facilities – 105(a)(2)
Category G – Parks, Recreational, and Other	Public Facilities – 105(a)(2)

**Activity Delivery Costs-** COR3 and PRDOH have agreed that some Activity Delivery Costs for COR3 staff are needed to implement the Program efficiently. However, due to the intermittent nature of the CDBG-DR required work, PRDOH and COR3 have agreed to provide the amount of five hundred thousand dollars (\$500,000), for hourly work that the COR3 Finance staff will perform to transfer the CDBG-DR match payments to applicants in this PA Program.

Outside of COR3 providing PRDOH with payment data and distributing the CDBG-DR match to the applicants, PRDOH will perform all eligibility reviews. PRDOH will also obtain and collect documentation from FEMA and COR3 data sources and as needed will contact applicants for additional documentation. PRDOH also has the primary responsibility to engage with applicants in the Program and to provide Technical Assistance (TA), even though close coordination is required with COR3.

Interagency Agreement CDBG-DR Program  
 FEMA Coordination Program  
 Exhibit D - Budget

As the Parties implement this first tranche of FEMA Coordination funding using CDBG-DR funds, if PRDOH and COR3 agree that more coordination is needed with applicants in the future, additional activity delivery costs may be added. Activity Delivery funds are to be used exclusively for costs COR3 incurs for its finance staff who spend time confirming, certifying, and applying the match credits that PRDOH will transfer to COR3 when funds are received from HUD and routed to applicants. Expenditures made by the COR3 Finance staff related to the distribution of match payments must be billed to PRDOH as a reimbursable expense on an hourly basis in strict accordance with HUD record keeping requirements that PRDOH will need to certify as being in place and in HUD compliant manner prior to any funds being requested.

<b>Grant:</b>		<b>CDBG-DR</b>	
<b>Contractor:</b>		<b>Central Office of Recovery, Reconstruction &amp; Resilience (COR3)</b>	
<b>Program:</b>		<b>FEMA coordination</b>	
<b>DRGR Activity Code:</b>		<b>R01121FEM-DOH</b>	
<b>Cost Type</b>	<b>Chart of Accounts Code</b>	<b>Activity Description</b>	<b>CONTRACT Budget</b>
<b>ADMINISTRATION</b>			<b>\$ -</b>
Costs			
<b>TOTAL COSTS</b>			<b>\$ -</b>
<b>PLANNING</b>			<b>\$ -</b>
Costs			
<b>TOTAL COSTS</b>			<b>\$ -</b>
<b>PROJECT</b>			<b>\$ 89,783,000.00</b>
<b>Project</b>			
FEMA Coordination			\$ 89,283,000.00
<b>TOTAL COSTS</b>			<b>\$ 89,283,000.00</b>
<b>PROJECT ACTIVITY DELIVERY COSTS</b>			
COR 3 Finance			\$ 500,000.00
<b>TOTAL COSTS</b>			<b>\$ 500,000.00</b>
<b>GRAND TOTAL</b>			<b>\$ 89,783,000.00</b>

*[Handwritten signature and initials]*



September 17, 2019

Shirley Birriel Osorio  
Deputy Infrastructure Grant Management Director CDBG-DR  
Puerto Rico Department of Housing

Félix Hernández Cabán, MBA, CFE, JD  
Director of Disaster Recovery Finance CDBG-DR  
Puerto Rico Department of Housing

César A. Candelario Candelario  
Budget Manager CDBG-DR  
Puerto Rico Department of Housing

**CERTIFICATION OF FUNDS FOR INTERAGENCY AGREEMENT (MOU) BETWEEN PUERTO RICO DEPARTMENT OF HOUSING (PRDOH) AND CENTRAL OFFICE FOR RECOVERY, RECONSTRUCTION AND RESILIENCY (COR3) FOR THE FEMA COORDINATION PROGRAM RELATED TO THE CDBG-DR FUNDS**

As requested by the Deputy Infrastructure Grant Management Director for CDBG-DR, we certify the availability of funds for **\$ 89,783,000.00** corresponding to "the interagency agreement (MOU) between PRDOH and COR3 for the activities related to the FEMA Coordination Program" under the "Community Development Block Grant - Disaster Recovery". These funds are part of the **CDBG-DR Grant "B-17-DM-72-0001"**.

