



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

**COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) /
MITIGATION (CDBG-MIT)**

**AGREEMENT FOR
ENVIRONMENTAL CONSULTING SERVICES
BETWEEN THE
PUERTO RICO DEPARTMENT OF HOUSING
AND
SWCA INCORPORATED**



This **AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES** (**Agreement** or **Contract**) is entered into in San Juan, Puerto Rico, this 20 of September, 2023, by and between the **PUERTO RICO DEPARTMENT OF HOUSING (PRDOH)**, a public agency created under Act No. 97 of June 10, 1972, as amended, 3 LPRA § 441, *et seq.*, known as the "Organic Act of Department of Housing" with principal offices at 606 Barbosa Avenue, San Juan, Puerto Rico, herein represented by William O. Rodríguez Rodríguez, attorney, of legal age, single, and resident of Guaynabo, Puerto Rico, in his capacity as Secretary; and **SWCA INCORPORATED (CONTRACTOR)**, with principal offices in 20 E Thomas RD STE 1700, Phoenix, Arizona, herein represented by Joseph J Fluder III, in his capacity as Chief Executive Officer, of legal age, married, and resident of Horner Glen, Illinois, duly authorized by Resolution dated June 29, 2022.

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, under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017, signed into law on 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 Community Development Block Grant – Disaster Recovery (**CDBG-DR**) Program. 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, 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, pursuant to a letter dated February 23, 2018, sent by the former Governor of Puerto Rico to the Secretary of HUD, the PRDOH is the governmental agency designated as the grantee of the CDBG-DR funds allocated to the Government of Puerto Rico.

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

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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, under the Further Additional Supplemental Appropriations Act for Disaster Relief Requirements Act, 2018, (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. 115-123, approved February 9, 2018), \$8.285 billion were allocated by HUD for mitigation activities and assistance to the Government of Puerto Rico under the Community Development Block Grant – Mitigation (**CDBG-MIT**) Program. These funds are intended to provide financial assistance in areas impacted by recent disasters. Moreover, CDBG-MIT funds represent a unique and significant opportunity for Puerto Rico to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

WHEREAS, on August 30, 2019, a Notice was published in the Federal Register, Vol. 84, No. 169, (84 FR 45838), which described the grant requirements and procedures applicable to future allocations of CDBG-MIT funds to the Government of Puerto Rico.

WHEREAS, on May 12, 2021, the PRDOH Secretary and the Secretary of HUD signed Grant Agreement Number B-18-DP-72-0002; allowing PRDOH access to \$8,285,284,000 in CDBG-MIT funding, obligated under Pub. L. 115-123, as amended.

WHEREAS, the PRDOH is the government agency designated as the grantee of the CDBG-MIT funds allocated to the Government of Puerto Rico.

WHEREAS, the PRDOH is the grantee for the CDBG-DR and CDBG-MIT funds; as such, it serves as the entity responsible for administering the funds in compliance with applicable regulations and timeframes.

WHEREAS, the PRDOH is interested in contracting an Environmental Consulting Services Firm for all CDBG-DR and CDBG-MIT funded programs. This firm will support PRDOH's objectives of ensuring compliance with all CDBG-DR/MIT, HUD and applicable federal and local requirements, rules and regulations, as well as in PRDOH's objectives of the Action Plan, as amended, and adequately coordinating and monitoring all CDBG-DR/MIT related activities.

WHEREAS, on December 29, 2022, PRDOH issued the Request for Proposal No. CDBG-DR-RFP-2022-16 for Environmental Consulting Services with CDBG-DR/MIT funds. This request was placed through the "Registro Unico de Subastas del Gobierno" (**RUS**, for its Spanish acronym) and the CDBG-DR Program website. Through this procurement process, PRDOH received twelve (**12**) proposals. The proposals were evaluated by an Evaluation Committee appointed pursuant to Administrative Order No. 23-16 dated March 9, 2023. The Evaluation committee performed an evaluation of the Proposals based on the criteria stated in the RFP.

WHEREAS, on February 24, 2023, the CONTRACTOR submitted a proposal which fully complied with the requirements set forth by the PRDOH.

WHEREAS, the PRDOH desires to enter into an agreement with **SWCA Incorporated** to secure its services and accepts the CONTRACTOR's Proposal and reasonable costs, and the CONTRACTOR by its acceptance of the terms and conditions of this Agreement is

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ready, willing and able to provide the requested services contemplated under this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, the PRDOH and the CONTRACTOR agree as follows:

I. TYPE OF CONTRACT

Contract Type: This is an hourly contract. Under this Agreement, the CONTRACTOR shall submit monthly invoices to the PRDOH based on the Compensation Schedule (**Attachment C**) and as the services are rendered. Any and all changes and/or modifications to this Agreement shall be in writing and must be signed by both Parties.

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

Attachment A	Proposal
Attachment B	Scope of Services
Attachment C	Compensation Schedule
Attachment D	Performance Requirements
Attachment E	Insurance Requirements
Attachment F	HUD General Provisions
Attachment G	Contractor Certification Requirement
Attachment H	Non-Conflict of Interest Certification

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. The Agreement shall prevail if any inconsistency appears between the Attachments and this Agreement.

II. TERM OF AGREEMENT

- A.** This Agreement shall be in effect and enforceable between the Parties from the date of its execution. The Term of this Agreement will be for a performance period of **thirty-six (36) months**, ending on September, 19, 20²⁶.
- B. Contract Extensions:** PRDOH may, at its sole discretion, extend the Agreement's term for up to **two (2) one (1) year** extensions for a maximum potential performance period of **five (5) years**, upon mutual written agreement of the Parties.
- C.** The term of this Agreement shall not exceed the lifetime of the initial Grant Agreement between PRDOH and HUD unless the term of the initial Grant Agreement is extended by HUD, in which case the Agreement shall not exceed said extended period.

III. SCOPE OF SERVICES

The CONTRACTOR will provide the services described in **Attachment B** of the Agreement. The Parties agree that the CONTRACTOR shall furnish all permits, consents, licenses, equipment, software, and supplies necessary to perform the Services, at the CONTRACTOR's sole cost.

IV. COMPENSATION AND PAYMENT

- A.** The PRDOH agrees to pay the CONTRACTOR for allowable Services rendered under this Agreement in accordance with the rates and amounts described in **Attachment C** of this Agreement.
- B.** The PRDOH will pay the CONTRACTOR, for allowable services performed during the term of this Agreement, a maximum amount not to exceed **FIVE MILLION DOLLARS (\$5,000,000.00)**; **Activity Code:** mith09msc-doh-lm; mith09msc-doh-un; miti04imp-doh-lm; miti04imp-doh-un; miti05hmg-doh-lm; miti05hmg-doh-un; miti06hfs-doh-lm; miti06hfs-doh-un; mitm10edi-doh-un; mitm11cewdohcilm; mitm11cewdohciun; mitp01rad-doh-na; r01p03api-pba-na; r02e15sbf-edc-lm; r02e15sbf-edc-un; r02e16bia-edc-lm; r02e16bia-edc-un; r02e23rur-doa-lm; r02h11sih-doh-lm; r02m27cr-doh-lm; and r02m27cr-doh-un; each with the **Account: 6090-01-000**.
- C.** Such payment shall be compensation for all allowable services required, performed, and accepted under this Agreement included in **Attachment B**, **Attachment C** and **Attachment D**.
- D.** Any additional funds to complete the services requested by the PRDOH to the CONTRACTOR will be subject to evaluation before acceptance as well as funds availability and will require an amendment to this Agreement.
- E.** The CONTRACTOR shall submit an invoice to PRDOH on a monthly basis. Said invoice must be submitted including all required invoice supporting documents, including but not limited to monthly reports, timesheets, invoice and photos evidence, expense plan and/or work projections. If PRDOH determines that the submitted invoice and supporting documents are acceptable, then the invoice will be approved for payment.
- F.** The services rendered under the Agreement, shall be payable within **forty-five (45) business days** from the date the invoice is received and approved by a PRDOH representative for payment. If PRDOH raises any objections, PRDOH will return the invoice for corrections and the CONTRACTOR shall modify the invoice and return it within **five (5) business days**. Once the CONTRACTOR returns the modified invoice, the PRDOH shall resume and conclude the payment process within the next **forty-five (45) business days**.
- G.** An authorized representative of the PRDOH will review each invoice and, if adequate, will approve and process its payment. Payments to the CONTRACTOR shall be made by electronic funds transfer (**EFT**). PRDOH reserves the right to conduct any audits it deems necessary. The CONTRACTOR agrees to cooperate fully with any such audit or audits.
- H.** While providing the services under this Agreement, the CONTRACTOR must adhere to applicable requirements of the CDBG-DR/MIT grant. If the CONTRACTOR performs ineligible activities under the CDBG-DR/MIT grant or program, the CONTRACTOR cannot include them in the invoice for payment to the CONTRACTOR.

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- I. 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.
- J. The CONTRACTOR acknowledges and agrees to repay any CDBG-DR/MIT funds used for ineligible costs.
- K. In order for the CONTRACTOR to receive payment for any work performed hereunder, the following certification must be included in each application for payment or invoice submitted to the PRDOH for payment:

"Under penalty of absolute nullity, I hereby certify that no public servant of the government entity is a party to or has an interest of any kind in the profits or benefits to be obtained under the contract which is the basis of this invoice, and should he be a party to, or have an interest in, the profits or benefits to be obtained under the contract, a waiver has been previously issued. The only consideration to provide the contracted goods or services under the contract is the payment agreed upon with the authorized representative of the government entity. The amount that appears in the invoice is fair and correct. The work has been performed, the goods have been delivered, and the services have been rendered, and no payment has been received therefor."

V. REIMBURSABLE EXPENSES

The PRDOH will not reimburse any costs incurred by the CONTRACTOR not included in the approved Proposal or in an executed written amendment.

VI. ADDITIONAL SERVICES

Should additional services be needed by the PRDOH, such additional services shall be agreed upon by the Parties in a written document signed by both Parties, prior to the issuance of a notice to proceed with the performance of such additional services.

VII. OWNERSHIP AND USE OF DOCUMENTS

- A. With the exception of the CONTRACTOR's working papers, the CONTRACTOR acknowledges the PRDOH's ownership of all information, drafts, documents, reports, papers, and other materials developed and prepared by the CONTRACTOR, its agents or representatives, for purposes of performing key obligations hereunder. In the event of any termination, the CONTRACTOR shall deliver such information, drafts, reports, papers and other materials to the PRDOH, in document form or as computer program data, and the CONTRACTOR recognizes the PRDOH's right to request such documentation or computer program data. If the CONTRACTOR fails to deliver said information, the PRDOH may seek a judicial order to enforce its rights.
- B. Proof of expenditures incurred by the CONTRACTOR on behalf of PRDOH shall be made available to PRDOH. The CONTRACTOR agrees to maintain accurate records and files of all contract documents, correspondence, book estimates, bills, and other information related to the CONTRACTOR account. These documents shall be open for the PRDOH examination at all reasonable times during the term of this Agreement,

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and up to **five (5) years** from the closeout of the grant to the state, or the period required by other local applicable laws and regulations.

VIII. DOCUMENTATION AND RECORDKEEPING

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- A. Records to be Maintained:** The CONTRACTOR shall maintain records of the state and units of general local government, including supporting documentation, which shall be retained for the greater of **five (5) years** from the closeout of the grant to the state, or the period required by other local applicable laws and regulations. Such records include but are not limited to: Records providing a full description of each activity undertaken; Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR/MIT program; Records required to determine the eligibility of activities; Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG-DR/MIT assistance; Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG-DR/MIT program regulations; Financial records as required by 24 C.F.R. § 570.506, and 2 C.F.R. part 200, including records necessary to demonstrate compliance with all applicable procurement requirements; and other records necessary to document compliance with this agreement, any other applicable Federal statutes and regulations, and the terms and conditions of PRDOH's Federal award.
- B. Access to Records:** The CONTRACTOR shall permit the PRDOH and auditors to have access to the CONTRACTOR's records and financial statements as necessary for the PRDOH to meet its audit requirements under the Federal award.
- C. Record Retention and Transmission of Records to the PRDOH:** Prior to close out of this Agreement, the CONTRACTOR must transmit to the PRDOH records sufficient for the PRDOH to demonstrate that all costs under this Agreement met the requirements of the Federal award.
- D. CONTRACTOR's Data and Privileged Information:** The CONTRACTOR is required to maintain confidential data demonstrating client eligibility for activities provided under this Agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided.
- E. PII Policy:** The CONTRACTOR must comply with the PRDOH CDBG-DR/MIT Personal Identifiable Information Policy, as found in the CDBG-DR/MIT Website (www.cdbg-dr.pr.gov), which is herein included and made an integral part of this Agreement, as it may be updated from time to time.

IX. ACCESS TO RECORDS

- A.** The CONTRACTOR agrees to provide the Government of Puerto Rico, PRDOH, HUD's Secretary, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B.** The CONTRACTOR agrees to permit any of the foregoing Parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

X. NON-DISCLOSURE AND CONFIDENTIALITY

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- A. **Confidential Information; Definition:** The term Confidential Information as used throughout this Section, means any information concerning PRDOH operations and that of its CONTRACTOR (e.g., the projects, computer processing systems, object and source codes and other PRDOH business and financial affairs). The term Confidential Information shall also deem to include all notes, analysis, compilation, studies and interpretation or other documents prepared by CONTRACTOR, its agents or representatives, in connection with PRDOH operations.
- B. **Non-Disclosure:** CONTRACTOR agrees to take all reasonable steps or measures to keep confidential all Confidential Information and will not, at any time, present or future, without PRDOH express written authorization, signed by the Secretary of the PRDOH, use or sell, market or disclose any Confidential Information to any third party, contractor, corporation, or association for any purpose whatsoever. CONTRACTOR further agrees that, except as they relate to the normal course of the service, the CONTRACTOR will not make copies of the Confidential Information except upon PRDOH express written authorization, signed by an authorized representative of PRDOH, and will not remove any copy or sample of Confidential Information without prior written authorization from PRDOH. CONTRACTOR retains the right to control its work papers subject to these confidentiality provisions.
- C. **Return Documents:** Upon receipt of written request from the PRDOH, CONTRACTOR will return to PRDOH all copies or samples of Confidential Information which, at the time of the notice are in CONTRACTOR's or its agent's possession. CONTRACTOR reserves the right to retain a set of its work papers.
- D. **Equitable Relief:** The CONTRACTOR acknowledges and agrees that a breach of the provision of subparagraph B and C of this Section may cause PRDOH to suffer irreparable damage that could not be remedied or compensated adequately only by mere monetary retribution. The CONTRACTOR further agrees that money damages may not be a sufficient remedy for any breach of this Section. Accordingly, the CONTRACTOR agrees that PRDOH shall have the right to seek injunctive relief and the specific performance of the provisions of this Section to enjoin a breach or attempted breach of the provision hereof, such right being in addition to any and all other rights and remedies that are available to PRDOH by law, equity, or otherwise.

XI. PERFORMANCE WARRANTY

- (a) CONTRACTOR warrants that it will perform all work and provide all Deliverables under this Contract in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
- (b) CONTRACTOR warrants that all Deliverables it completes under this Contract shall: meet or exceed the standards of CONTRACTOR's trade, profession, or industry; meet or exceed the specifications set forth in the Attachments to this Agreement; and be fit for ordinary use, of good quality, and with no material defects, if applicable.
- (c) If CONTRACTOR submits Deliverables that do not meet specifications, fails to complete Deliverables timely, or fails to perform its obligation under this Contract, PRDOH may require CONTRACTOR, at its sole expense, if applicable, to:
1. repair or replace Deliverables that do not meet specifications;

2. refund payment for Deliverables that do not meet specifications and accept the return of such Deliverables;
3. pay liquidated damages for any past due Deliverable; and
4. take necessary action to ensure that future performance and Deliverables meet specifications and conform to the Contract.

XII. TERMINATION

- A. Termination for Cause or Default:** The PRDOH may terminate this Agreement, in whole or in part, because of CONTRACTOR's failure to fulfill any of its obligations. The PRDOH shall terminate this Agreement by delivering to the CONTRACTOR a **thirty (30) calendar day** notice of termination specifying the extent to which the performance of the service under this Agreement is terminated, the reason therefor and the effective date of termination. CONTRACTOR shall, upon written notice, be provided a **ten (10) calendar day** opportunity to cure the alleged defect that resulted in the perceived default. If the defect is not cured within that period of time, CONTRACTOR shall immediately discontinue all such services being terminated and deliver to the PRDOH all information, notes, drafts, documents, analysis, reports, compilations, studies and other materials accumulated or generated in performing the services contemplated in this Agreement, whether completed or in process. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the PRDOH for damage sustained to PRDOH CDBG-DR/MIT Program by virtue of any breach of the Agreement by the CONTRACTOR. The PRDOH may withhold any payments to the CONTRACTOR, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the PRDOH by the CONTRACTOR. PRDOH shall make payment, in accordance with the terms of this Agreement, of any amounts due to CONTRACTOR for allowable services rendered prior to the termination notice.
- B. Termination for Convenience:** The PRDOH may terminate this Agreement, in whole or in part, whenever the PRDOH determines that such termination is necessary or convenient to the Agency. The PRDOH will terminate this Agreement by delivering to the CONTRACTOR a **thirty (30) calendar days'** 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 CONTRACTOR shall immediately discontinue all services affected and deliver to the PRDOH all information, studies and other materials property of the PRDOH. 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. PRDOH shall make payment, in accordance with the terms of this Agreement, of any amounts due to CONTRACTOR for allowable services rendered prior to the termination notice.
- C. Termination by Unilateral Abandonment:** The PRDOH will consider this Agreement immediately terminated, in the event that the CONTRACTOR unilaterally and without prior notice, chooses to abandon (in any shape, form or fashion) cease and desist in the specific performance of its general and particular duties and responsibilities as agreed in this Agreement. Upon the knowledge of such event, the PRDOH will not be held liable and will immediately, automatically and retroactively deduct from any future reimbursement, all funds from the day such unilateral abandonment took place. The PRDOH will not be compelled to continue the performance of this Agreement, should the CONTRACTOR breach this Agreement by unilateral abandonment. For the purposes of this Section, Abandonment shall mean that CONTRACTOR voluntarily and intentionally disavows its contractual duties in a manner that is overt and without question a relinquishment of said contractual duties.

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D. 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 CONTRACTOR a **thirty (30) calendar days'** 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 CONTRACTOR shall immediately discontinue all services affected and deliver to the PRDOH all information, studies and other materials property of the PRDOH. 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.

E. 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 CONTRACTOR **five (5) business days'** written notice of such suspension. Upon receipt of said notice the CONTRACTOR shall immediately discontinue all Services affected.

F. Immediate Termination: In the event the CONTRACTOR is subjected to a criminal or civil action, suit, proceeding, inquiry or court of applicable jurisdiction, or any governmental agency, or the CONTRACTOR 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 CONTRACTOR of this Agreement or the CONTRACTOR 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 Number 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico.

G. Period of Transition: Upon termination of this Agreement, and for **ninety (90) consecutive calendar days** thereafter (the Transition Period), CONTRACTOR agrees to make himself available to assist the PRDOH with the transition of services assigned to CONTRACTOR by the PRDOH. CONTRACTOR 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. PRDOH reserves the right to provide for the execution of a Transition Services Agreement for the Transition Period. In such instance, the CONTRACTOR will be paid at a reasonable, agreed upon, hourly rate for any work performed for the PRDOH during the Transition Period. Moreover, during that Transition Period, all finished or unfinished records (files, data, work product) connected with this Agreement will be turned over to PRDOH.

XIII. PENALTIES AND LIQUIDATED DAMAGES

A. Penalties

1. In the event the CONTRACTOR is determined to have engaged in any proscribed conduct or otherwise is in default as to any applicable term, condition, or requirement of this Agreement, at any time following the Effective Date of the Agreement, the CONTRACTOR agrees that PRDOH may impose sanctions against

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the CONTRACTOR for any default in accordance with **Attachment B** and **Attachment D** and this Section. Refer to all required provisions set forth at 2 C.F.R. § 200.326 and 24 C.F.R. § 570.489(g), if applicable, and the Contract and Subrecipient Agreement Manual, Section 2, Subsection 2.4.1(a), as found in the CDBG-DR/MIT Website (www.cdbg-dr.pr.gov) which is herein included and made an integral part of this Agreement, as it may be updated from time to time.

2. If the CONTRACTOR fails to comply with federal statutes, regulations or the terms and conditions of the Agreement, PRDOH may take one or more of the following actions:

- i. Temporarily withhold cash payments pending correction of the deficiency by the CONTRACTOR.
- ii. Disallow all or part of the cost of the activity or action not in compliance.
- iii. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. part 180.
- iv. Withhold further Federal awards for the project or program.
- v. Take other remedies that may be legally available.

B. Liquidated damages

The CONTRACTOR shall pay to PRDOH, as liquidated damages, **one hundred dollars (\$100.00)** for each calendar day that any task deliverable required is late until deemed in compliance subject to a maximum of **one thousand dollars (\$1,000.00)** established in this Contract between PRDOH and the CONTRACTOR, in accordance with **Attachment B** and **Attachment D**. Said sum, in view of the difficulty of accurately ascertaining the loss which PRDOH will suffer by reason of delay in the completion of the Work hereunder, is hereby fixed and agreed as the liquidated damages that PRDOH will suffer by reason of such delay. Liquidated damages received hereunder are not intended to be nor shall they be treated as either a partial or full waiver or discharge of the PRDOH's right to indemnification, or the CONTRACTOR's obligation to indemnify the PRDOH pursuant to this Contract, or to any other remedy provided for in this Contract or by Law. Liquidated damages may be assessed at the sole discretion of PRDOH. For the purpose of applying and calculating such liquidated damages, a grace period of **ten (10) business days** shall be observed. The PRDOH may deduct and retain out of the monies which may become due hereunder, the amount of any such liquidated damages; and in case the amount which may become due hereunder shall be less than the amount of liquidated damages due to the PRDOH per the formula above, the CONTRACTOR shall be liable to pay the difference.

XIV. LIABILITY

In no event, the PRDOH shall be liable for any indirect, incidental, special or consequential damages, or damages for loss of profits, revenue, data or use, incurred by either party or any third party, whether in an action in contract or tort, even if the other party or any person has been advised of the possibility of such damages. Third Parties operating under this program, with their agency, will have their own general civil and criminal liability imposed by law towards the PRDOH, the CONTRACTOR and any citizen.

The CONTRACTOR shall carry the insurances as are required by law (if applicable), as set forth below. The CONTRACTOR shall furnish PRDOH certificates of insurance.

