



GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING



## NONDISCLOSURE AGREEMENT

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This Nondisclosure Agreement (hereinafter, "**NDA**") is entered into in San Juan, PR on December 20, 2021 (the Effective Date), by and between the **PUERTO RICO DEPARTMENT OF HOUSING** (hereinafter, "**PRDOH**" and/or "**Disclosing Party**"), a public agency of the Government of Puerto Rico created under Act. No. 97, of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*, known as the "Department of Housing Act" (the "**Organic Act**"), represented herein by William O. Rodríguez Rodríguez, of legal age, attorney, single, and resident of San Juan, Puerto Rico, in his capacity as PRDOH Secretary, and the **ENTERPRISE COMMUNITY PARTNERS, INC.**, (**Enterprise** and/or "**Receiving Party**"), a non-profit organization, represented herein by its President and Chief Executive Officer, Priscilla Almodóvar, of legal age, married, and resident of New York, New York, collectively referred to as the "Parties". "Subrecipient Agreement" shall mean the Subrecipient Agreement dated as of September 3, 2021 and executed by PRDOH and Enterprise.

### I. PROTECTION OF CONFIDENTIAL AND/OR SENSITIVE INFORMATION

The Receiving Party understands that the PRDOH has disclosed or may disclose documentation and data relating to the CDBG-DR Program and associated Highly-Sensitive Information of third parties, which to the extent previously, presently, or subsequently disclosed to the Receiving Party is hereinafter referred to as "Confidential Information", however recorded, preserved, or disclosed.

"Confidential Information" means:

any information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, without limitation, documents, prototypes, samples, plant and equipment), which is designated as "Confidential," "Proprietary" or some similar designation.

Confidential Information shall not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known and made generally available after disclosure by the Disclosing Party to the Receiving Party through no action or inaction of the Receiving Party; (iii) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party as shown by

the Receiving Party's files and records immediately prior to the time of disclosure; (iv) is obtained by the Receiving Party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed by the receiving party, provided that the Receiving Party gives the Disclosing Party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

The Disclosing Party has requested, and the Receiving Party agrees, that the Receiving Party will protect the Confidential Information which may be shared between the Parties. Therefore, the Parties agree as follows:

1. (a) to hold the Confidential Information in strict confidence and to take all reasonable precautions to protect such Confidential Information (including, without limitation, all precautions the Receiving Party employs with respect to its own Confidential materials), (b) not to disclose any such Confidential Information or any information derived therefrom to any third person except as necessary to carry out the Receiving Party's responsibilities under the Subrecipient Agreement within the CDBG-DR Program,, (c) not to make any use whatsoever at any time of such Confidential Information, except as necessary to carry out the Receiving Party's responsibilities under the Subrecipient Agreement within the CDBG-DR Program, and (d) not to copy or reverse-engineer any such Confidential Information. The Receiving Party shall require that its employees, agents, and sub-contractors to whom Confidential Information is disclosed or who have access to Confidential Information sign a nondisclosure agreement including all the provisions of this NDA.
2. Without granting any right or license, the Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes (through no improper action or inaction by the Receiving Party or any affiliate, agent, consultant, or employee) generally available to the public, or (b) was in its possession or known by its prior to receipt from the Disclosing Party as evidenced in writing, except to the extent that such information was unlawfully appropriated, or (c) was rightfully disclosed to it by a third party, or (d) was independently developed without use of any Confidential Information. The Receiving Party may disclose information required by law or court order, provided the Receiving Party uses diligent reasonable efforts to limit disclosure and by previously notifying the Disclosing Party.

3. All affiliates of a Receiving Party and all directors, officers, employees, agents and representatives of a recipient party or its affiliates shall be included within the definition of the term "Receiving Party" for purposes of this Agreement and shall be bound by the terms and conditions of this Agreement. The recipient party shall be responsible for any breaches of this Agreement by any of its affiliates and any directors, officers, employees, agents and representatives of such recipient party or its affiliates.

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4. The Receiving Party acknowledges the following standards and security:

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- a. Compliance. The Receiving Party understands the confidential nature of the information and agrees that it and all employees shall comply with all applicable laws, regulations, policies, and provisions of this NDA to protect the confidentiality of CDBG-DR related information. The Receiving Party understands that it and its employees are responsible for any privacy incidents concerning CDBG-DR related information while in the possession and/or control of the information.
- b. Privacy Incident. A privacy incident occurs when there is a loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or failure to secure Confidential Information in usable form, whether physical or electronic, or when authorized users access CDBG-DR related information, for an unauthorized purpose. The term encompasses both suspected and confirmed incidents involving CDBG-DR related information which raise a reasonable risk of harm.
- c. Breach. A privacy incident that is confirmed, involving CDBG-DR related information that is in the possession and/or control of the Receiving Party or its employees, constitutes a breach, notwithstanding whether such incident is the result of a negligent or intentional act or omission on the part of the Receiving Party and its employees.
- d. Minimum Standards. The Receiving Party shall establish and implement the following minimum standards:
  - i. Store the CDBG-DR related information, whether in physical or electronic form, only in places and in a manner that is safe from access by unauthorized persons or for unauthorized use.
  - ii. Take reasonable precautions to ensure that only authorized personnel and entities (those listed in Articles III and IV) have access to CDBG-DR related information.