The breakdown of the certified funds is as follows:

CDBG-DR	Infrastructure	R01I21FEMA-DOH-LM	FEMA Coordination Program	6090-01-000	B-17-DM-72-0001	\$ 62,848,100.00
		R01I21FEMA-DOH-UN				26,934,900.00
						<b>\$89,783,000.00</b>

The General Ledger account is provisional; will be revised when the contract is executed and the final budget distribution is established. These changes will not affect the invoice payment process.

If you have any questions or comments, please call me at (787)274-2527.

FHC/CCC/ac



**HUD GENERAL PROVISIONS**

Given that the Agreement involves funds for which the U.S. Department of Housing and Urban Development (HUD) is the oversight agency, the following terms and conditions may apply to this Agreement. In addition, Subrecipient shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at <https://www.hudexchange.info/resource/2490/hud-form-4010-federal-labor-standards-provisions/>.

The SUBRECIPIENT shall include these terms and conditions in all subcontracts or purchase orders directly servicing the Agreement.

These general provisions may be updated from time to time. It is the sole responsibility of the SUBRECIPIENT to be aware of any changes hereto, to amend and implement such changes and to ensure subcontracts terms and conditions are modified as necessary, if any.

**General Provisions:****1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this AGREEMENT shall be deemed to be inserted herein and the AGREEMENT shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the AGREEMENT shall forthwith be physically amended to make such insertion or correction.

**2. STATUTORY AND REGULATORY COMPLIANCE**

SUBRECIPIENT shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 8, 2017 (Appropriations Act), as amended, including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including if certain expenses are allowed.

**3. BREACH OF AGREEMENT TERMS**

The PRDOH reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this AGREEMENT, in instances where the SUBRECIPIENT or any of its subcontractors violate or breach any AGREEMENT term. If the SUBRECIPIENT or any of its subcontractors violate or breach any AGREEMENT term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the AGREEMENT documents, and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

**4. REPORTING REQUIREMENTS**

The SUBRECEPIENT shall complete and submit all reports, in such form and according to such schedule, as may be required by the PRDOH and/or the Government of Puerto Rico. The SUBRECEPIENT shall cooperate with all the PRDOH and/or the Government of Puerto Rico efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507, when applicable.

**5. ACCESS TO RECORDS**

The Government of Puerto Rico, the PRDOH, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the SUBRECEPIENT which are related to this AGREEMENT, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

**6. MAINTENANCE/RETENTION OF RECORDS**

All records (files, data, work product) connected with this AGREEMENT will be turned over to PRDOH following the Agreement termination to be maintained for the remainder of the grant and post grant closeout.

**7. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**

The SUBRECEPIENT will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include, but are not limited to:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Additionally, for contracts of \$10,000 or more, the SUBRECEPIENT shall file Form HUD 2516 (Contract and Subcontract Activity) with the PRDOH on a quarterly basis.

**8. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, "Rights to Inventions Made

by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and any implementing regulations issued by HUD.

**9. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

The Proposer will comply with the provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective.

**10. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

The SUBRECEPIENT shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex 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 under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

**11. SECTION 504 OF THE REHABILITATION ACT OF 1973**

The SUBRECEPIENT shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations.

The SUBRECEPIENT agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

**12. AGE DISCRIMINATION ACT OF 1975**

The SUBRECEPIENT shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under, any program or activity receiving Federal financial assistance.

**13. DEBARMENT, SUSPENSION, AND INELIGIBILITY**

The SUBRECEPIENT represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs subject to 2 C.F.R. Part 2424.



**14. CONFLICTS OF INTEREST**

The SUBRECEPIENT shall notify the PRDOH as soon as possible if this AGREEMENT or any aspect related to the anticipated work under this AGREEMENT raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 or 84.42, if applicable). The SUBRECEPIENT shall explain the actual or potential conflict in writing in sufficient detail so that the PRDOH is able to assess such actual or potential conflict. The SUBRECEPIENT shall provide the PRDOH any additional information necessary to fully assess and address such actual or potential conflict of interest. The SUBRECEPIENT shall accept any reasonable conflict mitigation strategy employed by the PRDOH, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

**15. SUBCONTRACTING**

When subcontracting, the SUBRECEPIENT shall solicit for and contract with such subcontractors in a manner providing for fair competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (ii) Requiring unnecessary experience and excessive bonding;
- (iii) Noncompetitive pricing practices between firms or between affiliated Companies;
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest;
- (vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and
- (vii) Any arbitrary action in the procurement process.