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XV. INSURANCE

A. Required Coverage

The CONTRACTOR shall keep in force and effect for the period beginning from the execution of the Agreement and ending at the completion of all services to be provided hereunder, insurance policies in compliance with the Insurance Requirements, attached hereto and made an integral part hereof as **Attachment E**. The CONTRACTOR shall meet all other insurance requirements as may be imposed by PRDOH from time to time.

Upon the execution of this Agreement, the CONTRACTOR shall furnish PRDOH with original and two (2) certified copies of the insurance policies described in **Attachment E** and any other evidence PRDOH may request as to the policies' full force and effect.

Any deductible amount, under any of the policies, will be assumed in whole by the CONTRACTOR for any and all losses, claims, expenses, suits, damages, costs, demands or liabilities, joint and several of whatever kind and nature arising from the Agreement resulting from this solicitation by and between the CONTRACTOR and PRDOH.

The PRDOH shall not be held responsible under any circumstances for payments of any nature regarding deductibles of any Commercial Liability Policies for the aforementioned Agreement.

B. Endorsements

Each insurance policy maintained by the CONTRACTOR must be endorsed as follows:

1. PRDOH, Government of Puerto Rico, HUD and its officers, agents and employees are named as additional insured (except Worker's Compensation) but only with respect to liability arising out of tasks performed for such insured by or on behalf of the named insured.
2. To provide waiver of subrogation coverage for all insurance policies provided or herein in favor of PRDOH and its respective officers, agents and employees.
3. The insurer shall be required to give PRDOH written notice at least **thirty (30) days** in advance of any cancellation in any such policies.

The CONTRACTOR shall furnish to PRDOH, prior to commencement of the work, certificates of insurance from insurers with a rating by the A.M. Best Co. of B+ and five (5) or over on all policies, reflecting policies in force, and shall also provide certificates evidencing all renewals of such policies. Insurers shall retain an A.M. Best Co. rating of B+ and five (5) or over on all policies throughout the term of this Agreement and all policy periods required herein. The insurance company must be authorized to do business in Puerto Rico and be in good standing.

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C. Related Requirements

The CONTRACTOR shall furnish original Certificates of Insurance evidencing the required coverage to be in force on the Effective Date of Agreement. In the case of Payment and Performance Bond, Certificate of Authority, Power of Attorney and Power of Attorney License issued by the Commissioner of Insurance shall be furnished. THE REQUIRED DOCUMENTATION MUST BE RECEIVED PRIOR TO THE CONTRATOR COMMENCING WORK. NO CONTRACTOR OR ITS AUTHORIZED REPRESENTATIVES ARE TO BEGIN THEIR RESPONSIBILITIES UNDER THE AGREEMENT PRIOR TO FULL COMPLIANCE WITH THIS REQUIREMENT AND NOTIFICATION FROM PRDOH TO PROCEED.

Renewal Certificates of Insurance or such similar evidence is to be received by the Contract Administration of the Legal Division and/or the Finance area of the CDBG-DR/MIT program prior to expiration of insurance coverage. At PRDOH's option, non-compliance will result in one or more of the following actions: (1) The PRDOH will purchase insurance on behalf of the CONTRACTOR and will charge back all cost to the CONTRACTOR; (2) all payments due the CONTRACTOR will be held until the CONTRACTOR has complied with the Agreement; and/or (3) The CONTRACTOR will be assessed **Five Thousand Dollars (\$5,000.00) for every day of non-compliance.**

The receipt of any certificate does not constitute agreement by PRDOH that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with the requirements of the Agreement. The insurance policies shall provide for **thirty (30) days'** written notice to be given to PRDOH in the event coverage is substantially changed, cancelled or non-renewed.

The CONTRACTOR shall require all subcontractors or consultants to maintain in force all insurance policies and/or bonds necessary to cover their individual participation in the risk or risks related to the subcontracted work or service to be rendered. The CONTRACTOR may provide the coverage for any or all of its subcontractors and if so, the evidence of insurance submitted shall so stipulate and adhere to the same requirements and conditions as outlined above.

The CONTRACTOR expressly understands and agrees that whenever the CONTRACTOR is covered by other primary, excess, or excess contingent insurance that, any insurance or self-insurance program maintained by PRDOH shall apply in excess of and will not contribute with insurance provided by the CONTRACTOR under this Agreement.

XVI. HOLD HARMLESS

The CONTRACTOR and its affiliates, its successors and assignees will indemnify the PRDOH from any damages and/or losses arising out of any breach of this Agreement by the CONTRACTOR or against personal injuries or property damage resulting from any act of negligence or omission by the CONTRACTOR and its affiliates in connection with this Agreement.

XVII. FORCE MAJEURE

In the event of a fire, flood, earthquake, natural disaster, hurricane, riot, act of governmental authority in its sovereign capacity, pandemic officially declared by the Government of Puerto Rico, strike, labor dispute or unrest, embargo, war, insurrection or civil unrest, any Force Majeure including inclement weather, herein collectively referred

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to as Force Majeure during the term of this Agreement, neither the PRDOH nor the CONTRACTOR shall be liable to the other party for nonperformance during the conditions created by such event. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date.

The CONTRACTOR shall notify the PRDOH in writing as soon as possible, but in any event within **ten (10) business days** of the occurrence of the Force Majeure event and describe in reasonable detail the nature of the Force Majeure event, how the non-performance or delay relates to or arises from the Force Majeure event, its anticipated duration and any action taken to minimize its effect. The CONTRACTOR may be entitled to reasonable adjustments in schedules, among other measures, in the foregoing circumstances. If non-performance continues for more than **thirty (30) days**, without reasonable justification, the PRDOH may terminate this Agreement immediately upon written notification to the CONTRACTOR.

XVIII. CONFLICTS OF INTEREST

The CONTRACTOR shall comply with the ethics requirements set forth herein and warrant that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of the work under a PRDOH contract and CONTRACTOR'S organizational, financial, contractual or other interest are such that:

- a) Award of the Agreement may result in an unfair competitive advantage; or
- b) The CONTRACTOR's objectivity in performing the contract work may be impaired.

The CONTRACTOR agrees that if after award he or she discovers an organizational conflict of interest with respect to this Agreement, it shall make an immediate (within the next **seventy-two (72) hours**) and full disclosure in writing to the Contracting Officer, which shall include a description of the action, which the CONTRACTOR has taken or intends to take to eliminate or neutralize the conflict. The CONTRACTOR will disclose the details of any existing or future contract to provide services to third Parties participating or for the purpose to participate in disaster recovery programs or projects in Puerto Rico. The PRDOH may, however, terminate the Agreement for the convenience of PRDOH if it would be in its best interest.

In the event the CONTRACTOR was aware of an organizational conflict of interest before the award of this Agreement and did not disclose the conflict to the Contracting Officer, the PRDOH may terminate the Agreement for default.

The provisions of this clause shall be included in all subcontracts and/or consulting agreements wherein the work to be performed is similar to the services provided by the CONTRACTOR. The CONTRACTOR shall include in such subcontracts and consulting agreements any necessary provision to eliminate or neutralize conflicts of interest.

XIX. INDEPENDENT CONTRACTOR

The relationship of the CONTRACTOR to PRDOH shall be that of an independent CONTRACTOR rendering professional services. Neither the CONTRACTOR nor any personnel of the CONTRACTOR shall have any authority to execute contracts or make commitments on behalf of PRDOH. Nothing contained herein shall be deemed to create

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the relationship of employer/employee, principal/agent, joint venture or partner between the CONTRACTOR and PRDOH. Further, the CONTRACTOR recognizes that in view of its status as an independent CONTRACTOR, neither it nor its employees or subcontractors will be entitled to participate in or receive any fringe benefits normally granted to PRDOH employees under such programs, including, but not limited to, worker's compensation, voluntary disability, travel accident insurance, medical/dental insurance, life insurance, long-term disability, holiday pay, sick pay, salary continuation pay, leaves of absence (paid or unpaid), pension plan and savings plan.

The CONTRACTOR shall have exclusive control over its employees and subcontractors (and the CONTRACTOR's employees and subcontractors are herein, collectively, referred to as the "CONTRACTOR Personnel"), its labor and employee relations and its policies relating to wages, hours, working conditions and other employment conditions. The CONTRACTOR has the exclusive right to hire, transfer, suspend, lay off, recall, promote, discipline, discharge and adjust grievances with its CONTRACTOR Personnel. The CONTRACTOR is solely responsible for all salaries and other compensation of its CONTRACTOR Personnel who provide Services.

The CONTRACTOR is solely responsible for making all deductions and withholdings from its employees' salaries and other compensation and paying all contributions, taxes and assessments, including union payments. The CONTRACTOR shall be responsible for and shall defend, indemnify and hold harmless PRDOH, and its agents, officers, directors, employees, representatives, CONTRACTOR's, successors and assigns against all costs, expenses and liabilities, including without limitation reasonably prudent attorneys' fees relative to the situation, in connection with the CONTRACTOR's employment and/or hiring of any CONTRACTOR Personnel providing any of the Services, including without limitation: (i) payment when due of wages and benefits, (ii) withholding of all payroll taxes, including but not limited to, unemployment insurance, workers' compensation, FICA and FUTA, (iii) compliance with the Immigration Reform Control Act, and (iv) compliance with any other applicable laws relating to employment of any CONTRACTOR Personnel of, and/or hiring by, CONTRACTOR in connection with the Services.

XX. NOTICES

All notices required or permitted to be given under the Agreement shall be in writing, and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, to the address as follows:

To: PRDOH

William O. Rodríguez Rodríguez, Esq.
Secretary
Puerto Rico Department of Housing
606 Barbosa Ave.
Juan C. Cordero Dávila Bldg.
San Juan, Puerto Rico 00918

To: CONTRACTOR

Joseph J Fluder III
Chief Executive Officer
SWCA Incorporated
20 E Thomas RD
STE 1700
Phoenix, Arizona 85012

XXI. THIRD PARTIES

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action of a third party against either the PRDOH or the CONTRACTOR.

XXII. SUBCONTRACTS

A. General: All subcontracts shall contain the applicable provisions described in **Attachment F** (HUD General Provisions), as well as applicable provisions set forth in 2 C.F.R. § 200.101. The PRDOH shall review subcontracts as part of the compliance, monitoring, and oversight process performed by PRDOH or upon request.

B. Specific Requirements: All subcontracts shall contain provisions specifying:

- i. That the work performed by the subcontractor be in accordance with the applicable terms of this Agreement between the PRDOH and CONTRACTOR;
- ii. That nothing contained in such subcontract agreement shall impair the rights of the PRDOH;
- iii. That nothing contained herein, or under this Agreement will create any contractual relation between the subcontractor and the PRDOH;
- iv. That the subcontractor specifically agrees to be bound by the confidentiality provision regarding Personal Identifiable Information set forth in this Agreement;
- v. That CONTRACTOR will be responsible for ensuring all subcontract work is performed consistent with federal and state regulations and/or policies to be eligible for reimbursement of the approved work; and
- vi. All Federal flow down provisions are included in the subcontract agreement per Federal guidelines.

C. Monitoring: CONTRACTOR shall diligently monitor all subcontracted services. If CONTRACTOR discovers any areas of noncompliance, CONTRACTOR shall provide the PRDOH summarized written reports supported with documented evidence of corrective action.

D. Content: CONTRACTOR shall cause all the applicable provisions of this Agreement to be included in, and made a part of, any subcontract executed in the performance of this Agreement.

E. Notification: Within **three (3) business days** of its execution, the CONTRACTOR shall notify the Contract Administration Area of the PRDOH CDBG-DR/MIT Legal Division and provide a copy of all subcontracts related to this Agreement and CDBG-DR/MIT funds, as well as any other subcontracts listed in **Attachment G** (Contractor Certification Requirement). The CONTRACTOR is in charge of obtaining all certifications from the subcontractors listed in Article XXIII of this Agreement that are required for technical, professional, or consulting services, as well as submitting them with the copy of the subcontract and adhering to all other requirements set forth in Circular Letter 1300-16-16 from the Puerto Rico Department of Treasury. Technical, professional, or consulting services that are employed to carry out the terms of this Agreement are referred to as subcontractors for the purposes of this article if they spend at least 25% of their time on it.

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XXIII. CERTIFICATION OF COMPLIANCE WITH LEGAL REQUIREMENTS

Given that the Agreement involves funds for which HUD is the oversight agency, the CONTRACTOR agrees to carry out its obligations under this Agreement in compliance with all the requirements described in **Attachment F** (HUD General Provisions), **Attachment G** (Contractor Certification Requirement) and following provisions:

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- A. Compliance with Executive Order No. 24:** Pursuant to Executive Order No.24 of June 18, 1991, the CONTRACTOR certifies and guarantees that at the signing of this Agreement it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last **five (5) years**. The CONTRACTOR further certifies that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. The CONTRACTOR shall hand out, to the satisfaction of the PRDOH and whenever requested by the PRDOH during the term of this Agreement, the necessary documentation to support its compliance of this clause. The CONTRACTOR will be given a specific amount of time by the PRDOH to produce said documents. During the term of this Agreement, the CONTRACTOR agrees to pay and/or to remain current with any repayment plan agreed to by the CONTRACTOR with the Government of Puerto Rico.
- B. Compliance with Executive Order 52:** Pursuant to Executive Order No. 52 of August 28, 1992, amending Executive Order No.1991-24, the CONTRACTOR certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. The CONTRACTOR accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every CONTRACTOR and subcontractor whose service the CONTRACTOR has secured in connection with the services to be rendered under this Agreement and shall forward evidence to PRDOH as to its compliance with this requirement.
- C. Compliance with Circular Letter No. 1300-16-16 of the Puerto Rico Department of Treasury:** The CONTRACTOR accepts and acknowledges its responsibility of acquiring the certifications required in the Puerto Rico Department of Treasury Circular Letter No. 1300-16-16 issued on January 19, 2016. All certifications must be submitted during their term of validity, in accordance with applicable laws. Certifications expired or issued more than **sixty (60) calendar days** prior to the contract date will not be accepted. The last payment to be made under the contract will only be issued if the 'Debt Certifications' by the Puerto Rico Department of Treasury indicate that the CONTRACTOR has no debt with the Department of Treasury. The CONTRACTOR agrees to cancel any debt that cannot be clarified with the Department of the Treasury through a withholding made by PRDOH from the payments to which it is entitled to receive under the contract.
- D. Social Security and Income Tax Retentions:** The CONTRACTOR will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income from this Agreement.
- E. Government of Puerto Rico Municipal Tax Collection Center (CRIM, for its Spanish acronym):** The CONTRACTOR certifies and guarantees that at the signing of this Agreement it has no current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center. The

CONTRACTOR further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The CONTRACTOR shall hand out, to the satisfaction of the PRDOH and whenever requested by the PRDOH during the term of this Agreement, the necessary documentation to support its compliance of this clause. The CONTRACTOR will deliver upon request any documentation requested under this clause as per request of PRDOH. During the Term of this Agreement, the CONTRACTOR agrees to pay and/or to remain current with any repayment plan agreed to by the CONTRACTOR with the Government of Puerto Rico with regards to its property taxes.

F. Income Tax Withholding: The PRDOH shall retain the corresponding amount from all payments made to the CONTRACTOR, as required by the Puerto Rico Internal Revenue Code. The PRDOH will advance such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda del Gobierno de Puerto Rico*). The PRDOH will adjust such withholdings provided the CONTRACTOR produces satisfactory evidence of partial or total exemption from withholding.

G. Compliance with Act No. 45 of April 18, 1935, as amended, 11 LPRA § 1, et seq.: The CONTRACTOR certifies and guarantees that at the signing of this Agreement has valid insurance issued by the State Insurance Fund Corporation (CFSE, for its Spanish Acronym), as established by Act No. 45, *supra*, known as the "Puerto Rico Workers' Accident Compensation Act".

H. Government of Puerto Rico's Agency for the Collection of Child Support (ASUME, for its Spanish acronym): The CONTRACTOR certifies and guarantees that at the signing of this Agreement that the CONTRACTOR nor any of its Partners, if applicable, have any debt or outstanding debt collection legal procedures with regards to child support payments that may be registered with the Government of Puerto Rico's Child Support Administration. The CONTRACTOR hereby certifies that it is a limited liability company organized and existing in good standing under the laws of the Government of Puerto Rico. The CONTRACTOR shall present, to the satisfaction of PRDOH, the necessary documentation to substantiate the same. The CONTRACTOR will be given a specific amount of time by PRDOH to deliver said documents.

I. Compliance with Act No. 168-2000, as amended, 8 LPRA § 711, et seq.: The CONTRACTOR is in full compliance with Act No. 168-2000, as amended, known as "Act for the Improvement of Elderly Support of Puerto Rico."

J. Compliance with Act No. 1-2012, as amended, 3 LPRA § 1854, et seq.: The PRDOH and the CONTRACTOR hereby certify that in signing this Agreement they are in compliance with Act No. 1-2012, as amended, known as the "Puerto Rico Government Ethics Act of 2011", in connection with the possibility of a conflict of interest.

K. Clause of Governmental Ethics Certification of Absence of Conflict of Interests: The CONTRACTOR certifies that: (1) No public servant of this executive agency has a pecuniary interest in this contract, purchase or commercial transaction. (2) No public servant of this executive agency has requested me or accepted from me, directly or indirectly, for him (her), for any member of his family unit or for any person, gifts, bonuses, favors, services, donations, loans or anything else of monetary value. (3) No public servant (s) requested or accepted any good of economic value, linked to this transaction, from any person of my entity as payment for performing the duties and

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responsibilities of their employment. (4) No public servant has requested from me, directly or indirectly, for him (her), for any member of her family unit, or for any other person, business or entity, some of economic value, including gifts, loans, promises, favors or services in exchange for the performance of said public servant is influenced in my favor or of my entity. (5) I have no kinship relationship, within the fourth degree of consanguinity and second by affinity, with any public servant who has the power to influence and participate in the institutional decisions of this executive agency.

L. Ethics: CONTRACTOR also acknowledges receipt and agrees to obey the Anticorruption Code for the New Puerto Rico known in Spanish as "Código Anticorrupción para el Nuevo Puerto Rico".

M. Non-Conviction: The CONTRACTOR certifies that it has not been convicted nor accused of a felony or misdemeanor against the government, public faith and function, or that involves public property or funds, either federal or local in origin. Furthermore, CONTRACTOR also certifies that:

1. It has not been convicted, nor has pleaded guilty at a state or federal bar, in any jurisdiction of the United States of America, of crimes consisting of fraud, embezzlement or misappropriation of public funds, as stated in Act No. 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico, which prohibits the award of Offers or government contracts to those convicted of fraud, misappropriation of public fund.
2. It understands and accepts that any guilty plea or conviction for any of the crimes specified in Article 3 of said Act, will also result in the immediate cancellation of any contracts in force at the time of conviction, between the undersigned and whichever Government Agencies, Instrumentalities, Public Corporations, Municipalities and the Legislative or Judicial Branches.
3. It declares under oath the above mentioned in conformity with what is established as in Act No. 2 of January 2, 2018, as amended, known as the "Anti-Corruption Code for the New Puerto Rico", which prohibits awarding Offers for government contracts, to those convicted of fraud, embezzlement or misappropriation of public funds.
4. The CONTRACTOR represents and guarantees that none of its employees, officials or agents have been convicted of a felony or misdemeanor as described in this sub-section. Moreover, the CONTRACTOR agrees to notify PRDOH should any employee, official, or agent is convicted of a felony or misdemeanor as described in this sub-section after the date of this Agreement. Said notice shall be made within **ten (10) business days** from the time of the conviction.

N. Other payments or compensation: The CONTRACTOR certifies that it does not receive payment or compensation for regular services rendered as an official or public employee to another government entity, agency, public corporation or municipality, and knows the ethical standards of his profession and assumes responsibility for his actions.

O. Consequences of Non-Compliance: The CONTRACTOR expressly agrees that the conditions outlined throughout this Section are essential requirements of this Agreement; thus, should any one of these representations, warrants, and certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be sufficient

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cause for PRDOH to render this Agreement null and void and the CONTRACTOR reimburse to PRDOH all money received under this Agreement.

- P. Non-Conflict of Interest Certification:** The CONTRACTOR shall comply with **Attachment H** (Non-Conflict of Interest Certification), attached herein and made an integral part of this Agreement, which outlines several situations that may reasonably be considered as conflicts of interest. The aforementioned certification aids PRDOH, in its role as grantee, to identify, evaluate, disclose, and manage apparent potential, or actual conflicts of interest related to CDBG-DR and CDBG-MIT-funded projects, activities, and/or operations.

XXIV. ACT NO. 18 OF OCTOBER 30, 1975, as amended, 2 L.P.R.A. §§ 97-98

The Parties to this Agreement agree that its effective date will be subject to the due registration and remittance to the Office of the Comptroller of Puerto Rico. No rendering or consideration subject matter of this Agreement will be required before its registration at the Office of the Comptroller of Puerto Rico pursuant to Act No. 18 of October 30, 1975, as amended. The CONTRACTOR will be responsible for ensuring that this Agreement has been registered before the rendering of services by requesting a copy of the registered Agreement with its proper number and date of registry. No services under this Agreement will continue to be delivered after its effective date unless at the expiration date, an amendment signed by both Parties and duly registered exists. No services performed in violation of this provision will be paid. The party violating this clause will be doing so without any legal authority, this action will be deemed as *ultra vires*.

XXV. MEMORANDUM NO. 2021-003; CIRCULAR LETTER 001-2021 OF THE OFFICE OF THE CHIEF OF STAFF OF THE GOVERNOR (SECRETARÍA DE LA GOBERNACIÓN) & THE OFFICE OF MANAGEMENT AND BUDGET (OFICINA DE GERENCIA Y PRESUPUESTO)

- A. Interagency Services Clause:** Both contracting Parties acknowledge and agree that services retained may be provided to any entity of the Executive Branch with which the contracting entity makes an interagency agreement or by direct provision of the Office of the Chief of Staff of the Governor (*Secretaría de la Gobernación*). These services will be performed under the same terms and conditions in terms of hours of work and compensation set forth in this Agreement. For purposes of this clause, the term "Executive Branch entity" includes all agencies of the Government of Puerto Rico, as well as public instrumentalities and corporations and the Office of the Governor.
- B. Termination Clause:** The Chief of Staff (*Secretario de la Gobernación*) of the Governor shall have the power to terminate this Agreement at any time.
- C. Contract Review Policy of the Financial Supervision and Administration Board for Puerto Rico:** The Parties acknowledge that the CONTRACTOR has submitted the certification entitled "Contractor Certification Requirement" required in accordance with the Contract Review Policy of the Financial Oversight and Management Board (**FOMB**) for Puerto Rico, effective as of November 6, 2017, as amended on October 30, 2020, signed by the Contractor's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor's Certification Requirement" is included as **Attachment G** to this contract.

