



**COMMUNITY DEVELOPMENT BLOCK GRANT – MITIGATION (CDBG-MIT)
INFRASTRUCTURE MITIGATION PROGRAM**

**SUBRECIPIENT AGREEMENT
BETWEEN THE
PUERTO RICO DEPARTMENT OF HOUSING
AND THE
PUERTO RICO PORTS AUTHORITY**



This **SUBRECIPIENT AGREEMENT** ("SRA") is entered into this 26 day of March, 2024, by and between the **PUERTO RICO DEPARTMENT OF HOUSING** ("PRDOH"), a public agency of the Government of Puerto Rico created under Act No. 97, of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*, known as the "Department of Housing Organic Act" ("**Organic Act**"), with principal offices at 606 Barbosa Ave., San Juan, Puerto Rico, represented herein by its Secretary, Hon. William Rodríguez Rodríguez, of legal age, attorney, single, and resident of Guaynabo, Puerto Rico; and the **PUERTO RICO PORTS AUTHORITY** ("**Subrecipient**"), a public corporation and an autonomous government instrumentality of the Government of Puerto Rico created under Act No. 125 of May 7, 1942, as amended, 23 LPRA § 331 *et seq.*, known as the "Puerto Rico Ports Authority Act", with principal offices at 64 Lindbergh Ave., San Juan, Puerto Rico, represented herein by its Executive Director, Joel A. Pizá Batiz, of legal age, attorney, married, and resident of San Juan, Puerto Rico; collectively the "**Parties**".

I. RECITALS AND GENERAL AWARD INFORMATION

WHEREAS, on September 2017, Hurricanes Irma and María made landfall in Puerto Rico causing catastrophic damages, knocking out power, water, and telecommunications island-wide. Hurricane María caused major structure and infrastructure damages 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 Further Additional Supplemental Appropriations Act for Disaster Relief Requirements Act of 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 the United States Department of Housing and Urban Development ("**HUD**") for mitigation activities and assistance to the Government of Puerto Rico under the Community Development Block Grant – Mitigation Program ("**CDBG-MIT**"). These funds are intended to provide financial assistance in areas impacted by recent disasters.

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

WHEREAS, on January 27, 2020, a Notice was published in the Federal Register, Vol. 85, No. 17 (85 Fed. Reg. 4676), which allocated \$8,285,284,000 in 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, PRDOH is the governmental agency designated as the grantee of the CDBG-MIT funds allocated to the Government of Puerto Rico.

WHEREAS, the CDBG-MIT Program represents a unique opportunity to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

WHEREAS, according to the approved current CDBG-MIT Action Plan, Puerto Rico intends to undertake the **INFRASTRUCTURE MITIGATION PROGRAM** ("**Program**"). The focus of the Program is to address mitigation needs by improving the built environment in order to mitigate hazardous threats and empowering applicants and/or entities to identify risks and develop solutions to mitigate risks to infrastructure assets through innovative, eco-conscious, and self-sustaining solutions. The total allocation to the Infrastructure Mitigation Program is \$2,566,451,166.00. The PRDOH has allocated to the Subrecipient the total amount of **EIGHTY-FIVE MILLION THREE HUNDRED TWENTY-NINE THOUSAND SEVEN HUNDRED THIRTY-SEVEN DOLLARS (\$85,329,737.00)** of the aforementioned funds for the **Army Terminal Pier Reconstruction**, to be distributed as follows: **Self-Performed Services** - four hundred thirty-two thousand two hundred eighty-seven dollars (\$432,287.00), **Professional Services & Studies** - four million five hundred four thousand seven hundred nine dollars (\$4,504,709.00), and **Construction Services** - eighty million three hundred ninety-two thousand seven hundred forty-one dollars (\$80,392,741.00). The Subrecipient shall administer and use such funds for the provision of the services described in **Exhibit A** ("Scope of Work") under this SRA.

WHEREAS, the Subrecipient will assist the PRDOH in utilizing CDBG-MIT funds to carry out the Program, pursuant to this SRA. The general tasks to be assumed by the Subrecipient are the demolition of the existing structures, rebuild of a new terminal in concrete and steel including utilities in the municipality of Guaynabo, and grant compliance activities.