The SUBRECEPIENT represents to the PRDOH that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this AGREEMENT.

The SUBRECEPIENT will include these HUD General Provisions in every subcontract issued by it, so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

**16. ASSIGNABILITY**

The SUBRECEPIENT shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the PRDOH.

**17. INDEMNIFICATION**

The SUBRECEPIENT shall indemnify, defend, and hold harmless the Government of Puerto Rico and PRDOH, its agents and employees, from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful

misconduct of the SUBRECEPIENT in the performance of the services called for in this AGREEMENT.

**18. COPELAND "ANTI-KICKBACK" ACT**

**(Applicable to all construction or repair contracts)**

Salaries of personnel performing work under this AGREEMENT shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The SUBRECEPIENT shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

**19. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**(Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers.)**

The SUBRECEPIENT shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by SUBRECEPIENTS or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the SUBRECEPIENTS and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable Federal laws and regulations pertaining to labor standards.

**20. DAVIS-BACON ACT**

**(Applicable to construction contracts exceeding \$2,000 when required by Federal program legislation.)**

The SUBRECEPIENT shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by SUBRECEPIENTS or subcontractors, including employees of other governments, on construction work assisted under this AGREEMENT, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

On a semi-annual basis, the SUBRECEPIENT shall submit Form HUD 4710 (Semi-Annual labor Standards Enforcement Report) to PRDOH.

**21. TERMINATION FOR CAUSE  
(Applicable to contracts exceeding \$10,000)**

If, through any cause, the SUBRECEPIENT shall fail to fulfill in a timely and proper manner his or her obligations under this AGREEMENT, or if the SUBRECEPIENT shall violate any of the covenants, agreements, or stipulations of this AGREEMENT, the PRDOH shall thereupon have the right to terminate this AGREEMENT by giving written notice to the SUBRECEPIENT of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the SUBRECEPIENT under this Agreement shall, at the option of the PRDOH, become the PRDOH's property and the SUBRECEPIENT shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the SUBRECEPIENT shall not be relieved of liability to the Government of Puerto Rico and PRDOH for damages sustained by the Government of Puerto Rico and/or PRDOH by virtue of any breach of the Agreement by the SUBRECEPIENT, and the Government of Puerto Rico and/or PRDOH may withhold any payments to the SUBRECEPIENT for the purpose of set-off until such time as the exact amount of damages due to the Government of Puerto Rico and/or PRDOH from the SUBRECEPIENT is determined.

**22. TERMINATION FOR CONVENIENCE  
(Applicable to contracts exceeding \$10,000)**

The PRDOH may terminate this AGREEMENT at any time by giving at least ten (10) days' notice in writing to the SUBRECEPIENT. If the AGREEMENT is terminated by the PRDOH as provided herein, the SUBRECEPIENT will be paid for the time provided and expenses incurred up to the termination date.

**23. SECTION 503 OF THE REHABILITATION ACT OF 1973  
(Applicable to contracts exceeding \$10,000)**

The SUBRECEPIENT shall comply with Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

Equal Opportunity for Workers with Disabilities:

1) The SUBRECEPIENT will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The SUBRECEPIENT agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- (iii) Rates of pay or any other form of compensation and changes in compensation;

- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
  - (v) Leaves of absence, sick leave, or any other leave;
  - (vi) Fringe benefits available by virtue of employment, whether or not administered by the SUBRECEPIENT;
  - (vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
  - (viii) Activities sponsored by the SUBRECEPIENT including social or recreational programs; and
  - (ix) Any other term, condition, or privilege of employment.
- 2) The SUBRECEPIENT agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- 3) In the event of the SUBRECEPIENT's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- 4) The SUBRECEPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the SUBRECEPIENT'S obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The SUBRECEPIENT must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the SUBRECEPIENT may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- 5) The SUBRECEPIENT will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the SUBRECEPIENT is bound by the terms of Section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- 6) The SUBRECEPIENT will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The SUBRECEPIENT will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

**24. EQUAL EMPLOYMENT OPPORTUNITY**

**(Applicable to construction contracts and subcontracts exceeding \$10,000)**

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

During the performance of this Agreement, the SUBRECEPIENT agrees as follows:

- 1) The SUBRECEPIENT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The SUBRECEPIENT shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 2) The SUBRECEPIENT shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The SUBRECEPIENT shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 3) The SUBRECEPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the SUBRECEPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 4) The SUBRECEPIENT will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the SUBRECEPIENT's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) The SUBRECEPIENT will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 6) The SUBRECEPIENT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

7) In the event of the SUBRECEPIENT's non-compliance with the non-discrimination clause of this Agreement or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the SUBRECEPIENT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

8) SUBRECEPIENT shall incorporate the provisions of 1 through 7 above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such subcontractor. The SUBRECEPIENT will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the SUBRECEPIENT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the SUBRECEPIENT may request the United States to enter into such litigation to protect the interests of the United States.

**25. CERTIFICATION OF NONSEGREGATED FACILITIES**

**(Applicable to construction contracts exceeding \$10,000)**

The SUBRECEPIENT certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The SUBRECEPIENT agrees that a breach of this certification is a violation of the equal opportunity clause of this Agreement.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The SUBRECEPIENT further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

**26. CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS  
(Applicable to contracts exceeding \$100,000)**

The SUBRECEPIENT and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 15 and 32, as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- 1) A stipulation by the SUBRECEPIENT or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.
- 2) Agreement by the SUBRECEPIENT to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- 3) A stipulation that as a condition for the award of the Agreement, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Agreement, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- 4) Agreement by the SUBRECEPIENT that he or she will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the SUBRECEPIENT will take such action as the government may direct as a means of enforcing such provisions.

**27. ANTI-LOBBYING  
(Applicable to contracts exceeding \$100,000)**

By the execution of this Contract, the SUBRECEPIENT certifies, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the SUBRECEPIENT, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation,

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.


- 2) 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 of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the SUBRECEPIENT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 3) The SUBRECEPIENT 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.

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.

#### **28. BONDING REQUIREMENTS**

**(Applicable to construction and facility improvement contracts exceeding \$100,000)**

The SUBRECEPIENT shall comply with Puerto Rico bonding requirements, unless they have not been approved by HUD, in which case the SUBRECEPIENT shall comply with the following minimum bonding requirements:

- 
- 1) A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his or her bid, execute such contractual documents as may be required within the time specified.
  - 2) A performance bond on the part of the SUBRECEPIENT for one hundred percent (100%) of the Agreement price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the SUBRECEPIENT's obligations under such contract.
  - 3) A payment bond on the part of the SUBRECEPIENT for one hundred percent (100%) of the Agreement price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.



**29. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968  
(As required by applicable thresholds)**

- 1) The work to be performed under this Agreement 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.
- 2) The parties to this Agreement agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- 3) The SUBRECEPIENT agrees to send to each labor organization or representative of workers with which the SUBRECEPIENT has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the SUBRECEPIENT'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.
- 4) The SUBRECEPIENT agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. 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 C.F.R. Part 135. The SUBRECEPIENT will not subcontract with any subcontractor where the SUBRECEPIENT has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.
- 5) The SUBRECEPIENT will certify that any vacant employment positions, including training positions, that are filled: (1) after the SUBRECEPIENT is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the SUBRECEPIENT's obligations under 24 C.F.R. Part 135.
- 6) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
- 7) 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 Agreement.

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 Agreement 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).

- 8) For contracts exceeding \$100,000, the SUBRECEPIENT shall submit Form HUD 60002 (Section 3 Summary Report) to PRDOH on a quarterly basis, notwithstanding the annual reporting requirement set forth in that form's instructions.

### 30. FAIR HOUSING ACT


SUBRECEPIENT shall comply with the provisions of the Fair Housing Act of 1968, as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

### 31. ENERGY POLICY AND CONSERVATION ACT

SUBRECEPIENT shall comply with mandatory standards and policies relating to energy efficiency as contained in the Government of Puerto Rico's energy conservation plan, issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*)

### 32. HATCH ACT

SUBRECEPIENT agrees to comply with mandatory standards and policies relating to Hatch Act, Public Law 94-163, as amended.

The Hatch Act applies to political activities of certain state and local employees. As a Puerto Rico Department of Housing SUBRECEPIENT, you may do any of the following activities: be a candidate in nonpartisan elections; attend political meetings and conventions; contribute money; campaign in partisan elections; and hold office in political parties.