XXVI. MEMORANDUM NO. 2021-029; CIRCULAR LETTER NO. 013-2021 OF THE OFFICE OF THE CHIEF OF STAFF OF THE GOVERNOR (SECRETARÍA DE LA GOBERNACIÓN) & THE OFFICE OF MANAGEMENT AND BUDGET (OFICINA DE GERENCIA Y PRESUPUESTO)

- A.** The PRDOH certifies that the CONTRACTOR was selected as the provider of the services described in this Agreement, pursuant to Executive Order No. 2021-029.
- B.** The Parties certify that they acknowledge the provisions stated in Executive Order No. 2021-029 and CC 013-2021. Any failure to comply with the requirements set forth in Executive Order No. 2021-029 and CC 013-2021 will result in the termination of this Agreement.
- C.** The CONTRACTOR certifies that it has informed PRDOH of any current contractual relationship with any government entities of the Government of Puerto Rico. Accordingly, the CONTRACTOR certifies, as of the date hereof, that it is in a contractual relationship with the following entities of the Government of Puerto Rico: Puerto Rico Department of Housing. The CONTRACTOR also certifies that said entities are all the entities of the Government of Puerto Rico with which they maintain a contractual relationship. In addition, the CONTRACTOR recognizes and accepts that omitting any information regarding any current contractual relationship with any governmental entity could result in the termination of this agreement if so, required by PRDOH.
- D.** The CONTRACTOR certifies that it has informed the PRDOH whether or not the entity is a public corporation whose shares are exchanged in a stock exchange properly regulated. In the event that the CONTRACTOR certifies that it is not a public corporation that exchanges shares in a stock change, the CONTRACTOR certifies it has completed the applicable certification as stated in CC-013-2021.

XXVII. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, & EXECUTIVE ORDERS

The CONTRACTOR acknowledges that HUD financial assistance will be used to fund the Agreement only. Also, the CONTRACTOR shall comply with all applicable Federal, state and local laws, rules, regulations, and policies relating to CDBG-DR/MIT and CDBG Program services. This includes without limitation, applicable Federal Registers; 2 C.F.R. part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Housing and Community Development Act of 1974; 24 C.F.R. part 570 Community Development Block Grant; applicable waivers; Fair Housing Act, 24 C.F.R. Part 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, the CONTRACTOR shall comply, without limitation, with those set forth in **Attachment F** and in compliance with all the requirements described in **Attachment G**.

XXVIII. CDBG-DR POLICIES AND PROCEDURES

In addition to what is established in this Agreement, the CONTRACTOR shall comply with all CDBG-DR/MIT program specific and general policies and procedures, including, but not limited to, the Contract and Subrecipient Agreement Manual, OS&H Guideline, MWBE Policy, Procurement Manual for the CDBG-DR/MIT Program, URA & ADP Guidelines, Cross Cutting Guidelines, AFWAM Policy, Section 3 Policy, Personally Identifiable

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Information, Confidentiality, and Nondisclosure Policy and Conflict of Interest and Standards of Conduct Policy, as found in the CDBG-DR/MIT Website (www.cdbg-dr.pr.gov), which are herein included and made an integral part of this Agreement, as they may be updated from time to time, and reporting requirements as established by the PRDOH.

XXIX. SECTION 3 CLAUSE

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

B. The Parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 75, which implement Section 3. As evidenced by their execution of this contract, the Parties to this contract certify that they are under no contractual or other impediments that would prevent them from complying with the part 75 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 the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; 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 75 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 75. 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 75.

E. The CONTRACTOR acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

F. 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 75 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR'S obligations under 24 C.F.R. part 75.

G. Noncompliance with HUD's regulations in 24 C.F.R. part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

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H. 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 (46 U.S.C. § 5307) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

I. The CONTRACTOR agrees to submit, and shall require its subcontractors to submit to them, quarterly reports to the PRDOH detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 Workers and Targeted Section 3 Workers.

XXX.BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352

The CONTRACTOR certifies, to the best of his or her knowledge, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, 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 undersigned shall complete and submit Standard Forms-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The CONTRACTOR 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 sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). The CONTRACTOR acknowledges that 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. The CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

XXXI.EQUAL OPPORTUNITY

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- A. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The CONTRACTOR will take affirmative action to ensure that applicants 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. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. When applicable, the CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The CONTRACTOR will comply with all provisions of Exec. Order No. 11246 of September 24, 1965, as amended by Exec. Order No. 11375 of October 13, 1967, and as supplemented by the rules, regulations, and relevant orders of the United States Secretary of Labor.
- E. The CONTRACTOR will furnish all information and reports required by Exec. Order No. 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Exec. Order No. 11246 of September 24, 1965, as amended, and such other sanctions as may be imposed and remedies invoked as provided in Exec. Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (F) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Exec. Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon

each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

XXXII.SOLID WASTE DISPOSAL ACT

1) In the performance of this contract, the CONTRACTOR shall make maximum use of products containing recovered materials that are Environmental Protection Agency (EPA)- designated items unless the product cannot be acquired:

- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

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3) CONTRACTOR must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include:

- a. procuring only items designated in guidelines of the EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand dollars (\$10,000) or the value of the quantity acquired during the preceding fiscal year exceeded ten thousand dollars (\$10,000);
- b. procuring solid waste management services in a manner that maximizes energy and resource recovery; and
- c. establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

XXXIII. DRUG FREE WORKPLACE

The CONTRACTOR should establish procedures and policies to promote a Drug-Free workplace. Further, the CONTRACTOR should notify all employees of its policy for maintaining a Drug-Free workplace, and the penalties that may be imposed for drug abuse violations occurring in the workplace. Further, the CONTRACTOR shall notify the PRDOH if any of its employees are convicted of a criminal drug offense in the workplace no later than **ten (10) days** after such conviction.

XXXIV.SUSPENSION AND DEBARMENT

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. part 180 and 2 C.F.R. part 2424. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. §180.905) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. §180.935).

- B.** The CONTRACTOR must comply with 2 C.F.R. part 180, subpart C, and 2 C.F.R. part 2424, and must include a requirement to comply with these regulations in any lower-tier covered transaction it enters into.
- C.** This certification is a material representation of fact relied upon by PRDOH. If it is later determined that the CONTRACTOR did not comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 2424, in addition to remedies available to PRDOH, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D.** The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. part 180, subpart C and 2 C.F.R. part 2424, while this Agreement is valid. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower-tier covered transactions.

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XXXV. SYSTEM FOR AWARD MANAGEMENT (SAM) REGISTRATION

The CONTRACTOR certifies that it is cleared and eligible for award of a contract and is not suspended, debarred, or on a HUD-imposed limited denial of participation. Subsequently, the CONTRACTOR must be registered in the System for Award Management (**SAM**) and shall maintain its registration active during contract performance and through final payment. The CONTRACTOR is responsible during performance and through final payment for the accuracy and completeness of the data within SAM. Failure to maintain registration in SAM may impact obligations and payments under this Agreement.

XXXVI. NO OBLIGATION BY THE FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

XXXVII. PROGRAM FRAUD & FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The CONTRACTOR acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR's actions pertaining to this Agreement.

XXXVIII. 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.

XXXIX. 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 a written document signed by both PRDOH and the CONTRACTOR.

XL. 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. Those amendments shall make specific reference to this Agreement, comply with programmatic policies, procedures, and guidelines. Such amendments shall not invalidate this Agreement, nor relieve or release the Parties from their obligations under this Agreement.

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

XLI. 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.

XLII. 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.

XLIII. 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.

XLIV. ORDER OF PRECEDENCE

In the event of an inconsistency in this Agreement or if a conflict occurs between this Agreement and any Attachment, Appendix, Exhibit, or Schedule, unless otherwise specifically stated in those documents, the order of precedence shall be: Federal laws, regulations, and policies applicable to this Agreement, this Contract and the HUD General Provisions (**Attachment F**), the Scope of Services (**Attachment B**), Performance Requirements (**Attachment D**), the Compensation Schedule (**Attachment C**), and lastly, the CONTRACTOR's proposal (**Attachment A**).

XLV. 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

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Agreement in the Puerto Rico Court of First Instance, Superior Court of San Juan, Puerto Rico.

XLVI. CONSOLIDATIONS, MERGERS, CHANGE OF NAME, OR DISSOLUTIONS

A. Consolidation or Merger

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH moves for a consolidation or merger with another entity (private or public), by its discretion or otherwise, written notice of such decision or event shall be delivered to the PRDOH **at least fifteen (15) business days prior to the effective date** of the consolidation or merger. The notice shall include, but not limited to, a description of: the expected effective date of the consolidation or merger; name of each of the constituent entities moving to consolidate or merge into the single resulting or surviving entity; the proposed name of the resulting entity (in case of a consolidation) or the name of the surviving entity (in case of a merger) if necessary; reference to the projected capacity of the resulting or surviving entity to comply with the terms, conditions, obligations, tasks, services, and performance goals or requirements included in the Agreement as well as its Exhibits or Attachments; and a brief summary of the proposed plan to achieve the transition of duties (Scope of Work or Scope of Services), tasks, and performance goals or requirements to the resulting or surviving entity.

Upon the consolidation or the merger becoming effective, and supporting evidence of such event is notified to PRDOH, execution of an Amendment to the Agreement may follow. The Amendment would include, but not limited to, modifications to the clauses that refer to the identity, personal circumstances, address, and any other information related to the signing party deemed relevant by PRDOH for the execution of the Amendment. **No amendment to the Agreement will be necessary if the Subrecipient, Contractor, or Subcontractor becomes the surviving entity following a merger.**

Failure to comply with any of the before mentioned conditions, may result in the activation of the termination clauses provided in the Agreement.

B. Change of Name

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH initiates a change of name process, written notice of such decision or event shall be delivered to the PRDOH **at least fifteen (15) business days** prior to the effective date of such event. The notice shall include, but not limited to, a description of: the expected effective date of the change of name; the proposed name; inform of any change of address; and reference of any change in the capacity of the entity to comply with the terms, conditions, obligations, tasks, services, and performance goals or requirements included in the Agreement, as well as its Exhibits or Attachments.

Upon the change of name becoming effective, and supporting evidence of such event is notified to PRDOH, execution of an Amendment to the Agreement may follow. The Amendment would include, but not limited to, modifications to the clauses that refer to the identity, personal circumstances, address, and any other information related to the signing party deemed relevant by PRDOH for the execution of the Amendment.

Failure to comply with any of the before-mentioned conditions, may result in the activation of the termination clauses provided in the Agreement.

C. Dissolution

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH moves for dissolution of the entity, written notice of such

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decision or event shall be delivered to the PRDOH **at least fifteen (15) business days** prior to the effective date of such event. The notice shall include, but not limited to, a description of the expected effective date of the dissolution; and contact information of one or more of its directors, officials or agents. Upon dissolution, becoming effective, and supporting evidence of such event is notified to PRDOH, termination of the Agreement will follow. Consequently, the signing party acknowledges and agrees to provide to the PRDOH, after termination of the Agreement, the assistance reasonably requested to facilitate the orderly transfer of responsibility for performance of the tasks or services to the PRDOH or a third party designated by the PRDOH. Moreover, all finished or unfinished records (files, data, work product) connected with this Agreement will be turned over to PRDOH following the Agreement termination.

XLVII. 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.

XLVIII. 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/MIT Program, and any other applicable laws. Further, CONTRACTOR acknowledges that all funds are subject to recapture and repayment for non-compliance.

XLIX. 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) business days** after the PRDOH issues notice of recapture to CONTRACTOR.

L. 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.

LI. 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.

LII. 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) calendar days** of execution by the other party, this Agreement shall be null and void.

LI.III.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/MIT and state funding, recapture of CDBG-DR/MIT and/or state funds, overpayment of CDBG-DR/MIT 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, change of name, 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.

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

**PUERTO RICO DEPARTMENT OF
HOUSING**

SWCA INCORPORATED

William O. Rodríguez Rodríguez
William O. Rodríguez Rodríguez (Sep 20, 2023 10:49 EDT)

William O. Rodríguez Rodríguez, Esq.
Secretary

Joseph J Fluder III
Joseph J Fluder III (Sep 18, 2023 08:48 CDT)

Joseph J Fluder III
Chief Executive Officer

ATTACHMENT A

Tab 8 – Technical Proposal (Work Approach)

2. Qualifications and Work Approach
CDBG-DRMIT-RFP-2022-16

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TECHNICAL PROPOSAL – WORK APPROACH

GENERAL ADMINISTRATION

The organizational chart supplied above includes only the personnel identified under the RFP as key personnel. The SWCA support team, however, is much larger, with designated roles to administer and execute the assignments we receive under the PRDOH contract effectively. Robert Kloepper is a senior vice president and member of SWCA's senior leadership team, which includes SWCA's officers and other senior vice presidents. Mr. Kloepper will quickly identify qualified staff throughout SWCA's operations to scale up operations if PRDOH assignments demand increased capacity. SWCA National Disaster and Resilience Director Anne Cabrera and Pedro Panzardi and Associates team member Omar Negrón-Cabrera have extensive Puerto Rico disaster-related project experience and will act as our contract managers and government services technical advisors. Their roles will be to meet in person with PRDOH as needed on contractual matters, to negotiate any adjustments or amendments to the contract, and to resolve any issues brought to their attention by PRDOH. Jeanne Welch is SWCA's business agent in Puerto Rico and will work with Ms. Cabrera and the senior environmental specialists to coordinate logistical support for SWCA staff and team members WFG and PPA. SWCA will also assign a dedicated accounts payable biller and project controls specialist to manage all PRDOH invoicing.

The technical implementation team will be led by senior environmental specialist Rob Lackowicz. Mr. Lackowicz will report progress to the contract support team members listed above and will have direct communication with all of them for any urgent matters or staffing needs. Mr. Lackowicz will also be the direct point of contact with PRDOH and its program administrators for all assignments made to SWCA and technical matters associated with the deliverables provided by SWCA to PRDOH. He will be assisted by senior environmental specialists Alaina Callinan, Allyson Rezac, and Cristine Reguera, who will oversee assignments within specified geographic areas and PRDOH programs. They will conduct daily reviews of all active assignments to verify the schedule is being maintained, coordinate staffing levels, upload environmental site inspections and specialized studies conducted by our teaming subcontractors PPA and WFG, and ensure project deliverables are correct and uploaded into Canopy.

SWCA's focus will be to establish clear communication from the outset so our internal environmental tracking procedures are integrated with the data systems already in use by PRDOH and its designated program administrators and construction managers. Our senior environmental specialists have attended several training sessions on Canopy use and have communicated directly with the program administrator about potential questions or issues that may be encountered so erroneous assumptions (and therefore mistakes or delays) do not result. As new programs are identified by PRDOH for implementation, SWCA will follow this practice to define the assignment process, including details on any differences in the Canopy management system for delivering and receiving application data, obtaining Canopy access for assigned SWCA team staff, identifying right-of-entry and applicant contact procedures, and specifying

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PRDOH expectations for agency consultation procedures and document management. SWCA creates and continuously updates a PRDOH program standards of practice document, which details specific implementation procedures for all PRDOH programs that the SWCA teams work on.

ENVIRONMENTAL TASKS

TASK 4.1 TASK ASSIGNMENTS

PRDOH will notify SWCA when the need for environmental review services arises, either through direct assignment or a request information for authorization (RFA). If an RFA proposal is requested, SWCA will check the information provided to help develop SWCA's work plan for that specific assignment. The work plan will include identification of missing documents or incomplete scope of work information and will outline the tasks needed to develop the list of team staff to be assigned, a schedule, the expected levels of effort by position, the expected costs, and a list of deliverables to be prepared and to ensure environmental compliance. The work plan will be submitted to PRDOH for review and issuance of a work order, which will serve as notice to proceed. SWCA will record all task assignment information in our internal tracking system as well as Canopy and will include the date the work plan was submitted, the date the task order was issued, the date additional information was requested and received, any "hold" information, and change order submissions negotiated with PRDOH if additional services were required once work was underway.

Deliverable: Work plan for PRDOH task order issuance.

Time frame: Within 8 business days of request by PRDOH.

TASK 4.2 ENVIRONMENTAL REVIEW

SWCA will implement the following steps to complete each environmental review successfully:

Step 1 – Assignment for Environmental Review: PRDOH will assign applications to SWCA in accordance with the work plan and work order issuance process outlined in Task 4.1 above. Document retrieval and application processing will be completed in accordance with steps outlined in established PRDOH program protocols or through individual project instructions.

Step 2 – Initial Desktop Review: Described in further detail under section 4.2.2.

Before conducting the site visit and completing the field observation report (Step 3 below), SWCA will perform a preliminary desktop review of the project site. This task will include verifying the project location and parcel boundaries on the SWCA project GIS maps. Figures for each applicable environmental review topic will then be generated using GIS datasets. This process will identify the potential environmental concerns that need to be investigated or verified during the ESA (Step 3) and may be sufficient to determine whether agency consultation is needed (Step 4). The desktop review also includes online database searches and queries to identify the locations of toxic or hazardous material facilities based on the prescribed search radii. An SOI-qualified architectural historian will assess the date of construction

and will determine whether it is consistent with the findings in the damage assessment. The SOI-qualified archaeologist will conduct records searches of historic and archaeological records.

features of the house photographs provided. SWCA will also make an appointment and conduct a site visit in the project areas at the SHPO and ICP.

Step 3 – Site and Lead-Based Paint/Asbestos Assessments: SWCA will assign the field assessments to our teaming subcontractors PPA and WFG based on site location and existing workloads. SWCA and our teaming partners are committed to identifying Category 3-eligible Puerto Rico residents who are qualified or can be trained to perform these tasks. Each site survey and assessment will be conducted using a standardized digital field observation report using tablets with integrated cameras and GPS capability. The site assessment field observation report details all items required to identify whether potential environmental hazards are present in the project areas. This includes the identification of septic systems; water wells and their condition; presence of wetland and water bodies; contaminated or toxic facilities on or adjacent to the parcel; underground and aboveground storage tanks; abandoned vehicles, equipment or drums that could contain hazardous chemicals; leaks or soil staining; distressed vegetation; pungent odors; and potential endangered animal or bird habitat. The team will record representative photographs of the property for potential or actual environmental concerns. The team will also take photographs of the house itself, if present, to document its condition and for use by the architectural historian in the event that SHPO consultation is needed. If assigned by PRDOH, this step will also encompass LBP and asbestos identification through inspections or risk assessments performed by certified WFG staff using a CDBG-specific software suite that they developed specifically for this purpose.

Step 4 – Agency Consultation: For each project, SWCA will evaluate the potential resource impacts and identify the applicable resource agencies that require consultation for environmental clearance. Agencies can include airport managers, SHPO, USACE, U.S. Fish and Wildlife (USFWS), SHPO, Puerto Rico Environmental Quality Board, and Puerto Rico Department of Environmental and Natural Resources (DENR). If needed, agency communications will be sent to PRDOH for advance review and approval. Where applicable, SWCA will apply SHPO programmatic clearances to expedite project reviews. Any mitigation measures and conditions requested by the agencies will be provided in the environmental review.

Wetland or Floodplain Public Notices: As described in Task 4.4.8, wetlands, floodways, and floodplains are very sensitive environmental features, and HUD has strict public notification procedures defined in 24 CFR 55.20. If the environmental review determines the activity would impact a wetland or 100-year floodplain, SWCA will notify PRDOH and, on approval, initiate the 8-Step or 5-Step Process public notification, as applicable.

Step 5 – Environmental Review Record: SWCA will finalize the ERR for each project based on the findings from the desktop review, site assessments, agency consultations, and any technical or special studies used to determine environmental conditions at the project site. The ERR will use the templates provided by PRDOH or approved SWCA-generated formats and will include all supporting figures, maps,

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and consultation documentation. The ERR will document potential resource impacts and site-specific conditions to ensure compliance with each applicable environmental resource topic during construction or document the project is ineligible for CDBG-DR/MIT funds because of an unreconcilable environmental conflict. The environmental review package will be uploaded for PRDOH review using Canopy (or other mechanism determined at the work order issuance). SWCA will also enter the ERR into the HUD Environmental Review Online System, if desired by PRDOH.

Table 4: EA-level ERR Review and Supporting Documentation

RESOURCE	ERR COMPLIANCE REQUIREMENT	EXAMPLE OF DATA SOURCES
Floodplain Management	Part 58.6 Compliance Checklist Part 58.5 Statutory Checklist	FEMA Flood Insurance Rate Map
Coastal Barrier Improvement Act	Part 58.6 Compliance Checklist	USFWS Coastal Barrier Resource System Mapper
Runway Clear Zones	Part 58.6 Compliance Checklist Part 58.5 Statutory Checklist	Federal Aviation Administration unmanned aircraft systems (UAS) facility maps, U.S. Geological Survey (USGS) topographic maps, recent aerial imagery, internet searches
Historic Properties	Part 58.5 Statutory Checklist	SHPO, ICP
Wetland Protection	Part 58.5 Statutory Checklist	National Wetlands Inventory
Coastal Zone Management	Part 58.5 Statutory Checklist	DENR Coastal Management Program Map, Consultation with the Puerto Rico Planning Board
Sole Source Aquifer (SSA)	Part 58.5 Statutory Checklist	Not applicable, no SSAs in Puerto Rico
Endangered Species	Part 58.5 Statutory Checklist	USFWS Information for Planning and Consultation (IPaC), DENR Municipio Specific Lists
Wild and Scenic Rivers	Part 58.5 Statutory Checklist	National Wild and Scenic Rivers System
Air Quality	Part 58.5 Statutory Checklist	EPA Greenbook
Explosive and Flammable Operations Contamination and Toxic Substances	Part 58.5 Statutory Checklist	EPA EnviroMapper, Aerial Imagery, Internet Searches
Farmland Protection Land Development	Part 58.5 Statutory Checklist EA Checklist	National Resources Conservation Service (NRCS) Web Soil Survey
Socioeconomics Environmental Justice	EA Checklist	U.S. census data, EPA Environmental Justice Screening and Mapping Tool (EJSCREEN)
Community Facilities Noise Control and Abatement	EA Checklist Part 58.5 Statutory Checklist	USGS topographic maps, recent aerial imagery, internet searches
Natural Features	EA Checklist	National Hydrography Dataset, National Wetlands Inventory, aerial imagery
Climate and Energy	EA Checklist	U.S. Climate Resilience Toolkit, Climate Change Adaptation Resource Center

Table 5: Level of Environmental Review ERR Duration

LEVEL OF ENVIRONMENTAL REVIEW	ERR DURATION (ESTIMATED)
Exempt	1 week
Categorical Exclusion Not Subject To 24 CFR 58.5 (CENST)	2 weeks
Categorical Exclusion Subject To 24 CFR 58.5 (CEST)	60 days
Environmental Assessment (EA)	90 days
Environmental Impact Statement (EIS)	As negotiated with PRDOH on per project basis

Deliverables: ERR, including all supporting documentation as required for each level of environmental review determination (LOERD) assignment.