WHEREAS, the CDBG-MIT funds made available for use by the Subrecipient under this SRA constitute a Subaward of the PRDOH's Federal Award, the use of which must be in accordance with requirements imposed by federal statutes, regulations, and the terms and conditions of the PRDOH's Federal Award.

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

WHEREAS, the Subrecipient has the legal power and authority to enter into this SRA with the enabling statute, Act No. 125 of May 7, 1942, as amended, *supra*, to enter into this SRA with the PRDOH; and by signing this SRA, the Subrecipient assures the PRDOH that it shall comply with all the requirements described herein.

GENERAL AWARD INFORMATION

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

CDBG-MIT Grantee Federal Award Identification Number (FAIN):	B-18-DP-72-0002
CDBG-MIT Grantee Federal Award Date:	May 12, 2021
CDBG-MIT Grantee Unique Identifier:	Unique Entity ID: FFMUBT6WCM1
Federal Award project description:	See Exhibit A for <u>Scope of Work</u>

Subrecipient Contact Information:	Joel A. Pizá Batiz Executive Director Puerto Rico Ports Authority PO Box 362829 San Juan, Puerto Rico 00936-2829 787-729-8715 Ext. 2275 jpiza@prpa.pr.gov
Subrecipient Unique Identifier:	Unique Entity ID: XJULBJJEK958
Subaward Period of Performance:	Start Date: Effective Date, as defined in Section V of this SRA. End Date: Sixty (60) months from Start Date.
Funds Certification:	Date: December 12, 2023 Authorized Amount: \$85,329,737.00 Funds Allocation: CDBG-MIT "miti04imp-doh-lm" CDBG-MIT "miti04imp-doh-un" Account Number: 6090-01-000 See Exhibit E for <u>Funds Certification</u>

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

TERMS AND CONDITIONS

II. ATTACHMENTS

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


Exhibit A	Scope of Work
Exhibit B	Timeline and Performance Goals
Exhibit C	Key Personnel
Exhibit D	Budget
Exhibit E	Funds Certification
Exhibit F	HUD General Provisions and Other Federal Statutes, Regulations, and PRDOH Requirements
Exhibit G	Special Conditions
Exhibit H	Subrogation and Assignment Provisions
Exhibit I	Non-Conflict of Interest Certification

All Exhibits hereto are fully incorporated herewith such that the terms and conditions of the Exhibits shall be as binding as any terms and conditions of this executed written SRA. The SRA shall prevail if any inconsistency appears between the Exhibits and this SRA.

III. SCOPE OF WORK

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

A. Subrecipient Management Responsibilities

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1. As a condition of receiving this Subaward, the Subrecipient shall perform the project management, planning, project design, architecture, engineering, environmental review, procurement, construction, inspection, monitoring, training, invoicing and reporting of the tasks included in **Exhibit A** ("Scope of Work") for the Program.
 2. The Subrecipient shall prepare and submit all necessary documentation related to the Reconstruction of Army Terminal Project for development under this Program. The Project documentation shall demonstrate compliance with all eligibility requirements established in the Infra-MIT Program Guidelines. All services included in **Exhibit A** ("Scope of Work") shall be performed in accordance with PRDOH guidelines, HUD guidelines and regulations, and other applicable state and federal laws and regulations.
 3. The Subrecipient shall ensure compliance with Act No. 173 of August 12, 1988, as amended, known as the "Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects of Puerto Rico Act," 20 LPRA §§ 7n-711z, which requires all personnel that will exercise the profession of engineering, architecture, surveying or landscaping architecture in Puerto Rico, be registered in the official Register of the Board, and be an active member of the College of Engineers and Surveyors of Puerto Rico or the College of Architects and Landscape Architects of Puerto Rico, as applicable.
 4. The Subrecipient shall comply with HUD rules and regulations that govern the environmental review process. The aforementioned rules can be found at 24 C.F.R. Part 58. Particularly, the Subrecipient shall avoid committing public or private funds (CDBG funds or non-CDBG funds) or undertaking activities or projects that would have an adverse environmental impact or limit the choice of reasonable alternatives, prior to obtaining environmental clearance. Activities such as demolition, excavating, relocation of structures, or even acquisition or leasing of real property, among others, may preclude the selection of alternative choices before a final decision is made under the environmental review. The Subrecipient shall consult the applicable regulations with PRDOH for more detailed guidance as described in **Exhibit A** ("Scope of Work").
 5. The Subrecipient shall perform the necessary actions to plan for the long-term operation and maintenance (O&M) of the Project funded under this SRA. The Subrecipient shall submit an Operation and Maintenance Plan (OMP) to the PRDOH as described in **Exhibit A** ("Scope of Work") of this SRA. Failure to comply with this requirement could result in a potential repayment of funds to PRDOH.
 6. The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (more commonly known as URA) and Section 104(d) of the Housing and Community Development Act of 1992, as amended (Section 104(d)) and may acquire professional services to perform valuation, surveys, and inspections of properties and provide legal assistance for the Project. To acquire professional services the Subrecipient shall comply with procurement processes in compliance with PRDOH's Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs Regulation No. 9506 (September 25, 2023).