The SUBRECEPIENT may not do the following activities: be a candidate in partisan elections; use official influence to interfere in elections; coerce political contributions from subordinates in support of political parties or candidates. The U.S. Office of Special Counsel operates a website that provides guidance concerning Hatch Act issues. [https://www.hud.gov/program\\_offices/general\\_counsel/Hatch\\_Act](https://www.hud.gov/program_offices/general_counsel/Hatch_Act)

### 33. HEALTH AND SAFETY STANDARDS

All parties participating in this project agree to comply with Sections 107 and 103 of the Contract Work Hours and Safety Standards Act. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous

to his or her health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

**34. PERSONNEL**

The SUBRECEPIENT represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the contracting party. All the services required hereunder will be performed by the SUBRECEPIENT or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this AGREEMENT.

**35. WITHHOLDING OF WAGES**

If in the performance of this Agreement, there is any underpayment of wages by the SUBRECEPIENT or by any subcontractor thereunder, the PRDOH may withhold from the SUBRECEPIENT out of payment due to him or her an amount sufficient to pay to employees underpaid the difference between the wages required thereby to be paid and the wages actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the PRDOH for and on account of the SUBRECEPIENT or subcontractor to the respective employees to whom they are due.

**36. CLAIMS AND DISPUTES PERTAINING TO WAGE RATES**

Claims and disputes pertaining to wage rates or to classifications of professional staff or technicians performing work under this AGREEMENT shall be promptly reported in writing by the SUBRECEPIENT to the PRDOH for the latter's decision, which shall be final with respect thereto.

**37. DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS**

No person employed on the services covered by this Agreement shall be discharged or in any way discriminated against because he or she has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his or her employer.

**38. INTEREST OF MEMBERS OF LOCAL PUBLIC AGENCY AND OTHERS**

The SUBRECEPIENT agrees to establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie. The SUBRECEPIENT will be aware of and avoid any violation of the laws of this State which prohibit municipal officers and employees from having or owning any interest or share, individually or as agent or employee of any person or corporation, either directly or indirectly, in any contract made or let by the governing authorities of such municipality for the construction or doing of any public work, or for the sale or purchase of any materials, supplies or property of any description, or for any other

purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or for the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefore or connected therewith.

The SUBRECEPIENT will also be aware of and avoid any violation of the laws of this State which prescribe a criminal penalty for any public officer who has an interest in any contract passed by the board of which he or she is a member during the time he or she was a member and for one year thereafter.

**39. INTEREST OF CERTAIN FEDERAL OFFICERS**

No member of, or delegate to, the Congress of the United States and no Resident Commissioner shall be admitted any share or part of this Agreement or to any benefit to arise therefrom.

**40. INTEREST OF SUBRECEPIENT**

The SUBRECEPIENT agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of the Work hereunder. The SUBRECEPIENT further agrees that no person having any such interest shall be employed in the performance of this Agreement.

**41. POLITICAL ACTIVITY**

The SUBRECEPIENT will comply with the provisions of the Hatch Act (5 U.S.C. 1501 *et seq.*), which limits the political activity of employees.

**42. RELIGIOUS ACTIVITY**

The SUBRECEPIENT agrees to abstain from using any funds related to this Agreement for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

**43. FLOOD DISASTER PROTECTION ACT OF 1973**

The SUBRECEPIENT will ensure that procedures and mechanisms are put into place to monitor compliance with all flood insurance requirements as found in the Flood Disaster Protection Act of 1973, 24 C.F.R. § 570.605.

**44. LEAD BASED PAINT**

The SUBRECEPIENT must comply with the regulations regarding lead-based paint found at 24 C.F.R. § Part 35 on LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES with regards to all housing units assisted using CDBG-DR funds.

**45. VALUE ENGINEERING**

**(Applicable to construction contracts exceeding \$2,000 when required by Federal program legislation.)**

The SUBRECEPIENT must comply with the regulations regarding systematic and organized approach to analyze functions of systems, equipment, facilities, services, and materials

to ensure they achieve their essential functions at the lowest cost consistent to life cycle in execution, reliability, quality, and safety, in accordance with 24 C.F.R. § 200.318.(g).

**END OF DOCUMENT**



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