Task Schedule: The schedule to complete the ERR is dependent on the level of review, which environmental forms and checklists need to be completed, timing to complete agency consultations, need for environmental permits, public notice requirements for projects in the floodplain, and submission of the notice of intent to request for release of funds (NOI/RROF) (and finding of no significant impact [FONSI]) for specific projects. Based on experience, Table 5 above shows the normal timelines for the levels of environmental review that could be assigned to SWCA.

4.2.1. Administration and Management Tasks

Clear communication is essential to the success of each project and program. Project coordination between all participants is required to navigate the ERR process effectively. This starts with SWCA working with PRDOH and its subrecipients or program administrators, clearly relaying what is required to complete the environmental review process for each project and the anticipated timelines to complete it. A precise project description and a project design that accurately defines the project limits are essential to initiating the environmental review process. Providing technical assistance to PRDOH at this stage can prevent many delays. For CEST and EA-level projects (defined below), the individual application sites, such as at scattered residential parcels, can be more easily defined at a programmatic level through the Tier I/II process.

For some CEST and EA and all EIS-level projects, a project kick-off meeting to discuss the project and review the project design is the better approach. During the environmental review process, ongoing coordination between the parties will be required to conduct site visits, manage changes to the project scope, coordinate the review and signature of ERR documentation, consult with relevant agencies, identify the need for additional studies or environmental permits, and develop public notices.

SWCA can also provide PRDOH support in coordinating with the applicants and other environmental consultants (if applicable) on the status of the completion of the ERRs, the status of agency coordination letters and responses, the timing for the issuance of public notices, and the development of procedures compliant for HUD audits.

SWCA will create a living standards of practice document that outlines the manner in which we will approach the technical reviews, tailored for the different regulatory requirements that exist for single-family, multi-family, infrastructure, and resiliency projects. We can also schedule regular progress meetings with PRDOH to update the status of active projects, including timing for completion of ERRs, agency coordination, the need for special studies, etc. These meetings will be supplemented by monthly status reports that will document the status of ongoing work authorizations, if desired by PRDOH.

CRITICAL PATH ACTIVITIES

SWCA has a successful record of meeting or beating document delivery deadlines and client schedule expectations. To ensure the same is true for PRDOH projects, SWCA will develop detailed schedules for each project that identifies both critical (high-level) project milestones (such as publication of notices and/or delivery of draft and final environmental documents), as well as independent, detailed individual tasks and action items (such as step-by-step review cycles) with critical milestones. These schedules will be maintained throughout the life of the projects.

To ensure compliance with project schedules, our senior environmental specialists will regularly review the schedules, update them as necessary, closely track critical path items, and look to identify potential "pinch points" that could jeopardize critical milestones. This information, along with recommendations for resolution, will be provided to PRDOH as part of regular status calls and on our PRDOH project-tracking spreadsheet.

Staff availability and responsiveness are critical elements to consider when managing and delivering work on projects with a tight schedule. We have dedicated staff for each project, and, by looking at forecasts, we will ensure they can fully support the projects to which they are assigned throughout the duration of the project.

If key personnel become unavailable through circumstances out of our control, SWCA has additional staff to draw from to meet our proposed schedules. SWCA is unrivaled in our ability to ensure timely completion of projects because of our number of experienced professionals.

PROJECT TRACKING

SWCA employs Deltek Vision, a fully integrated business management software system widely used in technical industries, which fully encompasses all our company processes and resources. Vision has a flexible work breakdown structure, which allows project costs to be tracked by phase or task, and it can incorporate multiple billing arrangements in a single project. This provides concise and easy-to-understand invoices and gives us the option to provide billing information in a detailed or simple format in response to clients' requirements. Our senior environmental specialists can track project activities and costs with real-time information, allowing us to monitor and manage costs effectively. Establishing realistic schedule and budget parameters with the client at the start of the project sets the foundation from which project timelines and costs are monitored and controlled. Our senior environmental specialists will collaborate with PRDOH to identify schedule milestones and interim deliverable targets before initiating work. We will provide monthly or more frequent status updates as requested, to ensure all project timelines are met. By calling out even the most basic tasks and assigning each a milestone deadline, we can easily identify when schedules are on track and mitigate any problems immediately.

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LESSONS LEARNED

SWCA prides ourselves on being a learning organization. We both capture and share important lessons learned across our organization, implementing a robust lessons-learned approach that supports a culture of continuous improvement. This lessons-learned approach is a central tool in incorporating best practices into every project and ensures cost, schedule, and quality compliance.

Deliverables: Standards of practice document, meeting minutes, agendas, schedules

Time frame: Delivered on an as-determined basis for various administrative tasks

4.2.2. Pre-Environmental Analysis and Level of Environmental Review Determination

Unless first determined by PRDOH, for each assignment SWCA will evaluate and recommend the appropriate LOERD for the project to receive CDBG-DR/MIT funding. This LOERD determination will be included in Task 4.1 (work plan submission for authorization by task order). After being authorized to proceed on a particular project classified beyond the exempt or CENST levels, SWCA will conduct an environmental constraints analysis to identify recorded resources and critical environmental issues within the project area. To perform this service, SWCA gathers data from a number of publicly available sources, including aerial photographs, U.S. Geological Survey (USGS) topographic quadrangle maps and National Hydrography Dataset (NHD) maps, National Resources Conservation Service (NRCS) soil survey maps, NRCS hydric soils lists, USFWS National Wetlands Inventory (NWI) maps, USFWS threatened and endangered species lists, DENR records, FEMA Flood Insurance Rate Maps (FIRMs), other federal or state agency websites, published reports, commercial vendors, academic or professional texts, and previous project information.

Findings from the desktop constraints analysis will be used to support site visits, field surveys, reporting, and the agency consultation process. SWCA has well-developed relationships with the agencies listed herein and years of experience coordinating with them.

Deliverables: LOERD

Time frame: Submitted with work plan (Task 4.1) or within 5 business days, if requested separately

4.2.3. Environmental Review Record

SWCA will prepare ERRs as the ultimate deliverable for all assignments. Each level of review has its own documentation requirements as the ERR is made available for public viewing and review by HUD environmental field staff during monitoring and other program audits. Each LOERD results in one of the following ERR categories:

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- **Exempt (24 CFR 58.34 [a])** – Program activities that have minimal risk of causing environmental impacts and therefore do not require formal environmental review outside of documenting it is an exempt activity. Examples include repairs needed for public safety and insurance purchases.
- **Categorical Exclusion Not Subject To 24 CFR 58.5 (CENST)** – Program activities that have very low risk to the environment and are exempt from National Environmental Policy Act (NEPA) evaluation unless extraordinary circumstances exist. These must still be evaluated under the protocols listed by HUD in 24 CFR 58.6, such as prohibiting funding for buildings within designated special flood hazard areas. Examples of this category include rental assistance and homebuyer purchase programs.
 - o ERRs for exempt or CENST projects will include the HUD's exempt or CENST form. No publication of NOI/RROF is required.
- **Categorical Exclusion Subject To 24 CFR 58.5 (CEST)** – Program activities that have generally low risk to the environment and are also exempt from NEPA evaluation unless extraordinary circumstances exist but HUD's guidelines in both 24 CFR 58.5 and 58.6 must be met. Examples include scattered site residential rehabilitation/reconstruction programs with fewer than five buildings within 3,000 feet of each other; replacement of existing, damaged utility lines; and rehabilitation of public buildings where the footprint will not be increased by more than 20%.
 - o ERRs for CEST projects will require HUD's environmental review. Publication of the NOI/RROF is required, with exceptions.
- **Environmental Assessment (EA)** – Program activities that have the potential to cause environmental harm and require evaluation for all relevant NEPA topics. This level of evaluation is required for all projects that do not meet the conditions allowing for categorical exclusion but do not meet the thresholds of potential harm or controversy that equate with an EIS (24 CFR 58.37).
 - o ERRs for EA projects will require HUD's Part 58 EA form. Publication of the NOI/RROF and FONSI is required.
- **Tier I/II** – Most often used for residential rehabilitation and reconstruction CDBG-MIT/DR programs, tiering under 40 CFR 1508.20/28 allows one "broad" review (Tier I) to define common environmental concerns at a large scale, such as within a city or county, then focus on site-specific factors that could occur on the application property (Tier II). The Tier I review includes the relevant NEPA topics required at the CEST (or EA level), and documents review topics that either do not apply or can be fully addressed and resolved for applications regardless of their location. It also establishes the standards to be followed on subsequent site-specific reviews. If feasible, SWCA will work with PRDOH and HUD to negotiate clarifications or increased allowances for common issues, such as increasing the size of propane tanks present in a residential area before the acceptable separation distance calculations in 24 CFR 51(c) need to be applied.

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- The Tier I broad review and Tier II Site-Specific Checklist collectively comprise a complete ERR for an application property. The SSC format will be developed and approved with PRDOH and HUD approval during the Tier I process, which is anticipated to occur at the county level. Each application property will have an individual SSC completed and electronically submitted to PRDOH.
- **Environmental Impact Statement (EIS)** – Triggered when a finding of significant impact (FOSI) is determined as a result of the environmental review. The EIS includes a detailed and lengthy analysis of all environmental considerations, including a review of alternatives which also considers the no action alternative. This type of review involves interagency coordination, a series of specific noticing requirements, and is required by Section 102(2)(C) of NEPA for a proposed major federal action significantly affecting the quality of the human environment.
 - ERRs for EIS projects will require HUD's Part 58 EA form, FOSI, NOI to prepare EIS, preparation and publication of the draft EIS, preparation and publication of the final EIS, and other requirements, such as scoping and public hearings.

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For any level of environmental review, SWCA will evaluate project eligibility, determine the appropriate level of ERR review, and complete the required Section 58.6 compliance checklist, Section 58.5 statutory worksheet, Tier 1 review/Tier II SSC, or EA checklist, as applicable. Based on our experience, SWCA anticipates most exempt and CENST projects to be reviewed internally by PRDOH or its on-site Environmental Service Provider staff. However, if requested, SWCA will review a project to determine which of the above-mentioned environmental review levels apply.

Deliverable: ERRs will contain, at minimum, the following sections: introduction (background, history, and project purpose and need), HUD checklists, project alternatives (including both those dismissed from consideration and those retained for analysis), affected environment and environmental consequences, summary, agencies consulted, references, list of preparers, and public notice(s). Copies of any special studies reports or any additional formatting or agency specific requirements of PRDOH.

Time frame: See Table 5.

4.2.4. Finding of No Significant Impact

SWCA will develop the notification to the public of PRDOH's FONSI and RROF for the proposed projects by publishing a combined NOI/RROF and FONSI and will coordinate the publishing of the public notices in the approved local newspaper and with PRDOH/HUD. The key consideration during this step is ensuring the project follows the appropriate notice period, the ERR is available for public review (typically at the local library and public offices), and responses be submitted to PRDOH for review and comment. Additionally, SWCA will draft distribution lists to be used to deliver any required public notices to agencies, as required by 24 CFR 58.43.

Deliverable: Draft FONSI public notice combined with NOI/RROF and final floodplain notice (Task 4.4), if required.

Time frame: Included in ERR package submitted in accordance timelines in Table 5.

4.2.5. *Environmental Impact Statements*

EISs are the most complex and detailed form of NEPA assessment, these are required for projects that will affect substantial numbers of housing units or infrastructure within a single area, have a high level of public controversy, or will possibly result in significant impacts to the environment. All relevant NEPA topics must be evaluated using a prescribed reporting method (40 CFR 1502.10). Using our extensive NEPA and EIS experience, we will provide PRDOH with the benefit of our hard-earned lessons learned. Projects with multiple agencies making decisions based on the EIS can complicate the NEPA process and documentation needs. It is critical to assist the CDBG-MIT/DR subrecipient to engage each agency proactively at the beginning of the process to carefully explore their decision space, NEPA process requirements, and analysis requirements, which will inform their ultimate decision. This consultation allows us to develop a process to address all those needs and minimize rework.

EIS proponents generally work very hard to develop studies that are accurate and provide solid information for subsequent analysis. However, given the ramifications of negative findings after HUD CDBG compliance audits, it is equally important for PRDOH to have experts who can conduct a complete technical review of the work at each phase, taking nothing at face value. Particularly with CDBG-MIT-funded projects, few subrecipients will be familiar with HUD's distinct forms of compliance under 24 CFR Parts 35, 50, 55, 58, etc. Data collection methods should be evaluated for adequacy. Model parameters and assumptions should be scrutinized. A thorough data gap analysis should be conducted to ensure that relevant and credible data are available for analysis. Because of our depth and breadth of technical experts, the SWCA team can identify data gaps and correct flawed methodologies at the preliminary stages before significant CDBG-MIT/DR funds are spent, providing technical assistance throughout the project's life span.

Deliverables: Project-specific agreed-on deliverables and various levels of involvement as outlined in a project-specific work plan will include the draft NOI to prepare EIS, draft EIS, final EIS, public hearing support, scoping documents, distribution lists, alternatives development, identification of specialized studies, draft record of decisions (ROD), and any other tasks required to support PRDOH in completing the EIS process.

Time frame: To be determined on case-by-case basis, as negotiated with PRDOH.

4.2.6. *Request for Release of Funds and Authorization for the Use of Grant Funds*

SWCA will submit the final ERRs to PRDOH for review and approval, with supporting documentation that includes all backup material supporting the environmental review, copies of public notices and proofs of

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publication, and the prepared HUD RROF 7015.15 form. The ERRs and RROFs will be submitted to PRDOH for final approval to obtain the authority for use of grant funds (AUGF) from HUD.

Deliverable: Prepared HUD RROF 7015.15 form for certifying officer (CO) signature and submission to HUD through HEROS for review and issuance of AUGF.

Time frame: Included in ERR package submitted in accordance with the timelines in Table 5.

TASK 4.3 RE-EVALUATION OF PROJECT INTENT

When assigned a project re-evaluation, SWCA will compare all environmental review topics with the changed project activities, evaluate if they still meet HUD compliance, and determine the need for any changes to the ERR. The need to re-evaluate the environmental review could arise from carrying out mitigation procedures or by adding a new source of funds to the project. The steps outlined above for completing the initial environmental review will be repeated, excluding the on-site assessment, as those results will be unchanged. If the project activity changes to a new location, then SWCA will request that to be assigned as a new environmental review, rather than a re-evaluation.

Deliverables: SWCA will provide PRDOH with an RFA, which will include any tasks that need to be re-evaluated, including any new specialized studies, or noticing requirements. If authorized, an updated environmental review package will be provided to PRDOH in accordance with 24 CFR part 58.47.

Time frame: The re-evaluated environmental review packages will be delivered within 10 business days of assignment, excluding agency consultation, specialized studies, or public notice requirements.

TASK 4.4. 8-STEP DECISION-MAKING PROCESS

Projects in or impacting aquatic features, similar to the project example, will require a 15-day initial and a final floodplain notice. The SWCA team will support PRDOH in identifying public notice requirements early on, especially if the project takes place in a special flood hazard area or impacts a wetland.

Wetlands, floodways, and floodplains are very sensitive environmental features, and HUD has strict public notification procedures defined in 24 CFR 55.20. For example, no federal funds may be given for projects in a floodway (unless listed in 24 CFR 55.12[c]) or for critical activities in National Flood Insurance Program V zones. If the ERR determines the activity would be in a defined wetland or 100-year floodplain (or 500-year floodplain for critical actions), after receiving PRDOH approval, SWCA will initiate the 8-Step or 5-Step Process public notification.

The 8-Step Process consists of:

1. Define the effects of the project relative to the wetland or floodplain;
2. Seek initial public comment from local individuals and potentially interested organizations or agencies;

3. Identify and evaluate whether there are “practicable alternatives” to locating the project in the floodplain or wetland;
4. Categorize the potential direct and indirect impacts, both positive and negative, to the aquatic feature and project’s beneficiary;
5. Mitigate or modify the action where feasible to lessen possible negative impacts to the floodplain/wetland itself, as well as lives and property;
6. From the findings that result from Steps 2 through 5, re-evaluate the proposed action and see whether it is still in the public interest;
7. Publish a final public notice that describes the result of the analysis and the reason the project will proceed; and
8. Have the RE agree it will be responsible for implementing any mitigation measures that were identified.

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Five-Step Process public notification can be used for project activities listed in §24 CFR part 55.12, which lists the inapplicability of 24 CFR Part 55 to certain categories of proposed actions. For the 5-Step Process, steps 2, 3 and 7 are not required. Documentation for which 24 CFR Part 55 does not apply to the project action will be included in Step 1 and provided in the ERR.

Deliverable: Completion of the 8-/5-Step Process for inclusion in the ERR. Draft early floodplain public notice and combined with NOI/RROF and final floodplain notice (Task 4.4), if required.

Time frame: Early floodplain notice will be drafted as soon as the need is identified for review and approval by PRDOH. The complete 8-/5-Step Process and the final floodplain notice will be completed concurrent with Table 5 timelines for CEST/EAs.

TASK 4.5 AGENCY CONSULTATION

Decisions regarding whether, when, and how to engage with agencies depend on a firm understanding of which regulations apply to the proposed activities. Intersection of these regulations can also alter the path to compliance. For example, activities that introduce fill from demolition into a water of the U.S. (an activity regulated under the Clean Water Act) may trigger the need to coordinate with the USACE to identify the level of coordination and permitting required for the project. The same applies to projects with the potential to affect protected species, historic structures, or archaeological sites and the need to coordinate with the USFWS, DENR and SHPO, respectively. SWCA will consult with PRDOH to identify agencies that PRDOH wishes SWCA to coordinate with directly and regional and local interested parties that need to be contacted at various stages of the environmental review process. This can include local agencies as well as private associations and public entities that PRDOH may wish to notify and receive feedback from.

Most agencies also have prescribed timelines for their review of consultation letters and permit applications. Understanding those timelines and soliciting agency responses early in the ERR process is essential for its timely completion. SWCA will factor in both internal and external agency review timelines to support the agency coordination process and communicate those with PRDOH when determining the project schedule. We will work with PRDOH early on to identify the applicable environmental regulations and a set of alternatives for achieving compliance within those parameters. Where possible, we will present a range of options and explore the potential benefits and risks of each.

TASK 4.6 ENVIRONMENTAL SPECIALIZED SERVICES

The SWCA team has seen that many projects outside previously disturbed and maintained areas are likely to require special studies to assess presence and potential impacts to environmental and cultural resources. We have the in-house capabilities to oversee any type of special study needed to complete the ERR, including wetland delineations, threatened and endangered species habitat assessments, and archaeological/architectural surveys. Our teaming partners PPA and WFG would assist and oversee other studies listed in the RFP, such as land surveys, hazardous materials studies, Phase I/II ESAs, geotechnical studies, and hydrological studies. The level of effort for these special studies and assessment is highly variable, based on factors such as the location and size of the project area, prior land use and disturbance, and the project activity. This variability also applies to the preparation and completion of USACE permits, as some project activities can be authorized under a nationwide permit, whereas others require an individual permit or further evaluation to support wetland mitigation requirements. SWCA will prepare a work plan when specialized studies are required. The need for special studies is determined early in the environmental review process, often during the initial desktop review of the project.

When needed, the SWCA team can directly conduct or subcontract studies at project locations to physically assess the environmental/cultural resources concern in the field; identify the actions needed to mitigate them; and coordinate directly with federal, state, or local agencies (e.g., USACE, DENR, USFWS, and the Puerto Rico Planning Board to enable the PRDOH to obtain the required environmental permits or agency compliance documentation.

Deliverables: SWCA will create a specialized services work plan to be submitted to PRDOH RFA process. If the cost of any environmental specialized services is more than \$10,000, SWCA will submit three proposals from different subconsultants/subcontractors to PRDOH to carry out their procurement requirements set forth in 2 CFR Part 200 for purchases that do not fall under the micro-purchase threshold.

Time frame: The specialized services work plan will be submitted within 10 business days of request. If authorized by RFA, specialized studies will generally be conducted within the timelines for each LOERD as shown in Table 5.

TASK 4.7. ENVIRONMENTAL REVIEW RECORD ADOPTION PROCESS

Every federal agency has their own NEPA implementation procedures similar to HUD's 24 CFR Part 58. Each agency's implementation procedures have different definitions for which project activities are considered exempt, categorically excluded, or require environmental assessments. If PRDOH wishes to adopt an environmental review completed by another agency, SWCA will conduct an in-depth analysis of the existing documentation to assess whether any deficiencies, data gaps, or statutory requirements were not addressed in the other agency's review that is required by 24 CFR Part 58.

SWCA will then prepare a technical review memo that will include a summary of our review methodology, a review determination table, and recommended next steps for the review to be compliant under 24 CFR Part 58. A cost proposal and timelines for completion of the identified required actions will accompany the technical review memo for consideration by PRDOH through which PRDOH may issue a task order for SWCA to carry out the identified tasks, including additional studies, consultations, or public noticing requirements. Once the ERR-adoption process (AP) is completed, PRDOH can submit an RROF to HUD to obtain the AUGF.

Deliverable: Project-specific ERR-AP technical review memo outlining the tasks that SWCA can be authorized to complete to ensure the other agency's NEPA review complies with 24 CFR Part 58.

Timeline: The ERR-AP technical review memo will be developed within 2 weeks of assignment by PRDOH and will be carried out during the timelines identified in the memo for specific memo-identified activities.

TASK 4.8. ENVIRONMENTAL MONITORING AND CONTROL

SWCA understands PRDOH and HUD will hold project contractors responsible for completing any of the required mitigation measures outlined in the findings of the environmental review, if applicable. For any regulations requiring mitigation, SWCA will develop a mitigation matrix plan to be used by the contractor to ensure compliance and assist in the overall monitoring of the project once activities are underway or completed. As requested by PRDOH, SWCA will develop monitoring and control plans for projects that will require pre-construction, construction, and project closeout monitoring activities. SWCA has considerable experience in this area, as we have been doing it for the state of Texas for their single and multi-family CDBG-DR-administered programs since 2020.

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The plan will include the criteria for which each measure is considered suitable, who the party responsible for implementing the measure is, which of the statutory requirements are being monitored, and the length of time monitoring must be carried out for each of the criteria identified.

SWCA will carry out the plan requirements by conducting monitoring visits, requesting project updates to ensure deviation from the plan is not occurring, collating documentation to show compliance was achieved, and, when required, carrying out on-site monitoring activities.

Deliverable: Project-specific monitoring and control plan outlining monitoring activities for each project to be carried out by SWCA and our subconsultants, environmental monitoring and control reports.

Timeline: The Monitoring and Control Plan will be developed within 2 weeks of assignment by PRDOH and carried out during the defined periods for pre-construction, construction, and project closeout.