B. General Administration

Prohibited Activities: The Subrecipient may only carry out the roles and responsibilities described in this SRA and the activities related to the performance of the Scope of Work described in **Exhibit A** ("Scope of Work") of this SRA. Notwithstanding anything to the contrary in this SRA, the Subrecipient shall not be obligated to perform any work or services outside the Scope of Work described in **Exhibit A** ("Scope of Work") of this SRA.

The Subrecipient is prohibited from charging to the PRDOH the costs of CDBG and/or CDBG-MIT ineligible activities, including those described at 24 C.F.R. § 570.207, unless waived or made eligible by an applicable Federal Register Notice, from using funds provided herein or personnel employed in the administration of activities under this SRA for political activities, inherently religious activities, or lobbying. The Subrecipient may be financially liable for the activities undertaken outside of the parameters of **Exhibit A** ("Scope of Work") of this SRA.

C. National Objectives

All activities funded with CDBG-MIT funds must meet one (1) of the two (2) CDBG-MIT Program's National Objectives: (i) benefit low-and moderate-income ("**LMI**") persons or; (ii) meet a particular urgent need for mitigation ("**UNM**"), as defined in 24 C.F.R. § 570.208, as amended by waiver published in the Federal Register, Vol. 84, No. 169 (84 Fed. Reg. 45838) on August 30, 2019. The national objective for LMI requires that proposed mitigation programs and projects must prioritize the protection of LMI individuals: no less than fifty percent (50%) of the CDBG-MIT grant must benefit LMI. The UNM national objective requires that activities under the CDBG-MIT Program result in measurable and verifiable reductions in the risk of loss of life and property from future disasters and yield community development benefits.

UNM
2 Additionally, as per 84 Fed. Reg. 45857 (August 30, 2019), the provisions of 24 C.F.R. § 570.483(e) and §570.208(d) are modified by an alternative requirement to include the following additional criteria for all mitigation activities funded with CDBG-MIT funds. To meet a national objective, all CDBG-MIT activities must:

1. Demonstrate the ability to operate for the useful life of the project.
2. Be consistent with other mitigation activities. To be consistent, the CDBG-MIT activity must not increase the risk of loss of life or property in a way that undermines the benefits from other uses of CDBG-MIT funds in the most impacted and distressed ("**MID**") area.

The Subrecipient certifies that the activities carried out under this SRA shall meet at least one (1) of these national objective(s) as established above. The Subrecipient shall ensure that the funded activity or services meet the applicable CDBG-MIT National Objective(s) and that the subcontractor or third party collects the necessary information and complete the applicable forms to document the National Objective(s).

D. Levels of Accomplishment – Performance Goals and Timelines

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

E. Nonperformance Standard

In sixty (**60**) calendar days from the Effective Date, as defined in **Section V** of this SRA, the Subrecipient shall develop and submit the Project Implementation Plan for PRDOH's approval. PRDOH may extend the aforementioned term for an additional period of up to sixty (60) calendar days. Such term extension may be granted if it is timely requested by the Subrecipient (before the expiration of the original term) and the Subrecipient is able to document circumstances beyond its control that prevented the completion of such tasks.

Upon PRDOH's approval of the Project Implementation Plan, Program activity shall begin according to the performance objectives set forth in **Exhibit B** ("Timelines and Performance Goals") and the timelines established in the approved Project Implementation Plan. If the Program activity has not begun by the end of a period of one hundred twenty **(120) calendar days** from the date of approval of the Project Implementation Plan, the PRDOH may, at its sole discretion, terminate this SRA, de-obligate funds made available under this SRA, and/or recapture funds previously expended by the Subrecipient under this SRA from non-federal funds.