- iii. Instruct individuals with access to the CDBG-DR related PII regarding the confidential nature of the information, the safeguard requirements of this addendum, and the criminal penalties and civil remedies specified in federal and state laws against unauthorized disclosure of CDBG-DR related information.

  
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5. The Receiving Party shall use or cause the Confidential Information in a manner consistent with the terms and conditions of this agreement and the executed Subrecipient Agreement and at no time shall the Receiving Party otherwise use the Confidential Information for the benefit of itself or any other third party or in any manner adverse to, or to the detriment of, the disclosing party or its affiliates or their respective shareholders, if applicable.
6. In the event that Disclosing Party furnishes physical or tangible copies of any of the Confidential Information to Receiving Party, Receiving Party acknowledges and agrees that these materials are furnished under the following conditions: (a) these materials are loaned to Receiving Party solely for purposes of evaluation and review; (b) these materials shall be treated consistent with the Receiving Party's obligation for Confidential Information under this Agreement; (c) Receiving Party may not copy or otherwise duplicate these materials except as necessary to carry out the Receiving Party's responsibilities under the Subrecipient Agreement within the CDBG-DR Program; and (d) Receiving Party shall return to Disclosing Party any and all such material (including but not limited to records, notes, and other written, printed, or tangible materials) in its possession pertaining to Confidential Information immediately if Disclosing Party requests it in writing.
7. In the event of a Confidential Information breach, any exposure of, unauthorized release, or misuse of Confidential Information shared under the provisions of this NDA, the incident or breach shall be immediately reported to the Disclosing Party **(Maytte Texidor-López, Esq., mtexidor@vivienda.pr.gov)**. Disclosing Party may be required to share information regarding the incident or breach to the US Department of Housing and Urban Development (hereinafter, "**HUD**") and other Federal and State agencies, as requested.
8. Immediately upon written request by the Disclosing Party at any time, the Receiving Party will return to the Disclosing Party all Confidential Information and all documents or media containing any such Confidential Information and any and all copies or extracts thereof, save that where such Confidential

Information is in a form incapable of return or has been copied or transcribed into another document for Receiving Party's record retention requirements, it shall be destroyed or erased, as appropriate.

9. The Receiving Party understands that nothing herein (i) requires the disclosure of any Confidential Information or (ii) requires the Disclosing Party to proceed with any transaction or relationship.

  
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10. The Receiving Party further acknowledges and agrees that no representation or warranty, express or implied, is or will be made, and no responsibility or liability is or will be accepted by the Disclosing Party, or by any of its respective directors, officers, employees, agents, or advisers, as to, or in relation to, the accuracy or completeness of any Confidential Information made available to the Receiving Party or its advisers; it is responsible for making its own evaluation of such Confidential Information.

  
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11. In recognition of the foregoing, the Receiving Party agrees and covenants that it shall:

- a. Keep and maintain all Confidential Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure;
- b. Use Confidential Information solely and exclusively for the purposes for which the Confidential Information, or access to it, was provided pursuant to the terms and conditions of this NDA, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Confidential Information for purposes other than the execution of the Subrecipient Agreement; and
- c. Represents and warrants that its collection, access, use, storage, disposal and disclosure of Confidential Information does and will comply with the following, as applicable to the work performed under the Subrecipient Agreement: Federal and State laws and regulations, including the Privacy Act of 1974; OMB Memorandum M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information; PCI DSS, Payment Card Industry Data Security Standard; HIPAA and HITECH, medical records; GLBA, Gramm Leach Bliley Act or Financial Services Modernization Act; FCRA, Fair Credit Reporting Act, and other governing laws pertaining to the protection of Personally Identifiable Information.

12. In addition to the provisions of this NDA, the Receiving Party shall refer to and comply with all applicable provisions of the CDBG-DR PII, Confidentiality, and Non-Disclosure Policy (hereinafter, PII Policy), as may be amended from time to time, found at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov), which is incorporated herewith such that the terms and conditions of the PII Policy shall be as binding as any terms and conditions of this NDA.

  
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**II. POINTS OF CONTACT.**

**PRDOH**

Karen M. Cruz González, Esq.  
Director of Operations  
CDBG-DR Program  
606 Barbosa Ave.  
San Juan, P.R. 00918  
(787) 274-2527, ext. 6601  
[kcruz@vivienda.pr.gov](mailto:kcruz@vivienda.pr.gov)

**Enterprise**

Erika Ruiz  
Senior Director  
Enterprise Community Partners,  
Inc.  
10 G Street, NE, Suite 580  
Washington, DC 20002  
202-649-3927  
[eruiz@enterprisecommunity.org](mailto:eruiz@enterprisecommunity.org)

**III. TERM AND AMENDMENT.**

1. This NDA shall be in effect until September 3, 2023.
2. This NDA may only be amended upon written mutual consent of both parties.