QUALITY ASSURANCE

SWCA is adept at creating tracking systems that work in tandem with our clients' systems. If the Canopy system used by PRDOH does not incorporate environmental statuses, SWCA will collect and report on environmental projects by application status (e.g., site visit in progress; environmental review in progress, on hold, at agency, submitted, under revision, approved, ineligible, withdrawn) and/or schedule milestone (e.g., date assigned, date site visit was complete, agency consultation start/end dates, date submitted to PRDOH). SWCA will also record the status of each review topic assessed (e.g., in compliance, at agency, mitigation required, ineligible) in our database during the environmental review process so reports can be provided to PRDOH for follow-up construction monitoring compliance, if needed.

The SWCA team will use Microsoft Project and Excel Smartsheet software to create project schedules for each application site. The tools will detail the date the application was assigned, geographic and applicant information, key activities involved with each step of the environmental review schedule, team member(s) responsible for each application and activity, milestone dates, and deadlines. These schedules are communicated and accessible to all team members to ensure all staff know their assignments and where every application stands. On a daily basis, the senior environmental specialists will review all active applications to verify each application is being processed and is meeting the required schedule.

Each week the SWCA senior environmental specialists and subcontractor leads will meet to review the status of all applications and to identify any issues that need to be addressed internally or raised with PRDOH and its program managers for resolution. We will also schedule regular (weekly, unless requested otherwise) progress meetings with PRDOH and its program administrators(s) to update the status of active projects, including timing for completion of ERRs, agency coordination, the need for special studies, etc. These meetings will be supplemented by monthly (unless requested otherwise) status reports that document status of ongoing work assignments.

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Before submitting any deliverable to PRDOH, technical reviews are performed by experienced CDBG-DR/MIT quality assurance staff to ensure clarity, accuracy, consistency, and correct information. This quality assurance evaluation uses a standardized checklist that verifies: 1) all required components are present, 2) the review checklist is filled out and formatted correctly, 3) all relevant supporting and agency consultation is included, 4) the correct figures are included, 5) all environmental site-specific conditions are listed correctly, and 6) all required environmental mitigation conditions during the construction phase are clearly and correctly spelled out. Consistency in environmental review comments and regulatory language is enhanced by standardized language that is prepared for each environmental review topic in advance and used by all environmental review preparers when performing their reviews and completing their checklists.

To further quality assurance, SWCA senior environmental specialists also conduct weekly team meetings with all staff and inspectors. These sessions identify any quality assurance errors noted so they can be avoided or corrected by the preparers in the future. These meetings are used to provide clear communication to all staff on any new regulatory guidance passed down by PRDOH.

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FEDERAL, STATE, AND LOCAL COMPLIANCE

A key component to CDBG-DR/MIT programs is documenting that each project complies with HUD's NEPA requirements and review procedures under 40 CFR 1500 and 24 CFR 58 *et seq.* and the associated environmental laws and requirements under 24 CFR 58.5 and 24 CFR 58.6. In addition, the environmental reviews must incorporate applicable sections of Puerto Rico's Public Environmental Policy Act (416-2004) and any local jurisdictional regulations that can affect environmental compliance requirements, such as local elevation regulations that exceed the minimum requirements outlined under Executive Order 11988 and 44 CFR Parts 59 and 60 Issue Resolution.

The amount of data generated is immense in large and complex systems such as single-family CDBG-DR/MIT funded programs. Coordinated data management is essential to ensure that environmental assignments are tracked and processed in parallel to the eligibility and construction aspects of CDBG-DR/MIT applications. At the same time, swift completion of environmental reviews is unhelpful to PRDOH if any site-specific environmental conditions that must be adhered to during the construction phase are not properly identified during the analysis or are not clearly outlined in the site-specific checklist so they can be understood and followed. Errors in environmental compliance can result in negative findings during HUD audits and possible repayment of funds.

In SWCA's experience managing other environmental CDBG-DR compliance programs, the major issues that arise with the environmental process originate with the following five common causes:

1) Use of unqualified staff to perform environmental studies. Some firms attempt to lower environmental costs through extreme automation, to generalize project activities instead of clearly reporting the site-specific project actions, and to rely almost solely on GIS datasets to identify potential

environmental hazards. This is not ultimately beneficial to the CDBG-DR/MIT responsible entity, as HUD intends (through 24 CFR Part 58 and 40 CFR 1508.28) for the environmental review to analyze specifically for environmental impacts at the site on which the construction activities will occur. SWCA has over 1,400 environmental regulatory compliance specialists to draw on as needed to ensure that each review topic is thoroughly vetted, meets regulatory compliance, and is clearly documented for any mitigation steps. Our teaming subcontractors who will conduct the on-site ESAs are also experienced in performing these studies and will use SWCA's detailed EA recording form for standardization. Our processes are designed to eliminate non-compliant environmental review packages that would fail HUD or PRDOH audit or that do not clearly communicate to the end user—the construction contractor—which steps are specifically needed to retain environmental compliance on the site, as failure to follow those steps can also result in negative findings during audit.

2) Section 106 National Historic Preservation Act (NHPA) non-compliance. This issue often arises when tax records are used as the primary basis of determining whether a residential structure is less than 45 years old. Many tax records state the year of construction inaccurately because original records are not available, the digitization system defaults to the year the record was entered, or major renovations overwrite the original date. Houses incorrectly assigned a construction age less than 45 years is critical, as it can result in the CDBG-DR/MIT program adversely affecting historic properties, being non-compliant for NHPA, and causing avoidable/expensive additional construction work or mitigation offsets. SWCA uses SOI-qualified architectural historians to review all assigned projects to ensure this situation does not happen.

3) Changing program activities after an environmental review has been completed. Ideally, the CDBG-DR/MIT process is strictly linear, with each application leaving the damage assessment and eligibility phase with a completely defined scope of work that will not change during construction. The environmental review is produced using this work scope, and the construction proceeds without any changes. However, unforeseen (or hidden damage) is often identified after an environmental review is completed, requiring the construction footprint to be enlarged or shifted or additional activities, such as tree removal or septic system replacement, to be added. To prevent this, PRDOH includes re-evaluation of project intent (Task 4.3), which can be effective, but costly in the long run. If the re-evaluation does not occur because of miscommunication between the construction and environmental teams, the identification of the problem after the fact can also result in negative HUD findings. SWCA proposes to work with PRDOH and its program and construction administrators to identify common changes in project activity during the construction phase when implementing monitoring and control plans (Task 4.8). It is possible for the environmental review to assume these project activities will occur up front, and therefore re-evaluation will not be needed. This is particularly effective for reconstruction projects.

4) Failure to implement required environmental site-specific conditions during construction. Writing the environmental review checklist so it conveys the exact needs to maintain environmental

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compliance to the construction team clearly was discussed under item 1 above. A separate event can occur where unanticipated or hidden environmental hazards are encountered during construction (the environmental crisis mentioned in the RFP instructions). These items can include exposing old leaking underground storage tanks that had no surface vents, finding buried chemical drums that were left behind during residential site development, or uncovering archaeological artifacts. The type of response needed is dependent on the nature of the environmental condition identified and the agencies that will need to be contacted. SWCA believes that proactive preparation is the best path. If an unanticipated discoveries plan is not already in place, we can work with PRDOH to create one that can be incorporated into standard building contractor assignment packages, and we can oversee the response so uncoordinated calls to regulatory agencies do not occur.

5) Failure to document compliance with environmental conditions after construction has been completed. SWCA has seen construction compliance monitoring programs in other CDBG-DR/MIT-funded programs where the environmental report and its environmental conditions were not fully integrated. All conditions listed in the environmental review must be maintained and implemented by the construction contractor. If they are not and negative impacts to the environment occur and are observed during HUD audits, the project can be deemed non-compliant. HUD can then require corrective action or repayment. This most commonly occurs when houses in floodplains are not elevated to the required height, historic homes with set construction specifications are changed, reconstruction designs in a V zone do not comply with the stricter design parameters, and reconstruction projects are flipped back to rehabilitation without required LBP, asbestos, and mold assessments. SWCA has created environmental construction compliance manuals that provide forms and documentation requirements to builders and program administrators so that responsibility for any failure to comply is placed on the contractor who failed to enact the required environmental best management practices. This approach helps protect PRDOH from negative HUD findings and increases contractor compliance.

PRIOR EXPERIENCE

ENVIRONMENTAL REVIEWS, EXAMPLE 1 (SWCA)

Since September 2018, SWCA has been the primary environmental service provider to the State of Texas for CDBG-DR programs (<https://recovery.texas.gov/action-plans/index.html>). The Texas Homeowner Assistance Program is very similar to Puerto Rico's R3 Program, as it provides direct contractor assignment for rehabilitation, reconstruction, and relocation assistance to damaged owner-occupied single-family residences. SWCA has been awarded two contracts, the first for Hurricane Harvey (DR-4332) support. SWCA produced 49 county-level Tier I broad reviews, developed Tier II site-specific checklist procedures, and provided independent evaluation and oversight for over 11,000 Tier II reviews. For the second contract awarded in late 2020, SWCA has produced 13 county-level Tier I broad reviews for Tropical Storm Imelda and Lower Rio Grande Valley flooding events in 2018 and 2019 (DR-4377, DR-4454, and DR-4466) and is currently producing all 1,200 expected Tier II site-specific checklists. For

all contracts, SWCA has conducted agency coordination (including Section 106 Programmatic Agreement negotiations) and specialized studies, such as wetland delineation; archaeology; architectural history assessments and adverse effect mitigation; soil testing; and LBP, asbestos, and mold assessments and clearances.

ENVIRONMENTAL REVIEWS, EXAMPLE 2 (WFG AND SWCA)

The ReCoverCA CDBG-DR program is in its initial stages of operations. Administered by California's Housing and Community Development (HCD) department, the program will provide construction contractors to owner-occupied single-family residence applicants to build replacement housing, or repair homes damaged by 2017 and 2018 wildfires in counties across the state (<https://www.hcd.ca.gov/community-development/disaster-recovery-programs.shtml>). SLSCO, Ltd. (SLSCO), is HCD's construction manager for the ReCoverCA program and retained WFG as a primary contractor to conduct damage and environmental site assessments for 500 to 1,000 properties that will be granted CDBG-DR funds. WFG then retained SWCA to generate the Tier II site-specific review checklists for their application sites. During the planning phase, SWCA noted that the Tier I broad review documents that had been prepared by a third-party HCD contractor did not address key issues, including the ability to expand the construction footprint from before the disaster and an effective means to address Section 106 NHPA compliance. The existing Tier I documents also required a noise assessment on every application site and individual 8-Step Process public notices for any application within the floodplain. SWCA provided guidance to SLSCO that would remove these project impediments and avoid unnecessary extra costs. SLSCO directed communication with HCD, who accepted the recommendations and is in the process of amending its Tier I documents. The Tier II structure was also amended and is being used to generate CDBG-DR-compliant ERRs.

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ENVIRONMENTAL SITE ASSESSMENT, EXAMPLE 1 (WFG)

Under the direction of the Louisiana Office of Community Development Restore Louisiana (ReLa) CDBG-DR program, WFG is responsible for LBP risk assessments and clearance inspections, program implementation, and damage assessments. The ReLa CDBG-DR program was developed to help the more than 36,000 uninsured citizens devastated by the floods of 2016, Hurricane Laura, and Hurricane Ida. To date, WFG has completed approximately 1,200 LBP inspections under this program. WFG also developed processes that increased production by streamlining the damage assessment processes and reviewing program policies and revising them as needed. WFG oversaw training for LBP and damage assessment services and provided top quality damage assessors. WFG has completed over 13,000 damage assessments during the program using Xactimate software.

ENVIRONMENTAL SITE ASSESSMENT, EXAMPLE 2 (PPA)

PPA has performed over 500 Phase I/II ESA projects for different types of properties in accordance with ASTM International Specification E-1527, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. PPA has also prepared remedial plans and remedial designs

and provided supervision and oversight, including site safety for Phase II ESAs and remedial action implementation. One example included three 2-story concrete buildings with 45 apartments units in three different locations in the municipalities of Ponce and Juanna Díaz, Puerto Rico. PPA investigated the historical uses of the property and evaluated the likelihood of soil, vapor phase, and groundwater contamination to be present on the property through releases from on-site activities or historic land uses. The scope of work included reviewing certain readily available federal and state environmental databases via a computerized search; researching certain available municipal and DENR records; researching available Sanborn Fire Insurance Company maps and historic city directories; reviewing available historical environmental reports; conducting a visual inspection (walk through) of the property; conducting an interview with available site contacts; providing a written report documenting these findings; and discussing the potential for adverse environmental conditions to be present at the site based on the data reviewed.

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GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

SCOPE OF SERVICES
Request for Proposals
Environmental Consulting Services
Community Development Block Grant – Disaster Recovery
Community Development Block Grant- Mitigation
Puerto Rico Department of Housing
CDBG-DRMIT-RFP-2022-16

1. Introduction and Overview

This document defines the environmental consulting services that those selected through the Request for Proposals (**RFP**) will provide to the Puerto Rico Department of Housing (**PRDOH**) in the implementation of all Community Development Block Grant -Disaster Recovery (**CDBG-DR**) and -Mitigation (**CDBG-MIT**) Programs under the Action Plans and subsequent action plans. Proposers must understand the CDBG-DR and CDBG-MIT Programs, their goals and governing regulations, including but not limited to the Federal Register Notices (**FRN**) set forth in **Table 1** below.

Table 1: Current Federal Register Notices for CDBG-DR and CDBG-MIT Programs Implementation

Federal Register Notice	Brief Description
FRN Vol. 83 No. 28 (February 9, 2018) 83 FR 5844	Sets forth the requirements for the first \$1.5 billion allocation of CDBG-DR funds assigned to Puerto Rico after the effects of Hurricanes Irma and María.
FRN Vol. 83 No. 157 (August 14, 2018) 83 FR 40314	Sets forth the requirements for the second \$8.2 billion allocation of CDBG-DR funds assigned to Puerto Rico after the effects of Hurricanes Irma and María.
FRN Vol. 84 No. 169 (August 30, 2019) 84 FR 45838	Sets forth the requirements for the use of CDBG-MIT funds allocated to grantees across the nation.
FRN Vol. 85 No. 17 (January 27, 2020) 85 FR 4676	Sets forth the requirements for the \$8.3 billion allocation of the CDBG-MIT funds assigned to Puerto Rico after the effects of Hurricanes Irma and María.
FRN Vol. 85 No. 17 (January 27, 2020) 85 FR 4681	Sets forth the requirements for the \$278 million allocation of the CDBG-DR funds assigned to Puerto Rico after the effects of Hurricanes Irma and María.
FRN Vol. 86 No. 3 (January 6, 2021) 86 FR 569	Sets forth the requirements for the \$36.4 million allocation of the CDBG-DR funds assigned to Puerto Rico after the effects of the December 28, 2019, to July 3, 2020, Earthquakes in the southwestern portion of Puerto Rico.
FRN Vol. 86 No. 117 (June 22, 2021) 86 FR 32681	Sets forth the requirements for the \$1.9 billion allocation of the CDBG-DR allocation for enhanced or improved electrical power systems in Puerto Rico. And the U.S. Virgin Islands.

Proposers must be familiar with the U.S. Department of Housing and Urban Development's (**HUD**) latest acronyms, glossary, laws, policies, guidelines, and design standards applicable to this RFP's Scope of Services. The proposer remains fully responsible for determining if the information mentioned before has been revised or updated.

Descriptions of CDBG-DR and CDBG-MIT Programs are included in the Action Plans approved by HUD. A complete copy of the Action Plans is available at www.cdbg-dr.pr.gov/action-plan.

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1.1. CDBG-DR Programs

The CDBG-DR Programs are designed to address unmet needs related to the major disaster declarations and are meant to provide long-term recovery alternatives for the territory. CDBG-DR provides housing, infrastructure, and economic development aid to communities through different programs and grants that allow prompt, resilient recovery from damages and economic burdens resulting from hurricanes Irma and María. Funded activities under CDBG-DR must meet a national objective and demonstrate a tie to the storms.

1.2. CDBG-MIT Programs

The CDBG-MIT Programs serve to address mitigation needs by improving the built environment to mitigate hazardous threats. This program aims to empower applicants and/or entities to identify risks and develop solutions to mitigate risk to infrastructure assets through innovative, eco-conscious, and self-sustaining solutions. PRDOH realizes that within the immense challenges Puerto Rico faces to recover from disastrous events, there also lie immense opportunities to institute true mitigation measures that protect the Island from future risks. With the CDBG-MIT allocation, HUD is providing Puerto Rico with a significant opportunity to implement strategic, transformative, and high-impact projects that will strengthen the Island's resilience to future disasters by reducing risks attributable to natural disasters, addressing repetitive property loss, and improving critical infrastructure.

The environmental consulting services for CDBG-DR and CDBG-MIT funded activities will include those tied to goods, construction, and non-construction services, including any required materials or associated costs and services as required by HUD. The PRDOH reserves the right to complete the environmental consulting services for some of these programs internally or have PRDOH partners, contractors and/or subrecipients complete them on behalf of CDBG-DR and CDBG-MIT.

PRDOH, through this RFP seeks to select **one (1) or more firms** to provide Environmental Consulting Services at the discretion of PRDOH and in the best interest of the CDBG-DR and CDBG-MIT Programs implementation. Contracts will be signed with an **initial performance period of three (3) years**; with up to **two (2) additional annual extensions** at PRDOH's choice; for a total maximum potential performance period of **five (5) years**. Contracts will be originally signed with an **initial not to exceed amount of \$5,000,000** per award. PRDOH will increase and extend the contracts of Selected Proposers based on performance and need for services by CDBG-DR and CDBG-MIT Programs.

The scope of services presented is based upon circumstances existing when the RFP is released. PRDOH reserves the right to modify or delete the tasks listed and, if appropriate, add additional tasks before and during the term of the contemplated contract.

NOTE:

FALSE OR MISLEADING STATEMENTS REGARDING STAFF QUALIFICATIONS OR PRIOR PROJECTS WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSER.

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2. PRDOH's Reservation of Rights

- (i) Reject any or all Proposals, waive any informality in the RFP process, or terminate the RFP process at any time if deemed in its best interests.
- (ii) Reject and not consider any Proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete Proposals and/or Proposals offering alternate or non-requested services.
- (iii) Cancel this solicitation and reissue the RFP or another version of it, if it deems that doing so is in the best interest of the Public Interest.
- (iv) PRDOH shall have no obligation to compensate any Proposer for any costs incurred in responding to this RFP.
- (v) To reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to, if:
 - a. Funding is not available.
 - b. Legal restrictions are placed upon the expenditure of monies for this category.
 - c. PRDOH's requirements in good faith change after the award of the contract.
- (vi) Make an award to more than one (i) Proposer based on ratings.
- (vii) To require additional information from all Proposers to determine responsibility levels.
- (viii) To contact any individuals, entities, or organizations that have had a business relationship with the Proposer, even though they were included in the reference section of the RFP submittal.
- (ix) In the event any resulting contract is prematurely terminated due to nonperformance and/or withdrawal by the Contractor, PRDOH reserves the right to:
 - a. seek monetary restitution (to include but not limited to withholding of monies owed or the execution of the payment and performance bond) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (difference between terminated Contractor's rate and new company's rate) beginning the date of Contractor's termination through the contract expiration date.
- (x) Amend the contract(s) of the Selected Proposer(s) to, among others, extend its original duration, as further explained in the RFP, or to extend the scale of its scope to include work under subsequent CDBG-DR, CDBG-MIT, CDBG-DR Earthquakes and CDBG-DR Electrical System Enhancements action plans as related to the services requested herein, or to reduce the scale of its scope to decrease work as a consequence of underperformance or inexcusable delays related to the services requested herein.
- (xi) To contract with one (1) or more Qualified Proposers as a result of this RFP or the cancellation of this RFP.
- (xii) To negotiate any price from the awarded proposer(s) in response to a specific order under this solicitation.

The Proposer shall be responsible for completing the activities outlined in this Scope of Services. The Selected Proposer shall assist PRDOH by providing additional resources to accomplish assignments authorized by the PRDOH.

The PRDOH reserves the right to, at any time during the ensuing contract period, and without penalty to the Selected Proposer(s) contracted as a result of this RFP, conduct additional competitive solicitations to obtain additional Title Clearance Services when, in the opinion of the Contracting Officer, it is the best interests of the PRDOH to do so.

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3. Staff Requirements, Roles and Responsibilities

Selected Proposers shall have or will secure, at their expense, all personnel required to perform the services under an Environmental Consulting Services contract. PRDOH expects the Selected Proposers to provide competent and fully qualified staff authorized or permitted under federal, state, and local law to perform the scope of services under this contract.

3.1. Staff Requirements

Selected Proposers must have staff ready to work on task assignments at the contract execution date. Selected Proposers must maintain staff available for task assignments throughout the contract term. Selected Proposers must ensure that services that require a professional license are performed by licensed professionals with the proper qualifications, skills, and experience necessary to perform such services, according to applicable federal, state, and local rules and regulations.

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3.2. Organizational Chart

Selected Proposers shall provide to PRDOH an organizational chart detailing the identity of each person (whether employed by Proposer or a subcontractor) who shall perform environmental consulting services required or work on the CDBG-DR and CDBG-MIT Programs. The organization chart shall include the required number of personnel, role and responsibilities, name of resource(s) or subcontractor(s) identified for the position, and résumé or professional information. Selected Proposers shall update the organization chart submitted at PRDOH's request.

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3.3. Contract Positions; Minimum Staff Requirements; Roles and Responsibilities

Tasks billed under the contract by hours of effort will use a combination of the contract positions set forth in **Table 2** below. Once selected for contract, Proposers must provide detailed information about the experience and qualifications of staff and staff to be assigned, including education, years of experience, licenses, certifications, and résumés or professional information at PRDOH's request for technical positions. This includes the Proposer's own staff and staff from any subcontractors to be used. Selected Proposers should demonstrate that staff meet the requirements listed below and have the necessary experience and knowledge to successfully implement and perform the tasks and services.

Contract positions identified in **Table 2** as 'Pre-Approval Required' are those considered key staff, for whom, prior to the assignment of resources to the position, Selected Proposers must obtain approval from PRDOH. All other positions may be filled by Selected Proposers with qualifying staff without pre-approval from PRDOH. PRDOH reserves the right to request the removal of any staff not performing to standard or not meeting the minimum requirements set forth in **Table 2** below.

Table 2: Environmental Consulting Services Contract Positions

Position	Qualifications	Roles and Responsibilities
Senior Environmental Specialist <i>[Pre-Approval Required]</i>	<ul style="list-style-type: none"> + Must have a bachelor's degree or higher education in engineering, environmental science, natural sciences, hydrology, geology, or similar field. + Must have at least seven (7) years of experience as an environmental specialist. + Must be fluent in Spanish or English. Bilinguals preferred. + Must be able to analyze and interpret regulations, scopes of work, and other documentation. 	<ul style="list-style-type: none"> + Lead environmental consulting services assignments; supervise support staff assigned for environmental consulting activities. + Establish direct communication and a working relationship with project stakeholders to support environmental consulting activities. + Participate in meetings with project stakeholders to support environmental consulting activities. + Conduct evaluations, office and field reviews of activities to be funded with CDBG funds to determine compliance with applicable environmental and public health laws, rules, and regulations. + Make computations and calculations to assess compliance with regulatory requirements. + Analyze and provide recommendations on environmental mitigation measures that should/must be implemented as part of the CDBG-funded activities to assure compliance with regulatory requirements. + Make presentations to federal, state, and local agencies, elected officials, special interest groups, business and industry, community organizations, and individuals on environmental review activities conducted for project assignments. + Review, analyze, and respond to comments from the public on environmental review activities conducted or being conducted. + Write reports, presentations, and correspondence.
Environmental Specialist	<ul style="list-style-type: none"> + Must have a bachelor's degree or higher education in engineering, environmental science, natural sciences, hydrology, geology or similar field. + Must have at least three (3) years of experience as an environmental specialist. 	<ul style="list-style-type: none"> + Coordinate duties and work with other environmental specialists and others to support environmental consulting activities. + Assist with evaluations, office, and field reviews of activities to be funded with CDBG funds to determine compliance with applicable environmental and public health laws, rules, and regulations. + Assist with computations and calculations to assess compliance with regulatory requirements.

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Position	Qualifications	Roles and Responsibilities
	<ul style="list-style-type: none"> + Must be fluent in Spanish or English. Bilinguals preferred. 	<ul style="list-style-type: none"> + Assist with the analysis and provision of recommendations on environmental mitigation measures that should/must be implemented as part of the CDBG-funded activities to assure compliance with regulatory requirements. + Assist with presentations to federal, state, and local agencies, elected officials, special interest groups, business and industry, community organizations, and individuals on environmental review activities conducted for project assignments. + Review, analyze, and assist with the responses to comments from the public on environmental review activities conducted or being conducted. + Assist with the writing of reports, presentations, and correspondence.
Environmental Technician	<ul style="list-style-type: none"> + Must have an associate degree or higher education in engineering, environmental science, natural sciences, hydrology, geology or similar field. + Must have at least one (1) year of experience as an environmental technician. + Must be fluent in Spanish or English. Bilinguals preferred. 	<ul style="list-style-type: none"> + Coordinate duties and work with environmental specialists, other environmental technicians, and others to support environmental consulting activities. + Assist with environmental data collection and compilation, and with environmental monitoring activities. + Inspect sites and structures to assess for environmental, health, and safety hazards. + Set-up and maintain equipment used in sample collection and testing. + Collect samples for laboratory analyses to support environmental consulting activities. + Perform scientific tests to identify and measure data necessary for environmental analyses. + Prepare reports that summarize test results.
GIS Specialist [Pre-Approval Required]	<ul style="list-style-type: none"> + Must have a bachelor's degree in science, geography, GIS, geology, computer science or other related fields. + Must have at least three (3) years of experience as a GIS Specialist. 	<ul style="list-style-type: none"> + Coordinate duties and work with environmental specialists, other environmental technicians, and others to support environmental consulting activities. + Prepare and clean data for dedicated purposes. + Analyze spatial data to support environmental consulting activities by using mapping software.

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Position	Qualifications	Roles and Responsibilities
	<ul style="list-style-type: none"> + Must be fluent in Spanish or English. Bilinguals preferred. 	<ul style="list-style-type: none"> + Discover patterns and trends through spatial mapping of data. + Design digital maps with geographic data and other data sources. + Create "shapefiles" to merge data over different sources. + Produce maps showing the spatial distribution of data. + Produce reports and geographic data using data visualization tools.
Architectural Historian <i>[Pre-Approval Required]</i>	<ul style="list-style-type: none"> + Must meet the minimum education and experience requirements for Architectural History, Architecture, or Historic Architecture in the Secretary of Interior's Professional Qualification Standards for Archeology and Historic Preservation, as they may be amended from time to time. + Must be approved by the State Historic Preservation Office (SHPO) and HUD. 	<ul style="list-style-type: none"> + Coordinate duties and work with environmental specialists and others to support environmental consulting activities. + Perform research and assess architectural preservation considerations for CDBG-funded activities. Conduct historic resources surveys, archival research, historic building assessments, architectural view-shed studies, and evaluate local and state registers for documentation. + Inspect sites and structures to assess architectural preservation considerations. + Evaluate potential architectural preservation impacts on buildings and properties of CDBG-funded activities. + Analyze and provide recommendations on environmental mitigation measures that should/must be implemented as part of the CDBG-funded activities to assure compliance with historic preservation requirements for architecture. + Supervise data collection of historic buildings. + Supervise/monitor construction work on historic properties. + Prepare reports and documentation for consultations with SHPO. Prepare historic context statements that include cultural, social, and economic elements.
Archaeologist <i>[Pre-Approval Required]</i>	<ul style="list-style-type: none"> + Must meet the minimum education and experience requirements for Archaeology in the Secretary of Interior's Professional Qualification Standards for Archeology 	<ul style="list-style-type: none"> + Coordinate duties and work with environmental specialists and others to support environmental consulting activities. + Perform research and assess archaeological preservation considerations for CDBG-funded activities.

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Position	Qualifications	Roles and Responsibilities
	<p>and Historic Preservation, as they may be amended from time to time.</p> <p>+ Must be approved by the SHPO and HUD.</p>	<p>+ Inspect sites and structures to assess archeology preservation considerations. Conduct field surveys with identification and evaluation of historical and/or precontact period sites.</p> <p>+ Perform archaeological survey and excavation and the documentation of testing results.</p> <p>+ Evaluate potential archaeological preservation impacts on buildings and properties of CDBG-funded activities.</p> <p>+ Analyze and provide recommendations on environmental mitigation measures that should/must be implemented as part of the CDBG-funded activities to assure compliance with historic preservation requirements for archaeology.</p> <p>+ Supervise data collection of historic buildings.</p> <p>+ Supervise/monitor construction work on historic properties.</p> <p>+ Prepare reports and documentation for consultations with SHPO. Prepare Cultural Resources to work in accordance with Section 106 of the National Historic Preservation Act and other relevant federal and state laws.</p>
LBP Inspector/Assessor	<p>+ Must be Risk Assessor or Lead-Based Paint Inspector certified by the U.S. Environmental Protection Agency (EPA) or the Department of Natural and Environmental Resources (DNER).</p>	<p>+ Coordinate duties and work with environmental specialists and others to support environmental consulting activities.</p> <p>+ Perform visual inspections and collect information on the physical condition and location of lead hazards.</p> <p>+ Delineating homogeneous areas, collecting samples, and packing them to be shipped to and analyzed by accredited laboratories.</p> <p>+ Follow federal and state guidelines to determine whether lead-based paint-containing materials or lead hazards are present in structure or site components, assess the physical characteristics of identified lead hazards, and estimate the degree of current or potential hazards.</p> <p>+ Evaluate reports, interpret sampling data and prepare reports on findings.</p>

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Position	Qualifications	Roles and Responsibilities
ACM Inspector/Assessor	+ Must be an Asbestos Inspector certified by the EPA or DNER.	<ul style="list-style-type: none"> + Coordinate duties and work with environmental specialists and others to support environmental consulting activities. + Perform visual inspections and collect information on the physical condition and location of suspected asbestos-containing materials + Delineating homogeneous materials, collecting samples, and packing them to be shipped to and analyzed by accredited laboratories. + Follow federal and state guidelines to determine whether asbestos containing materials are present in structure or site components, assess the physical characteristics of identified asbestos-containing materials, and estimate the degree of current or potential hazards. + Evaluate reports, interpret sampling data and prepare reports on findings.

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4. Environmental Tasks

This section describes the environmental tasks that Selected Proposers will provide in support of environmental compliance activities for CDBG-DR and CDBG-MIT Programs. Tasks will be assigned by PRDOH to Selected Proposers throughout the life of the Environmental Consulting Services contract. For each assignment under the contract, PRDOH will issue a Task Order to the Selected Proposer following the process herein described.

4.1. Task Assignments

Selected Proposers cannot perform work under the contract without PRDOH's prior assignment. Work will be assigned in accordance with the needs of the CDBG-DR and CDBG-MIT Programs. Services to be provided will be assigned under the contract by:

- a. PRDOH identifying the need for environmental consulting services in one or more of the CDBG-DR and CDBG-MIT Programs and, thereafter, notifying the Selected Proposer requesting a Work Plan.
- b. The Selected Proposer analyzing available information and documentation on the task; and preparing and submitting a Work Plan.
- c. PRDOH evaluating the Work Plan submitted by the Selected Proposer and, if necessary, undertaking negotiations or clarification meetings with the Selected Proposer in good faith and with the aim of issuing a Task Order for the task.
- d. PRDOH issuing a Task Order for the task to the Selected Proposer.

Work Plans submitted in response to PRDOH's request shall set forth, at minimum, the scope of work for the task, the staff to be assigned to the task, a schedule, the expected levels of effort by Contract Position, the expected costs, and a list of deliverables to be prepared. The Work Plan shall also identify any Environmental Specialized Services required for the task (See Section 4.6 below for details on Environmental Specialized Services).

Task Orders issued by PRDOH to the Selected Proposer shall include, at minimum, the approved Work Plan for that task, the approved budget and schedule for the task, the approved Environmental Specialized Services for the task, the billing schedules for the task's components, and any other special condition for the task agreed to by PRDOH and the Selected Proposers.

Task Orders may be amended for a justifiable reason. Selected Proposers and PRDOH will work together, and in good faith, to negotiate additional services, if any, required for the completion of assigned tasks.

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4.2. Environmental Review

Selected Proposer will be required to conduct environmental reviews for CDBG-funded activities. Environmental reviews must be performed in compliance with the requirements set forth in 24 C.F.R. 58. Environmental reviews will be required for activities conforming to various Level of Environmental Review Determinations (**LOERD**), including but not limited to Exempt Activities (**EX**), Categorical Exclusions Not Subject to §58.5 (**CENST**), Categorical Exclusions Subject to §58.5 (**CEST**), Environmental Assessments (**EA**), and Environmental Impact Statements (**EIS**). Environmental reviews may also be required for activities where environmental clearance is to be obtained through a tiered environmental review process. The review must comply with the requirements set forth in the FRNs, the National Environmental Policy Act (**NEPA**) (including implementing regulations at 40 C.F.R. 1500 and 24 C.F.R. 58), the Environmental Policy Act of Puerto Rico (Act No. 416-2004), and the Puerto Rico Permits Process Reform (Act 161-2009), along with any other federal, state, or local environmental review requirement. This will require the Selected Proposer to be able to prepare analyses for various statutory authorities, including but not limited to:

- airport hazards,
- coastal barrier resources,
- air quality,
- coastal zone management,
- flood insurance,
- endangered species,
- environmental justice,
- explosive and flammable facilities,
- farmlands protection,
- floodplain management,
- historic preservation,
- noise abatement and control,
- site contamination and toxic substances,
- sole source aquifers,
- wetlands protection,
- wild and scenic rivers,
- analysis of NEPA criteria, and
- other environmental assessment or impact factors.

In support of the environmental review and depending on the LOERD for the activities, the Selected Proposer may perform a combination of any of the subtasks below.

4.2.1. Administration and Management Tasks

The Selected Proposer will manage and administer environmental review assignments.

- Hold periodic meetings with PRDOH and the assigned project stakeholders to, amongst other things, discuss the project, the scope of work, the environmental review, and any required environmental mitigation measures to be incorporated into the scope of work.
- Provide guidance to assigned project stakeholders on allowed activities while environmental clearance for the project has not been obtained. Pay special focus to preventing choice-limiting actions by the assigned project stakeholders.
- Provide periodic reports and updates to PRDOH on the status of environmental review assignments. The frequency of reports will be agreed to by PRDOH and the Selected Proposers for each assignment. Selected Proposer must report, at minimum, on the updated status of the assignments, budget, and schedule of deliverables.
- Use HUD, PRDOH, and Program-specific forms as part of the environmental review procedures.
- Coordinate tasks with PRDOH and/or any designated staff or contractors of PRDOH. Address feedback and comments from PRDOH and designated personnel in the environmental review activities.
- Any other task required for the proper administration and management of the environmental reviews assigned by PRDOH.

4.2.2. Pre-Environmental Analysis and Level of Environmental Review Determination

When required by PRDOH the Selected Proposer shall perform an analysis of the scope of work and key environmental factors of a proposed project to make a **LOERD** and determine the expected levels of effort for the project's environmental review.

- Work with Project stakeholders to define the required level of detail for the Scope of Services to support the environmental review.
- Analyze the proposed activities of project assignments, including the scope of work's definition. The review shall ensure that the scope of work includes a clear and concise description of the project and all its related activities, such as acquisition, design, demolition, construction, relocation, etc.
- Review any technical reports or surveys available for the project at the time of assignment. This may include **ASTM** Phase I and Phase II Environmental Site Assessments, Biological Assessments, Noise Assessments, Wetland Delineation Reports, Section 106 Cultural Resources Investigation Reports, Endangered Species, U.S. Army Corp of Engineer Permits (**USACE**), Asbestos and Lead Hazards Assessments, Mold Assessments, Archeological Studies, Architectural Reviews, and others.

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- If required for the activity's **LOERD**, perform a desktop review of the project, and identify important environmental factors such as floodplain, wetland, coastal, and historical zone determinations; amongst other pertinent environmental factors for the project site that can be obtained through publicly available data or spatial analysis of the site boundaries.
- Combine the scope of work and the environmental factors of the project site and make a Level of Environmental Review Determination (**LOERD**) for the Project.
- Any other task required by PRDOH as part of the Pre-Environmental Analysis and LOERD process.

4.2.3. Environmental Review Record

Selected Proposer shall prepare an Environmental Review Record (**ERR**) for each environmental review assignment by PRDOH. The ERR's analysis must include both how the proposed activities can affect the environment and how the environment can affect the project, site, and end users.

- Conduct the environmental review of the project assignment in accordance with the required level of clearance.
- Identify the need for and conduct site visits and inspections of the project site to document the conditions and other environmental factors.
- Identify the need for and conduct Environmental Specialized Services to support of the overall environmental review record (See Section 4.6 below for details on Environmental Specialized Services).
- Identify the need for and prepare documentation for project consultations with Regulatory Agencies such as the **SHPO, DNER, USACE, EPA**, etc. (See Section 4.5 below for details on Agency Consultations).
- Prepare documentation to support the environmental review, the findings of the review, and environmental clearance as described in 24 C.F.R. 58.
- Prepare the environmental review checklists and the **ERR** for the activities.
- Any other task required by PRDOH as part of the Environmental Review Record.

4.2.4. Finding of No Significant Impact

(Required for **EA LOERDs**)

24 C.F.R. 58 requires that for EA LOERDs, in addition to publishing a NOI-RROF, a Finding of No Significant Impact (**FONSI**) also be published. The Selected Proposer shall assist PRDOH with the FONSI process.

- Prepare drafts and supporting documentation for the FONSI to be published by PRDOH under an EA LOERD.
- Monitor feedback from the public during the regulatory comment period; prepare responses to public comments and incorporate public feedback as part of the ERR and the FONSI.
- Prepare drafts and supporting documentation for the RROF to be sent to HUD for consideration.

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- Any other task required for the FONSI process.

4.2.5. Environmental Impact Statements

(Required for **EIS LOERDs**)

24 C.F.R. 58 establishes that whenever it becomes evident that an activity will have significant impacts on the environment, an Environmental Impact Statement (**EIS**) should be pursued. The Selected Proposer shall assist PRDOH with the preparation of EISs for CDBG-funded projects.

- Prepare drafts and documentation for publication of a Notice of Intent of Environmental Impact Statement (**NOI-EIS**) to inform the public of the upcoming environmental analysis and how the public can become involved in the EIS preparation.
- Prepare notices and presentation materials for public scoping and public comment meetings on the EIS. Coordinate and participate in public meetings related to the EIS. This includes, but is not limited to, arranging meeting places, preparing notices/announcements for the appropriate media (local newspaper, radio stations, etc.), and preparing reports summarizing the results of meetings.
- Prepare and maintain a mailing list of agencies, officials, community and environmental groups, concerned citizens, affected property owners and known interested parties. Keep contacts on the mailing list informed throughout the EIS process.
- Prepare the scope for the EIS taking into consideration the project's scope of work, the proposed sites and their environmental characteristics, feedback from the public and Regulatory Agencies, NEPA requirements, and other applicable federal, state, and local laws, rules, and regulations.
- Actively participate in the identification of potential alternatives to the proposed project that can meet the project's goals and objectives within the requirements of NEPA, including the reduction of potentially significant effects associated with the project. Assess the proposed alternatives. Descriptions of Proposed Project and Alternatives should include, as applicable, **(i)** Purpose and Need for Action, **(ii)** Approvals to be Sought Through Use of the EIS, **(iii)** General Operation and Maintenance, **(iv)** Ancillary Facilities, **(v)** General Design and Parameters, **(vi)** Construction Methods, **(vii)** Construction Schedule and Work Force, **(viii)** Operation and Maintenance Procedures, **(ix)** Abandonment Procedures, **(x)** Interrelationships with Other Planned Projects and Non-jurisdictional Facilities, and **(xi)** Project Alternatives (including No Action).
- Identify the need for and conduct site visits and inspections of the project site to document the conditions and other environmental factors.
- Identify the need for and conduct Environmental Specialized Services in support of the overall environmental review record (See Section 4.6 below for details on Environmental Specialized Services). Conduct studies and investigations to characterize the existing environmental conditions and issues identified during

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scoping; assess the significance of the potential environmental effects of the project; identify potential sites, routes, and facility location alternatives (both locally and regionally); and to determine the required mitigation measures to avoid or reduce impacts to acceptable levels for the environmental review and NEPA factors being considered. Studies and investigations shall consider both direct and indirect effects of the project's construction, operation and maintenance, upset conditions, and abandonment of all proposed and alternative project facilities. Special expertise may be required for areas of non-routine environmental sensitivity (such as marine environments). Any special expertise required will be considered an Environmental Specialized Service (See Section 4.6 below for details on Environmental Specialized Services).

- Identify the need for and prepare documentation for project consultations with Regulatory Agencies such as the SHPO, DNER, USACE, EPA, etc. (See Section 4.5 below for details on Agency Consultations). Prepare summaries of Regulatory Agency scoping comments/issues for subsequent review and concurrence.
- Perform analyses on the environmental factors and the impacts of the project. Consider how the project affects the environment and how the environment affects the project.
- Prepare documentation to support the environmental review, the findings of the review, and environmental clearance as described in 24 C.F.R. 58.
- Prepare drafts of the EIS for public review and comment. The EIS shall include, at minimum, the following sections: **(i)** Cover Sheet, **(ii)** Executive Summary, **(iii)** Introduction, **(iv)** Description of Proposed Project and Alternatives, **(v)** Affected Environment, **(vi)** Environmental Consequences, **(vii)** Comparison of Alternatives, **(viii)** Conclusions, **(ix)** Agencies and Sources Consulted, **(x)** List of Prepares and Contributors, **(xi)** References, **(xii)** EIS Distribution List, and **(xiii)** Appendices and Technical Reports.
- Monitor feedback from the public during the regulatory comment periods; prepare responses to public comments; incorporate public feedback as part of the EIS and perform further analyses of the activities and their impacts on the environment as required.
- Prepare the Final EIS, including responses to substantive comments received during the regulatory comment periods. Monitor public feedback during the regulatory 30-day "wait period" before issuing a Record of Decision (**ROD**).
- Prepare drafts and supporting documentation for the ROD to be published by PRDOH under an EIS LOERD. The ROD must explain the applicable Agency's decision, describe the alternatives the applicable Agency's considered, and discuss the plans for mitigation and monitoring, if necessary.
- Any other task required for the EIS process.

4.2.6. Request for Release of Funds and Authorization for the Use of Grant Funds (Required for **CEST**, **EA**, and **EIS LOERDs**)

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24 C.F.R. 58 requires that certain LOERDs be published for public comment through a Notice of Intent to Request a Release of Funds (**NOI-RROF**). For EA and EIS LOERDs this public comment period may be done in parallel with the FONSI's publication and Final EIS's "wait period", respectively. The Selected Proposer shall assist the PRDOH with the Request for Release Funds (**RROF**) process.

- Prepare drafts and supporting documentation for the NOI-RROF to be published by PRDOH.
- Monitor feedback from the public during the regulatory comment period; prepare responses to public comments and incorporate public feedback as part of the ERR.
- Prepare drafts and supporting documentation, including responses to public comments, for the RROF to be sent for HUD's consideration.
- Monitor feedback from HUD during the regulatory 15-day review period for the Authorization for the Use of Grant Funds (**AUGF**). Provide responses and additional documentation, as required, to respond to questions or address feedback from HUD on the ERR.
- Distribute, once available, the AUGF for the project issued by HUD amongst the project stakeholders and the public, as applicable.
- Any other task required for the NOI-RROF process.

4.3. Environmental Reevaluations

(Whenever the scope of activities under a completed environmental review changes)

ERRs are living documents and may need to be updated even after the environmental review has been completed. Reevaluations can be triggered to record mitigation measures, reevaluate the project, or add another source of funding. The Selected Proposer will assist PRDOH with the evaluation of the need for reevaluations of completed ERRs when requested.

- Evaluate the proposed changes and current circumstances of the project. Work with project stakeholders to clarify any doubts and obtain any additional information required for the analysis.
- Make a determination, in conjunction with PRDOH, for reevaluation or no reevaluation.
- If reevaluation is required, perform a reevaluation of the ERR (See Section 4.2. above for details on Environmental Reviews). If no reevaluation is required, document the review performed and the reasons for the determination in the ERR.
- Any other task required for the Environmental Reevaluation process.

4.4. 8-Step Decision-Making Process

(For Projects in Floodplain or New Construction in Wetland)

24 C.F.R. 55.20 requires the undertaking of an 8-Step Decision Making Process (**8-Step Process**) whenever a proposed action is located in the 100-year floodplain (500-year floodplain for critical actions) or will result in new construction in a wetland. The steps of the process are **(1)** Determination of Need for an 8-Step Process, **(2)** Notification to the Public and Floodplain Management and Wetland Protection Agencies of the 8-Step Process, **(3)** Identification of

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Alternatives to Locating the Proposed Actions in the Floodplain or Wetland, **(4)** Evaluation of Potential Impacts Associated with Occupancy or Modification of the Floodplain or Wetland, **(5)** Design or Modification of the Proposed Action to Minimize Potential Adverse Impacts to the Floodplain or Wetland, **(6)** Reevaluation of the Proposed Action, **(7)** Publication of a Final Notice, and **(8)** Implementation of the Proposed Action. The Selected Proposer will assist the PRDOH with 8-Step Processes whenever required.