**IV. GENERAL TERMS AND CONDITIONS.**

1. The failure of either Party to enforce its rights under this NDA at any time for any period shall not be construed as a waiver of such rights.
2. If any part, term or provision of this NDA is held to be illegal or unenforceable neither the validity, nor enforceability of remainder of this NDA shall be affected.

3. Neither Party may assign or transfer all or any part of its rights under this NDA without consent of the other Party.
4. This NDA constitutes the entire understanding between the Parties relating to the subject matter hereof, unless any representation or warranty made about this NDA was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto.
5. If it appears that the Receiving Party has disclosed or has threatened to disclose Confidential Information in violation of this NDA, the Disclosing Party shall be entitled to request an injunction to restrain the Receiving Party from disclosing the Confidential Information, in whole or in part.
6. Any modification of this NDA or additional obligation assumed by either party in connection with this NDA shall be binding only if written and signed by both Parties, and its authorized representatives. Those amendments shall make specific reference to this NDA and comply with programmatic policies, procedures, and guidelines. Such amendments shall not invalidate this NDA, nor relieve or release the Parties from their obligations under it.
7. However, PRDOH reserves the right to notify in writing to the Receiving Party 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 NDA without the need of executing a separate written and signed amendment.
8. 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 NDA shall not be construed as a waiver of such terms and conditions or the right to enforce compliance with such terms and conditions. This NDA 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 NDA in the Puerto Rico Court of First Instance, Superior Court of San Juan, Puerto Rico.
9. In the event of any litigation arising from or in connection with any privacy incident or breach as described herein, involving data which is in the care or custody of the Receiving Party, and notwithstanding whether the privacy

  
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incident or breach is the result of a negligent or intentional act or omission, the Receiving Party agrees, subject to fiscal law restrictions, to pay for any and all costs associated with the defense of litigation, including costs and attorney's fees, and to reimburse the United States, the Government of Puerto Rico, PRDOH, and of their officers and employees in full for any adverse judgements against them.

  
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10. The terms and conditions of this NDA shall survive the termination or expiration of this NDA, the executed Subrecipient Agreement between PRDOH and the Receiving Party and the Grant Agreement between HUD and the PRDOH and Government of Puerto Rico.
11. This NDA shall be governed by the laws of the Government of Puerto Rico and the Parties agree to submit disputes arising out of or in connection with this NDA to the non-exclusive of the courts in Puerto Rico.
12. This NDA 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.
13. If any provision of this NDA shall operate or would prospectively operate to invalidate it in whole or in part, then such provision only shall be deemed severed and the remainder of the NDA shall remain operative and in full effect.
14. The PRDOH may terminate this NDA, in whole or in part, at PRDOH's sole discretion, with or without cause, at any time. The PRDOH will terminate this NDA by delivering to Enterprise a **five (5) day** notice of termination, upon receipt of such notice, Enterprise shall immediately discontinue and cease all use of the confidential and/or sensitive information. Furthermore, Enterprise shall immediately proceed to return the confidential and/or sensitive information to PRDOH and safely dispose any copy made to it, in any form, if necessary.
15. The parties hereby certify that in signing this NDA they are in compliance with Act No. 1-2012, as amended, known as "Puerto Rico Government Ethics Act of 2011", in connection with the possibility of a conflict of interest.
16. PRDOH is compelled to comply with Act Number 18 of October 30, 1975, as amended, which requires the registration of this NDA to the Office of the Comptroller of Puerto Rico within **fifteen (15) days** from the date of its execution.



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

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**Disclosing Party:**

William O. Rodríguez Rodríguez  
William O. Rodríguez Rodríguez (Dec 20, 2021 19:51 AST)

Signature

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William O. Rodríguez Rodríguez,  
Esq.  
\_\_\_\_\_  
First and Last Name

PRDOH Secretary  
\_\_\_\_\_  
Title

Barbosa Ave. 606  
Building Juan C. Cordero  
San Juan, PR 00918  
\_\_\_\_\_  
Address

**Receiving Party**

Priscilla Almodovar  
Priscilla Almodovar (Dec 20, 2021 16:49 MST)

Signature

Priscilla Almodóvar  
\_\_\_\_\_  
First and Last Name

President and Chief Executive  
Officer  
\_\_\_\_\_  
Title

70 Corporate Center  
11000 Broken Land Parkway, Suite  
700  
Columbia, MD 21044  
\_\_\_\_\_  
Address








# NDA Agreement - Enterprise

Final Audit Report

2021-12-20

Created:	2021-12-20
By:	Radames Comas Segarra (rcomas@vivienda.pr.gov)
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## "NDA Agreement - Enterprise" History

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