- Make determinations, in consultation with PRDOH, for the need to perform an 8-Step Process for assigned projects.
- Prepare drafts and documentation for the initial notifications to the public and the Agencies involved with floodplain management and wetlands protection.
- Actively participate in the identification of, and evaluate alternatives to locating the proposed actions in the floodplain or wetland. Prepare documentation on the alternatives.
- Identify and evaluate direct and indirect impacts associated of occupancy or modification of the floodplain or wetland, as well as any direct or indirect support of floodplain or wetland development of the proposed activity. Prepare documentation on the impacts and potential support of floodplain or wetland development.
- Actively participate and provide feedback to project stakeholders for the design or modification of the proposed activity to minimize the project's potential adverse impacts on the floodplain or wetland. Prepare documentation on the recommendations and their incorporation into the project.
- Evaluate the proposed action and its alternatives together and participate in the final decision-making process regarding the project. Prepare documentation on the final determination.
- Prepare drafts and documentation for the Final Notice for the decision.
- Monitor feedback and comments from the public and Agencies throughout the 8-Step Process; provide responses to and take into consideration in analyzes the feedback and comments received.
- Monitor the implementation of the project to ensure that environmental mitigation measures for the floodplain or wetland are implemented.
- Any other task required for the 8-Step Process.

4.5. Agency Consultations

(As Required for the Activities Being Reviewed)

Proper assessment of statutory requirements may require consultation with concerned agencies (**Regulatory Agencies**). These include the State Historic Preservation Office (**SHPO**), the Institute of Puerto Rican Culture (**ICP** for its Spanish Acronym), the Department of Natural and Environmental Resources (**DNER**), the U.S. Army Corp of Engineers (**USACE**), the U.S. Fish and Wildlife Protection Agency (**USFWP**), the Environmental Protection Agency (**EPA**), and many other federal, state, and local agencies. Regulatory Agencies to be consulted as part of environmental reviews will largely depend on the nature of the activities being conducted and the rules and regulations of each independent agency. The Selected Proposer will assist

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PRDOH with Agency Consultations required to achieve environmental clearance of assigned projects. Typically, Agency Consultations are to be formally submitted by PRDOH to the applicable Regulatory Agency. PRDOH may delegate this responsibility to others.

- Assess proposed actions of assigned projects against statutory requirements and Regulatory Agency-specific requirements to determine the need for Regulatory Agency Consultations.
- Prepare drafts and documentation for the consultation of the project with the required Regulatory Agencies.
- Monitor feedback from the Regulatory Agency on the proposed actions; provide responses to comments and feedback from Regulatory Agencies as needed.
- Incorporate feedback from the Regulatory Agency into the project's ERR.
- Perform any additional studies, surveys, or analyses required by the Regulatory Agency in support of obtaining environmental clearance (See Section 3.6 below for details on Environmental Specialized Services).
- Include documentation on the Regulatory Agency's consultation process and the final decision on the project's ERR.
- Any other task required for an Agency Consultation Process.

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4.6. Environmental Specialized Services

(As Required for the Activities Being Reviewed)

In addition to traditional environmental review services included in this Scope of Work, some projects may require additional services, surveys, studies, and tests for the Selected Proposer to deliver a complete and thorough ERR. These are considered Environmental Specialized Services by the PRDOH. For such services, the contract will include an allowance.

Whenever Environmental Specialized Services are required, the Selected Proposer shall develop an Environmental Specialized Service Work Plan, including a justification of the need for the service, the scope of work, the credentials of the staff to perform the services, a schedule, the costs, and a list of deliverables to be prepared. The Environmental Specialized Services Work Plan shall be submitted by the Selected Proposer to the PRDOH through a Request for Approval (**RFA**) for approval prior to the Selected Proposer performing the services. PRDOH will evaluate each Environmental Specialized Services for need and cost reasonableness and, if determined to be of need and in the best interest of the ERR, approve the performance of the services by the Selected Proposer. No Environmental Specialized Services shall be performed by the Selected Proposer without the written approval of PRDOH.

If the cost of any Environmental Specialized Services is more than \$10,000 (the micro-purchase procurement threshold), then the Selected Proposer shall submit to PRDOH at least three (3) economic proposals for the Environmental Specialized Services. These three (3) economic proposals must be from different Subcontractors for the performance of the Environmental Specialized Services. One of the economic proposals may consider the performance of the Environmental Specialized Services with the Selected Proposer's own staff if the Selected Proposer has the internal capacity to perform them.

Environmental Specialized Services include, but are not limited to:

- **Land Surveys** (boundary surveys, ALTA surveys, topographic surveys, location surveys, mortgage surveys, subdivision surveys, new construction surveys, etc.)
- **Hazardous Material Studies** (lead-containing materials, asbestos-containing materials, etc.)
- **Geotechnical Studies** (drilling works, soil sampling and investigations, rotary core drilling and rock sampling, standard penetration tests, field vane shear tests, cone penetration tests, etc.)
- **Hydrological Studies** (catchment analysis, catchment flows, rainfall analysis, hydrogeology, overland flow/runoff assessment, watercourse hydraulics, flood risk assessment, drainage impact statement, etc.)
- **Environmental Studies** (wetland evaluations and delineations, historical and archeological studies, surveys, and monitoring, phase II environmental site assessments, etc.)

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All Environmental Specialized Services shall be prepared in compliance with applicable federal, state, and local codes, regulations, and laws and, whenever applicable, shall be prepared and certified by competent professionals with the proper authorization to perform the work.

4.7. Environmental Review Record Adoption Process

(When an Environmental Review Record is Completed with Another Lead Agency)

An Environmental Review Record Adoption Process (**ERR-AP**) is the PRDOH's adoption of an ERR completed with a federal agency other than HUD as the lead agency. Even though an Entity may have completed an environmental review record with another federal agency, there may be 24 C.F.R. 58 specific requirements that were not considered as part of the ERR prepared with the other federal agency. Therefore, under an ERR-AP the environmental review activities for CDBG funds will focus on any gaps between the environmental review record prepared by the Entity with another federal agency and the authorities required to be reviewed under 24 C.F.R. 58. ERR-APs are typically considered for CEST, EA, and EIS LOERDs only. The Selected Proposer will assist PRDOH with ERR-APs.

In general terms, the ERR-AP consists of:

- a) If the environmental review with the other federal agency is not yet complete and, if required by PRDOH, provide guidance and support towards the other federal agency's review, taking into consideration any 24 C.F.R. 58 specific requirements.
- b) Once the ERR with the other federal agency is available, perform an in-depth review of it against the statutory review requirements in 24 C.F.R. 58 and document the compliance of each authority as well as the gaps.
- c) If any gaps are identified, proceed to perform surveys, studies, and analyses of such gaps, as required, and add the results to the existing ERR for it to comply with 24 C.F.R. 58.

- d) Once an ERR in compliance with 24 C.F.R. 58 is completed, proceed with the RROF and AUGF Process for the ERR.

The Selected Proposer shall prepare 24 C.F.R. 58 compliance ERRs (See Section 4.2. above for details on Environmental Reviews), perform Environmental Specialized Services (See Section 4.6 above for details on Environmental Specialized Services) as required, perform Agency Consultations (See Section 4.6 above for details on Agency Consultations) as required, and perform Request for Release of Funds (See Section 3.2.6. above for details on Request for Release of Funds process) processes for ERR-APs assigned by PRDOH.

4.8. Environmental Monitoring and Control

ERRs may require environmental mitigation measures to be implemented as part of projects to reduce impacts on the environment. Implementation of these measures is a condition for environmental clearance. Therefore, even after a project's ERR is completed and environmental clearance is obtained, there may be a need for compliance monitoring activities. This need may last until the project is finished or the implementation of all environmental mitigation measures identified in the ERR has been confirmed and documented. Selected Proposers will assist PRDOH with monitoring the implementation of environmental mitigation measures for projects.

When these services are required by PRDOH the Selected Proposer will submit a Monitoring and Control Plan that sets forth the proposed plan to ensure that all statutory requirements are being followed throughout the project's implementation, avoiding damage to the environment and implementing compliant environmental management plans. PRDOH will review, negotiate, and approve the Monitoring and Control Plans of Selected Proposers.

Monitoring and Control Plans must include, at minimum, the list of environmental mitigation measures to be monitored, the criteria that will indicate whether or not the environmental mitigation measures are suitable and implemented effectively the monitoring frequency, and the responsible parties during the monitoring and control activities. The Monitoring and Control Plan shall consider monitoring the pre-construction phase, the construction phase, and the closeout phase of the project.

- Monitor that environmental mitigation strategies are properly considered and being incorporated into the design during the pre-construction phase.
- Perform periodic monitoring visits to the project site to corroborate work being performed and the implementation of environmental mitigation measures.
- Obtain updates on the project's implementation and evaluate any deviations from the ERR prepared for the project. If any deviations merit a reevaluation of the ERR, proceed to immediately inform all parties (See Section 4.3. above for details on Environmental Reevaluations).
- Review closeout documents for the project and ensure that all required documentation on the implementation of environmental mitigation measures are included in the ERR's file.

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- Perform in-depth monitoring activities when required. Examples may include the archeological monitoring of excavations. If in-depth monitoring activities are required, these may be approved through an Environment Specialized Service (See Section 4.6 above for details on Environmental Specialized Services).
- Whenever non-compliant work is identified, prepare and issue a Non-Compliance Notice and follow up to ensure that proper corrective actions are implemented to ensure environmental compliance.
- Any other task required for the monitoring and controlling of the implementation of environmental mitigation measures required under a completed ERR.

5. Deliverables

Deliverables for the environmental consulting services will vary for each project assignment. The deliverables and schedule for each assignment, will be established by PRDOH in Task Orders issued to the Selected Proposer.

- **Work Plans:** Refers to the plans to be submitted by the Selected Proposer to PRDOH when the need for environmental consulting services is identified. It sets forth how the Selected Proposer will undertake the necessary environmental tasks, their projected costs, and their schedule. Selected Proposer must submit Work Plans to PRDOH within ten (10) calendar days of PRDOH's request.
- **Environmental Review Records:** Refers to the set of documents, studies, surveys, tests, analyses, forms, and other supporting documentation that sets forth the environmental impacts and the environmental mitigation measures for the project. It sets forth the project's compliance with the requirements under 24 C.F.R. 58. The delivery schedule for ERRs will be agreed to between the PRDOH and the Proposer and established in Task Orders.
- **Findings of No Significant Impact:** Refers to the document that sets forth the results of an EA LOERD where no environmental impacts were identified as part of the environmental review process. The delivery schedule for Findings of No Significant Impact will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **Environmental Impact Statements:** Refers to the document that sets forth the impacts and the environmental mitigation measures to be implemented as part of the project under an EIS LOERD. The delivery schedule for Environmental Impact Statements will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **Notice of Intent to Request a Release of Funds Documentation:** Refers to the document that will be published by PRDOH under a CEST, EA, or EIS LOERD to notify the intent to request a release of funds. The delivery schedule for the Notice of Intent to Request a Release of Funds will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **Request for Release of Funds Documentations:** Refers to the document that will be sent by PRDOH to HUD under a CEST, EA, or EIS LOERD to request the issuance of the Authorization for the Use of Grant Funds. The delivery schedule for the Request for

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Release of Funds will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.

- **Environmental Reevaluation Determinations:** Refers to the document that sets forth the evaluation of changes to scope or other factors that may trigger a reevaluation of the ERR for the project. The delivery schedule for Environmental Reevaluation Determinations will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **8-Step Decision-Making Process Documentation:** Refers to notices, reports, and other documentation to be produced for compliance with the 8-Step Decision-Making Process in 24 C.F.R. 55.20. The delivery schedule for 8-Step Decision-Making Process Documentation will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **Agency Consultations Deliverables:** Refers to research, analyses, forms, and documentation required to undertake consultations with Regulatory Agencies for environmental clearance. The delivery schedule for Agency Consultation Deliverables will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **Environmental Specialized Services Work Plan:** Refers to the plans to be submitted by the Selected Proposer to PRDOH when the need for Environmental Specialized Services are identified. It sets forth how the Selected Proposer will undertake the necessary Environmental Specialized Service, their projected costs, and their schedule. Selected Proposer must submit Environmental Specialized Service Work Plans to PRDOH within ten (10) calendar days of PRDOH's request or the Selected Proposer's identification of the need for the service.
- **Environmental Specialized Services Deliverables:** Refers to analyses and reports that result from an Environmental Specialized Service required by the Selected Proposer. The deliverables will vary based on the Environmental Specialized Service required. The delivery schedule for Environmental Specialized Services Deliverables will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
- **Environmental Monitoring and Control Plans:** Refers to the plans to be submitted by the Selected Proposer to PRDOH when the need for environmental monitoring and control services is identified. It sets forth how the Selected Proposer will undertake the necessary monitoring and control activities. Selected Proposer must submit Monitoring and Control Plans to PRDOH within ten (10) calendar days of PRDOH's request
- **Environmental Monitoring and Control Reports:** Refers to periodic reports prepared by the Selected Proposer where compliance with requirements for ERRs prepared for the projects is assessed. The delivery schedule for Environmental Monitoring and Control Reports will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.

END OF SCOPE OF SERVICES

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COMPENSATION SCHEDULE
Environmental Consulting Services
Request for Proposals No. CDBG-DRMIT-RFP-2022-16

The following section contains cost information that considers the quantity of resources and rate per hour provided by the proposers for Environmental Consulting Services in compliance with the Request for Proposals (RFP) CDBG-DRMIT-RFP-2022-16.

SWCA, Inc. for the total amount of **\$5,000,000.00**

Position Key Staff	Estimated Qty. of Resources	Maximum Rate per Hour
Senior Environmental Specialist	1	\$182.00
GIS Specialist	1	\$125.00
Architectural Historian	1	\$127.00
Archeologist	1	\$138.00
Technical Staff Positions		
Environmental Specialist	1	\$98.00
Environmental Technician	1	\$72.00
LBP Inspector/Assessor	1	\$115.00
ACM Inspector/Assessor	1	\$115.00

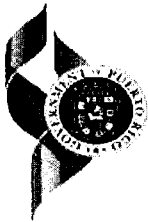
The Cost Form notes will apply to the distribution mentioned above

- 1) **Estimated Qty. of Resources** represents the estimated quantity of personnel to be employed for each position. It should not be interpreted as a cap on the allowed quantity of staff.
- 2) **Rate Per Hour** includes overhead, profit, royalties, reimbursements, travel, fringe benefits, taxes, as well as any other additional fees and administrative costs applicable to the services.
- 3) PRDOH reserves the right to award to one (1) or more Proposers.
- 4) Services contracted through this RFP will be available in a tiered manner, as per the funding allocation from HUD. Additional services may be contracted or added through amendments, as funds become available.

END OF COMPENSATION SCHEDULE

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GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

PERFORMANCE REQUIREMENTS

Request for Proposals

Environmental Consulting Services

Community Development Block Grant – Disaster Recovery

Community Development Block Grant – Mitigation

Puerto Rico Department of Housing

CDBG-DRMIT-RFP-2022-16

INTRODUCTION

This document represents performance metrics and requirements for Environmental Consulting Services. The Contractor shall adhere to the requirements of this document. The Contractor shall develop workplans, schedules, reports, and/or any other document as may be requested by PRDOH or its representative in connection with the metrics and requirements set forth herein. The Contractor shall submit any of such documents for review and approval as requested by the PRDOH within the specified time frame provided for such request. PRDOH reserves the right to request any information as part of the Grantee's responsibilities. The Contractor is responsible for compliance with all aspects of the Scope of Services that will be included as an Attachment of the Contract.

The requirements and metrics included in these Performance Requirements may be modified, including the addition of new requirements based on the Program's development and implementation, at the discretion of PRDOH for the Program's Benefit.

LIQUIDATED DAMAGES & PENALTIES

The Contractor shall pay to PRDOH, as liquidated damages, **one hundred dollars (\$100.00)** for each calendar day that a required deliverable is late until deemed in compliance, subject to a maximum of **one thousand dollars (\$1,000.00)** to be established per deliverable. Said sums, in view of the difficulty of accurately ascertaining the loss which PRDOH will suffer by reason of delay in the completion of works requested, are hereby fixed and agreed as the liquidated damages that PRDOH will suffer by reason of such delay. Liquidated damages received are not intended to be nor shall they be treated as either a partial or full waiver or discharge of the PRDOH's right to indemnification, or the Contractor's obligation to indemnify the PRDOH, or to any other remedy provided for as a provision of the contract or law. Liquidated damages may be assessed at the sole discretion of PRDOH. For the purpose of applying and calculating such liquidated damages, a grace period of **ten (10)** days shall be observed, and the schedule may be extended by any additional time or delays outside the control of the Contractor caused by act or omission of the PRDOH, HUD, or any of their representatives. The PRDOH may deduct and retain out of the monies which may become due to the Contractor, the amount of any such liquidated damages; and in case the amount which may become due is less than the amount of liquidated damages due to the PRDOH, the Contractor shall be liable to pay the difference.

PERFORMANCE METRICS

DELIVERABLES		
DELIVERABLE	DESCRIPTION	TIMEFRAME
Workplans	Plans to be submitted when the need for environmental consulting services is identified. Refer to Section 4.1 Task: Task Assignments	Within ten (10) calendar days of PRDOH's request
Environmental Review Records (ERR)	Set of documents, studies, surveys, tests, analyses, forms, and other supporting documentation that sets forth the environmental impacts and the environmental mitigation measures for the project. It sets forth the project's compliance with the requirements under 24 C.F.R. 58. Refer to Section 4.2 Task: Environmental Review	The delivery schedule will be agreed to between the PRDOH and the Proposer and established in Task Orders.
Findings of No Significant Impact	Document that sets forth the results of an EA LOERD [Environmental Assessment (EA)-Level of Environmental Review Determination (LOERD)], where no environmental impacts were identified as part of the environmental review process. Refer to Section 4.2.4 Task: Finding of No Significant Impact	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
Environmental Impact Statements (EIS)	Document that sets forth the impacts and the environmental mitigation measures to be implemented as part of the project under an EIS LOERD. Refer to Section 4.2.5 Task: Environmental Impact Statements	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
Notice of Intent to Request a Release if Funds Documentation	The document that will be published by PRDOH under a CEST, EA, or EIS LOERD to notify the intent to request a release of funds. Refer to Section 4.2.6 Task: Request for Release of Funds and Authorization for the Use of Grant Funds	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
Request for Release of Funds Documentation	The document that will be sent by PRDOH to HUD under a CEST, EA, or EIS LOERD to request the issuance of the Authorization for the Use of Grant Funds. Refer to Section 4.2.6 Task: Request for	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.

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DELIVERABLES		
DELIVERABLE	DESCRIPTION	TIMEFRAME
	<i>Release of Funds and Authorization for the Use of Grant Funds</i>	
Environmental Reevaluation Determinations	The document that sets forth the evaluation of changes to scope or other factors that may trigger a reevaluation of the ERR for the project. <i>Refer to Section 4.3 Task: Environmental Reevaluations</i>	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
8-Step Decision-Making Process Documentation	Notices, reports, and other documentation to be produced for compliance with the 8-Step Decision-Making Process in 24 C.F.R. 55.20. <i>Refer to Section 4.4 Task: 8-Step Decision-Making Process</i>	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
Agency Consultations Deliverables	Research, analyses, forms, and documentation required to undertake consultations with Regulatory Agencies for environmental clearance. <i>Refer to Section 4.5 Task: Agency Consultations</i>	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
Environmental Specialized Services Work Plans	Plans to be submitted by the Selected Proposer to PRDOH when the need for Environmental Specialized Services are identified. It sets forth how the Selected Proposer will undertake the necessary Environmental Specialized Service, their projected costs, and their schedule. <i>Refer to Section 4.6 Task: Environmental Specialized Services</i>	Within ten (10) calendar days of PRDOH's request
Environmental Specialized Services Deliverables	Analyses and reports that result from an Environmental Specialized Service required by the Selected Proposer. The deliverables will vary based on the Environmental Specialized Service required. <i>Refer to Section 4.6 Task: Environmental Specialized Services</i>	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.
Environmental Monitoring and Control Plans	Plans to be submitted by the Selected Proposer to PRDOH when the need for environmental monitoring and control services is identified. It sets forth how the Selected Proposer will undertake the necessary monitoring and control	Within ten (10) calendar days of PRDOH's request

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DELIVERABLES		
DELIVERABLE	DESCRIPTION	TIMEFRAME
	activities. <i>Refer to Section 4.8 Task: Environmental Monitoring and Control</i>	
Environmental Monitoring and Control Reports	Periodic reports prepared by the Selected Proposer where compliance with requirements for ERRs prepared for the projects is assessed. <i>Refer to Section 4.8 Task: Environmental Monitoring and Control</i>	The delivery schedule will be agreed to between the PRDOH and the Selected Proposer and established in Task Orders.

- End of Document -

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**Insurance Requirements
Request for Proposals
Environmental Consulting Services
Community Development Block Grant – Disaster Recovery
Community Development Block Grant – Mitigation
Puerto Rico Department of Housing
Contract Division**

**SPECIAL INSURANCE AND BONDING SPECIFICATIONS
FOR PROFESSIONAL SERVICES**

- A.** The successful proposer before commencing work or receiving a written notice to proceed with, or being allowed to start to work, must submit to the ***Puerto Rico Department of Housing (*PRDOH)***, the hereafter mentioned insurance policies and/or bonds, thus including all endorsements and agreements required under the special contractual conditions as per the following:

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1. (X) State Insurance Fund Workmen's Compensation Insurance Policy

In accordance with the Workmen's Compensation Act No. 45, to facilitate its acquisition, the ****PRDOH*** shall provide a letter to the successful proposer addressed to the State Insurance Fund.

2. (X) Commercial General Liability (Broad Form) including the following insurance coverage

COVERAGE	LIMIT
I. Commercial General Liability:	
• Each Occurrence	\$2,000,000
• General Aggregate	\$2,000,000
• Products & Complete Operations	\$2,000,000
• Personal Injury & Advertising	\$2,000,000
• Fire Damage	\$100,000 (Any one Fire)
• Medical Expense	\$10,000 (Any one person)
II. Employer's Liability Stop Gap:	
• Bodily Injury by Accident Each Employee	\$1,000,000

COVERAGE	LIMIT
Each Accident	\$1,000,000
• Bodily Injury by Disease Each Employee	\$1,000,000
Each Accident	\$1,000,000

2. (X) Commercial Automobile Liability Form including the following insurance coverages

LIMIT
• Auto Liability - \$1,000,000
• Physical Damages - \$1,000,000
• Medical Payments - \$ 10,000
The Commercial Auto cover must be applied to the following symbols:
• Liability Coverage -1
• Physical Damages – 2 and 8
• Hired – Borrowed Auto – 8
• Non-Owned Auto Liability – 9

3. (X) Umbrella

Limit - \$10,000,000

4. (X) Contractor's Pollution

Limit - \$1,000,000

5. (X) Professional Liability

(X) A. Risk, interest, location and limits

(X) A.1 Description of work to be done

(X) A.2 Limit:

(X) each occurrence \$ 1,000,000

(X) Aggregate \$ 2,000,000

(X) Deductible \$ 5,000

(X) A.3 Certification that the insurance contract has been given as surplus lines coverage under the Commonwealth Insurance Code, when applicable.

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6. The policies to be obtained must contain the following endorsements including as additional insured the **Puerto Rico Department of Housing (*PRDOH)**, **U.S. Department of Housing and Urban Development (HUD)**, and the **Government of Puerto Rico**.

- (X) a. Breach of warranty
- (X) b. Waiver and / or Release of Subrogation
- (X) c. Additional Insured Clause
- (X) d. Hold Harmless Agreement
- (X) e. 30 Days Cancellation Clause

7. The insurance carrier or carriers, which will present said certificates of insurance, must have at least a B+ Rating according to the Best Rating Guide.

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D. IMPORTANT NOTICE TO INSURANCE AND SURETY COMPANIES AND THEIR REPRESENTATIVES

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All insurance companies and all guarantors who issue policies or bonds under our special contractual conditions are subject to:

1. Be authorized to do business within the Commonwealth of Puerto Rico and have the corresponding license issued by the Commissioner of Insurance.
2. To be enjoying a good economic situation and to be classified under the Category of B+ Rating according to the "Best Rating Guide".
3. Submit to the ***PRDOH** a written certification as evidence of full payment of premiums by the Contractor. Mention each risk coverage premium separately.
4. Avoid sub-contractual obligations of premium financing or any other kind, which may be detrimental to the public interest.
5. Avoid any request for cancellation by the contractor prior to the expiration date of the policy, without the consent of the Contract Division of the ***PRDOH**: Discuss any refund of unearned premium.
6. Follow all Federal Bail and Acceptance Insurance Regulations, when applicable.

7. Indicate in the appropriate place of all insurance policies and/or bonds, the full description of the project, work or service to be rendered.
8. Not to make any amendments to insurance policies and bonds issued under the special conditions mentioned above, unless approved by the Insurance Section of the ***PRDOH**.
9. To ensure that all insurance policies or bonds are issued to comply with all of our special insurance conditions with respect to the period of coverage, type of risk coverage, as well as all limits, as specified, and also to eliminate those exclusions in accordance with our request.
10. Clarify any questions regarding insurance requirements by any means of communication with the Insurance Section of the ***PRDOH** under the Secretary for Legal Affairs.

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E. EVIDENCE OF INSURANCE COVERAGE OF EACH SUBCONTRACTOR TO BE SUBMITTED BY THE SUCCESSFUL PROPOSER AS THE PRIME CONTRACTOR:

The successful proposer, as the prime contractor, has the duty to require each of the subcontractors or subcontractors to maintain in force all insurance policies and/or bonds necessary to cover their individual participation in the risk or risks related to the subcontracted work or service to be rendered.

Therefore, we emphasize that prior to commencing work or receiving written notice to proceed with such work or being authorized to commence work, the successful prime contractor has the responsibility to provide the ***PRDOH** with evidence to the effect that all insurance and/or bonds required under the special conditions or required under the sub-contract to each of the sub-contractors or sub-sub-contractors are current and duly approved by the Contract Division of the ***PRDOH**.

All insurance policies shall remain in effect for the entire contractual period, so that with any order of change and/or amendment resulting in alteration of the original project completion date or total original cost, the prime contractor shall take the necessary steps to request the insurer to include such changes in all related insurance policies and/or bonds and to submit evidence by appropriate

endorsements with effective dates. Cancellations without consent are not accepted.

The ***PRDOH** reserves the right to stop any work or service under contract until the breach of these requirements has been remedied, so that any delay in the performance of the contract based on any breach of the insurance coverage requirements shall be deemed the sole responsibility of the Main Contractor.

F. CONFLICT OR DIFFERENCE BETWEEN THE SPECIFICATIONS OF THE TENDERING, PROCEDURE AND SPECIAL INSURANCE CONDITIONS AND BONDS

In the event of any conflict or difference of coverage of amounts, limits, etc., with respect to insurance requirements, the "**Special Conditions of Insurance and Bonds**" as set forth in this **Insurance Requirements** shall prevail over any other insurance specifications.

PRDOH reserves the rights to modify any insurance requirements at any time, in accordance with the Program's needs.

G. CERTIFICATE OF CONTRACT DIVISION

We hereby certify, to our best knowledge and understanding, that we have prepared the aforementioned "*Insurance and Bonds Special Conditions*" after a proper evaluation of the related risks, based on the information of the nature of the project and description submitted to us, as requested by the Contracting Program through a written application.

**DESCRIPTION OF THE SERVICES:
Environmental Consulting Services**

December 27, 2022

Date

Candice M. Noriega Morales

Candice M. Noriega Morales
Contract Compliance Specialist
CDBG-DR Program

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ATTACHMENT F

HUD GENERAL PROVISIONS

Given that the Contract 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 Contract. In addition, Contractor 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 CONTRACTOR shall include these terms and conditions in all subcontracts or purchase orders directly servicing the Contract.

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These general provisions may be updated from time to time. It is the sole responsibility of the CONTRACTOR 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.

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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 Contract shall be deemed to be inserted herein and the Contract 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 Contract shall forthwith be physically amended to make such insertion or correction.

2. STATUTORY AND REGULATORY COMPLIANCE

CONTRACTOR shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by: the Continuing Appropriations Act, 2018, and Supplemental Appropriations for Disaster Relief Requirements, 2017 (**Pub. L. 115-56**) approved on September 8, 2017, as amended; the Bipartisan Budget Act of 2018 (**Pub. L. 115-123**) approved on February 9, 2018, as amended; the Additional Supplemental Appropriations for Disaster Relief Act, 2019, (**Pub. L. 116-20**) approved on June 6, 2019, as amended; as well as 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 CONTRACT TERMS

The Puerto Rico Department of Housing (PRDOH) reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this Contract, in instances where the CONTRACTOR or any of its subcontractors violate or breach any Contract term. If the CONTRACTOR or any of its subcontractors violate or breach any Contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the Contract 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 CONTRACTOR shall complete and submit all reports, in such form and according to such schedule, as may be required by PRDOH and/or the Government of Puerto Rico. The CONTRACTOR 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.

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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 CONTRACTOR which are related to this Contract, 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 Contract 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 CONTRACTOR 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 CONTRACTOR shall file Form HUD 2516 (Contract and Subcontract Activity) with the PRDOH on a quarterly basis.

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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 C.F.R. 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.

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

The CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR shall notify the PRDOH as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as defined at 24 C.F.R. §578.95; 24 C.F.R. §570.489(g) and (h); and 24 C.F.R. §570.611, if applicable). The CONTRACTOR 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 CONTRACTOR shall provide the PRDOH any additional information necessary to fully assess and address such actual or potential conflict of interest. The CONTRACTOR 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.

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15. SUBCONTRACTING

When subcontracting, the CONTRACTOR 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.

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The CONTRACTOR 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 Contract.

The CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR in the performance of the services called for in this Contract.

18. COPELAND "ANTI-KICKBACK" ACT

(Applicable to all construction or repair contracts)

Salaries of personnel performing work under this Contract 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 CONTRACTOR 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 CONTRACTOR shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

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All laborers and mechanics employed by CONTRACTORS 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 CONTRACTORS 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 CONTRACTOR shall comply with the Davis Bacon Act (40 U.S.C. §§ 3141, *et seq.*) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by CONTRACTORS or subcontractors, including employees of other governments, on construction work assisted under this Contract, 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 CONTRACTOR 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 CONTRACTOR shall fail to fulfill in a timely and proper manner his or her obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Contract, the PRDOH shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR 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 CONTRACTOR under this Agreement shall, at the option of the PRDOH, become the PRDOH's property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the CONTRACTOR 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 CONTRACTOR, and the Government of Puerto Rico and/or PRDOH may withhold any payments to the CONTRACTOR 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 CONTRACTOR is determined.

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22. TERMINATION FOR CONVENIENCE

(Applicable to contracts exceeding \$10,000)

The PRDOH may terminate this Contract at any time by giving at least ten (10) days' notice in writing to the CONTRACTOR. If the Contract is terminated by the PRDOH as provided herein, the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR;
- (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 CONTRACTOR including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

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- 2) The CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR'S obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The CONTRACTOR must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the CONTRACTOR 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 CONTRACTOR will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 C.F.R. chapter 60).

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

- 1) The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 3) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

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- 4) The CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR will comply with all provisions of Exec. Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 6) The CONTRACTOR will furnish all information and reports required by Exec. Order No. 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 CONTRACTOR'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 CONTRACTOR 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 Exec. Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- 8) CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

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25. CERTIFICATION OF NONSEGREGATED FACILITIES
(Applicable to construction contracts exceeding \$10,000)

The CONTRACTOR 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 CONTRACTOR 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.

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The CONTRACTOR 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)

CLEAN AIR ACT

- 1)--The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- 2)--The CONTRACTOR agrees to report each violation to the PRDOH and understands and agrees that the PRDOH will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, HUD, and the appropriate Environmental Protection Agency Regional Office.

- 3)--The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by HUD.

WATER POLLUTION CONTROL ACT

- 1)--The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, *et seq.*
- 2)--The CONTRACTOR agrees to report each violation to the PRDOH and understands and agrees that the PRDOH will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, HUD, and the appropriate Environmental Protection Agency Regional Office.
- 3)--The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by HUD.

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The CONTRACTOR and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 7401 *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 5 C.F.R. Part 919 Subpart E and 24 C.F.R. Part 58 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 CONTRACTOR 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. Part 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (**EPA**) pursuant to 24 C.F.R. Part 58, as amended.
- 2) Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 7414) 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 CONTRACTOR 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 CONTRACTOR will take such action as the government may direct as a means of enforcing such provisions.

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

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

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- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, 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 CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
- 3) The CONTRACTOR 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 CONTRACTOR shall comply with Puerto Rico bonding requirements, unless they have not been approved by HUD, in which case the CONTRACTOR 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 CONTRACTOR for one hundred percent (100%) of the Agreement price. A "performance bond" is one executed in connection with a contract to secure the fulfillment of all the CONTRACTOR's obligations under such contract.
- 3) A payment bond on the part of the CONTRACTOR 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 the 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.

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- 2) The parties to this Agreement agree to comply with HUD's regulations in 24 C.F.R. Part 75 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 75 regulations.
- 3) 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.
- 4) The CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 75, 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 75. 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 75.
- 5) 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 75 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR's obligations under 24 C.F.R. Part 75.
- 6) Noncompliance with HUD's regulations in 24 C.F.R. Part 75 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 (46 U.S.C. § 5307) 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

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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 CONTRACTOR 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

CONTRACTOR 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.

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31. ENERGY POLICY AND CONSERVATION ACT

CONTRACTOR 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

CONTRACTOR agrees to comply with mandatory standards and policies relating to Hatch Act, Public Law 76-252, as amended.

The Hatch Act applies to political activities of certain state and local employees. As a Puerto Rico Department of Housing CONTRACTOR, 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 CONTRACTOR 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 office of special counsel operates a website that provides guidance concerning hatch act issues.

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 CONTRACTOR 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 CONTRACTOR 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 Contract.

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35. WITHHOLDING OF WAGES

If in the performance of this Agreement, there is any underpayment of wages by the CONTRACTOR or by any subcontractor thereunder, the PRDOH may withhold from the CONTRACTOR 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 CONTRACTOR 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 Contract shall be promptly reported in writing by the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR

The CONTRACTOR 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 CONTRACTOR further agrees that no person having any such interest shall be employed in the performance of this Agreement.

41. POLITICAL ACTIVITY

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

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42. RELIGIOUS ACTIVITY

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

43. FLOOD DISASTER PROTECTION ACT OF 1973

The CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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).

46. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT (URA)

Every project funded in part or in full by Community Development Block Grant – Disaster Recovery (CDBG-DR) funds, and all activities related to that project, are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 42 U.S.C. § 4601 et seq., and section 104(d) of the Housing and Community Development Act of 1992, as amended (HCDA), 42 U.S.C. § 5304(d), except where waivers or alternative requirements have been provided by the U.S. Department of Housing and Urban Development (HUD). The implementing regulations for URA are at 49 C.F.R. Part 24, and the regulations for section 104(d) are at 24 C.F.R. Part 42, subpart C. Additionally, HUD has established regulations specific to CDBG-funded housing activities at 24 C.F.R. § 570.606. PRDOH has also established the Uniform Relocation Assistance Guide & Residential Anti-Displacement and Relocation Assistance Plan (URA & ADP Guide) which provides guidance and requirements regarding URA compliance and minimizing displacement that are applicable to all CDBG-DR programs. The primary purpose of these laws and regulations is to provide uniform, fair, and

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equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

When CDBG-DR funds are planned, intended, or used for any activity or phase of a project and the phases are interdependent, URA applies to that activity or project. This includes any property acquisition, even if CDBG-DR funds are not used to fund the purchase, if the contract to acquire property is executed with the intention of seeking CDBG-DR funds to complete the project or an interdependent phase of the project. Contractors are responsible for ensuring URA compliance throughout the design, proposal, and implementation of any project that includes real property acquisition or displacement of residential or business occupants.

47. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (OSH ACT)

The CONTRACTOR shall comply with the Occupational Safety and Health Act of 1970 (OSH Act) as supplemented by the Department of Labor regulations. This Act created the Occupational Safety and Health Administration (OSHA). OSHA sets and enforces protective standards of safety and health in the workplace. Under the OSH Act, employers have a responsibility to provide a safe workplace.

Employers must comply with the 29 CFR 1910 General Obligations Clause of the OSH Act. This clause requires employers to maintain their workplaces free from serious recognized hazards. This includes the adoption of safety and health guidelines and the subsequent training of the employer's workforce in these.

CONTRACTORS whose Scope of Work includes construction activities must comply with the General Clauses, and also with provisions of 29 CFR 1926 "Construction Health and Safety Regulations". It shall be a condition of any contract for construction, alteration and/or repair, including painting and decorating, that no contractor or subcontractor for any part of the contract work shall require any worker or mechanic employed in the performance of the contract to work in an environment or in unhealthy, hazardous or dangerous working conditions to their health or safety.

48. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The Federal Funding Accountability and Transparency Act of 2006 (**FFATA**), as amended, was signed with the intent of reducing wasteful government spending and providing citizens with the ability to hold the government accountable for spending decisions. 2 C.F.R. § Part 170 outlines the requirements of recipients' in reporting information on subawards and executive total compensation under FFATA legislation. Any non-Federal entity that receives or administers Federal financial assistance in the form of grants, loans,

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loan guarantees, subsidies, insurance, food commodities, direct appropriations, assessed and voluntary contributions; and/or other financial assistance transactions that authorize the non-Federal entities' expenditure of Federal fund, is subject to these requirements. Prime contract awardees and prime grant awardees are required to report against subcontracts and subgrants awarded in the FFATA Subaward Reporting System (FSRS), the reporting tool for Federal prime awardees. This information reported will then be displayed on a public and searchable website: www.USASpending.gov.

33. PROCUREMENT

The Uniform Guidance procurement requirements (2 C.F.R. § Part 200, Subpart D) went into effect on July 1, 2018. These requirements are applicable to CDBG-DR funded projects, or as provided by 83 Federal Register 5844 VI A(1)(b)(2) permits a state grantee to elect to follow its own procurement policy. These policies and procedures ensure that Federal dollars are spent fairly and encourage open competition at the best level of service and price.

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34. CHANGE ORDERS TO CONTRACTS

Change orders are issued when the initial agreed-upon pricing or work to be completed requires modification. First, the CONTRACTOR must complete a Change Order Request Form. This form and supporting documentation must be delivered to the PRDOH for review. Each change order must have a cost analysis. Once the Project Manager approves the change order, it is returned to the contractor for execution. Change orders are only invoiced on the final draw and categorized as "change orders." The amount listed on the invoice must match the previously approved amount and must be cost-reasonable. The PRDOH is responsible for verifying cost reasonableness. Verification documentation for cost reasonableness becomes an attachment to the change order.

45. LIMITED ENGLISH PROFICIENCY

Executive Order No. 13166, signed on August 11, 2000, requires programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Fair access is ensured through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Vital documents are defined as depending on the importance of the program, information, encounter, or service

involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

46. PERSONALLY IDENTIFIABLE INFORMATION

In accordance with 2 C.F.R. § 200.303, regarding internal controls of a non-Federal entity, a grantee must guarantee the protection of all Personally Identifiable Information (PII) obtained. The program will enact necessary measures to ensure PII of all applicants is safeguarded as to avoid release of private information. If a contractor or employee should experience any loss or potential loss of PII, the program shall be notified immediately of the breach or potential breach.

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51. PROCUREMENT OF RECOVERED MATERIALS

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

END OF DOCUMENT



ATTACHMENT G

CONTRACTOR CERTIFICATION REQUIREMENT

SWCA INCORPORATED

I. Contractor (or Subrecipient) Certification Requirement:

1. The expected subcontractor(s) in connection with the contract¹ is (are) the following:

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a) Pedro Panzardi and Associates, LLC

- i. Contractual Relationship: Subcontractor to SWCA through existing Master Services Agreement (MSA). Will be issued individual work authorizations under the MSA for this work.
- ii. Role: On-site environmental site inspections at application properties; Phase I/II Environmental Site Assessments; lead-based paint risk assessments and clearances
- iii. Estimated amount of contract: (\$750,000 / 15.0%)

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b) The Workforce Group, LLC

- i. Contractual Relationship: Subcontractor to SWCA through existing Master Services Agreement (MSA). Will be issued individual work authorizations under the MSA for this work.
- ii. Role: On-site environmental site inspections at application properties; lead-based paint risk assessments and clearances
- iii. Estimated amount of contract: (\$250,000 / 5.0%)

2. Neither the Contractor (or subrecipient) nor any of its owners², partners, directors, officials, or employees, has agreed to share or give a percentage of the contractor's (or subrecipient's) compensation under the contract³ to, or otherwise compensate, any third party, whether directly or indirectly, in connection with the procurement, negotiation, execution or performance of the contract.

¹ As used herein, the term "contract" is inclusive of any amendments, modifications, or extensions.

² For purposes of this Certification, a contractor's "owner" shall mean any person or entity with more than a ten percent (10%) ownership interest in the Contractor.

³ As used herein, the term "contract" is inclusive of any amendments, modifications, or extensions.

3. To the best knowledge of the signatory (after due investigation), no person has unduly intervened in the procurement, negotiation, or execution of the contract, for its own benefit or that of a third person, in contravention of applicable law.
4. To the best knowledge of the signatory (after due investigation), no person has:
(i) offered, paid, or promised to pay money to; (ii) offered, given, or promised to give anything of value to; or (iii) otherwise influenced any public official or employee with the purpose of securing any advantages, privileges or favors for the benefit of such person in connection with the contract (such as the execution of a subcontract with the Contractor, beneficial treatment under the contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).
5. Neither the Contractor (or subrecipient), nor any of its owners, partners, directors, officials, or employees or, to the best of its knowledge (after due investigation), its representatives or sub-contractors, has required, directly or indirectly, from third persons to take any action with the purpose of influencing any public official or employee in connection with the procurement, negotiation, or execution of the contract, in contravention of applicable law.
6. In compliance with Executive Order No. 2021-029 and CC 013-2021, the Contractor certifies as of the date hereof, that it is in a contractual relationship with the following entities of the Government of Puerto Rico: Puerto Rico Dept. of Housing Contract 2023-DR0002.⁴ The Contractor also certifies that said entities are all the entities of the Government of Puerto Rico with which they maintain a contractual relationship. In addition, the Contractor recognizes and accepts that omitting any information regarding any current contractual relationship with any governmental entity could result in the termination of this agreement if so, required by PRDOH.
7. Any incorrect, incomplete, or false statement made by the contractor's (or subrecipient's) representative as part of this certification shall cause the nullity of the proposed contract and the contractor (or subrecipient) must reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed contract.

The above certifications shall be signed under penalty of perjury by the Chief Executive Officer (or equivalent highest rank officer) in the following form:

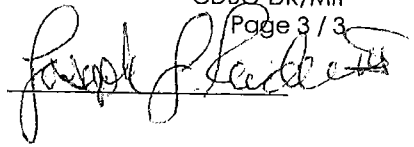
"I hereby certify under penalty of perjury that the foregoing is complete, true, and correct."

⁴ The Contractor is required to disclose the names of the entities of the Government of Puerto Rico with whom it has contracts until the Agreement is signed.

By: Joseph J. Fluder, III

Position: President / CEO

Signature: _____



Date: July 18, 2023

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ATTACHMENT H

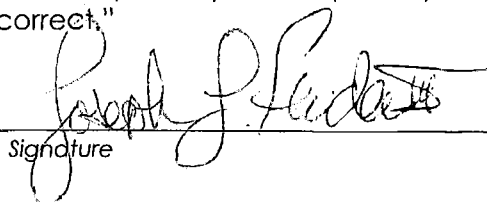
NON-CONFLICT OF INTEREST CERTIFICATION

SWCA INCORPORATED

The CONTRACTOR certifies that:

1. No public servant of this executive agency has a pecuniary interest in this contract, subrecipient agreement, purchase, or commercial transaction.
2. No public servant of this executive agency has requested me or accepted from me, directly or indirectly, for him (her), for any member of his family unit or for any person, gifts, bonuses, favors, services, donations, loans or anything else of monetary value.
3. No public servant (s) requested or accepted any good of economic value, linked to this transaction, from any person of my entity as payment for performing the duties and responsibilities of their employment.
4. No public servant has requested from me, directly or indirectly, for him (her), for any member of his or her family unit, or for any other person, business, or entity, something of economic value, including gifts, loans, promises, favors or services in exchange for the performance of said public servant is influenced in my favor or of my entity.
5. I have no kinship relationship, within the fourth degree of consanguinity and second by affinity, with any public servant who has the power to influence and participate in the institutional decisions of this executive agency.

"I hereby certify under penalty of perjury that the foregoing is complete, true, and correct."


Signature

July 18, 2023

Date

Joseph J. Fluder, III

Printed Name

President / CEO

Position