F. Staffing

The Subrecipient shall supervise and direct the completion of all activities under this SRA. Any changes in assigned key personnel or their responsibilities under the activities included in the **Exhibit A** (Scope of Work) are subject to the prior approval of the PRDOH. If possible, it is the best practice for Subrecipient to provide PRDOH with ample written notice to the personnel changes and requests. Ample notice in this context shall be **ten (10) business days**. If that is not possible, then the Subrecipient shall make all reasonable efforts to notify PRDOH of changes.

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

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

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

G. Pre-Award Costs

Pre-award costs applicable to the Subrecipient are strictly prohibited.

H. Infrastructure Projects

As per 84 Fed. Reg. 45851 (August 30, 2019), Infrastructure Projects are defined as an activity or group of related activities that develop the physical assets that are designed to provide or support services to the general public in sectors such as: surface transportation, water resource projects, pipelines, drinking water infrastructure, among others.

For more details regarding the definition of Infrastructure Projects and applicable regulations, refer to the CDBG-MIT Action Plan, Program Guidelines and policies.

i. Covered Projects

HUD has created a new standard for the evaluation of large-scale infrastructure projects by introducing the concept of Covered Projects. As per 84 Fed. Reg. 45840 (August 30, 2019), a Covered Project under CDBG-MIT is defined as an Infrastructure Project having: (1) a total project cost of \$100 million or more; and (2) includes at least \$50 million of CDBG funds (regardless of CDBG source such as CDBG-DR, CDBG-National Disaster Resilience ("**NDR**"), CDBG-MIT, CDBG funds, etc.). HUD requires that Covered Projects undergo an enhanced evaluation

process, which may include a Benefit-Cost Analysis ("**BCA**") to determine if the benefits of the completed project outweigh the costs of implementing the project. The Covered Projects administered by PRDOH are described in the CDBG-MIT Action Plan, as amended.

Additionally, according to 84 Fed. Reg. 45857 (August 30, 2019), the provisions of 24 C.F.R. § 570.483(e) and §570.208(d) are modified to incorporate, as additional criteria, that all Covered Projects must:

- a) Demonstrate long-term efficacy and fiscal sustainability by: documenting measurable outcomes or reduction in risk; documenting how the Covered Project will reflect changing environmental conditions with risk management tools and alter funding sources if necessary; and establishing a plan for the long-term operation and maintenance of the Covered Project.
- b) Demonstrably benefit the MID area. The benefits of the Covered Project must outweigh the costs of the Covered Project; benefits outweigh costs if the Benefit-Cost Analysis (**BCA**) results in a benefit-to-cost ratio greater than 1.0. Alternatively, for a Covered Project that serves LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters, benefits outweigh costs if the grantee supplements its BCA with a qualitative description of benefits that cannot be quantified but sufficiently demonstrate unique and concrete benefits of the Covered Project for that population.

ii. Covered Projects: additional considerations

HUD has established additional requirements to support the successful implementation and operation of large-scale infrastructure projects. The additional requirements include the project's publication in a HUD-approved Action Plan or substantial Action Plan amendment, and compliance with the implementation of Covered Projects provisions, prior to executing a construction contract.

Therefore, the Subrecipient acknowledges that after the execution of this SRA, the costs of any Infrastructure Project under this SRA may increase and meet the Covered Project costs minimum requirements. If such an increase in costs materializes prior to the execution of a contract for the construction of the project, all tasks related to the project must cease until further evaluation demonstrates the project's compliance with all the additional requirements for a Covered Project. The project's tasks may resume if the proposed project finally meets the definition of a Covered Project and HUD approves its addition to the Action Plan through a substantial amendment as per 84 Fed. Reg. 45838, 45850-45853, 45957. Also, this SRA shall be amended to incorporate any changes, for example, to the budget, scope of work, or timelines resulting from the process.

However, if HUD does not approve the proposed Covered Project, PRDOH may deny the application for funding, recategorize costs, and/or withdraw the CDBG funds assigned to Subrecipient, among other actions.

Furthermore, if an Infrastructure Project under this SRA meets the Covered Project costs minimum requirements after the execution of a construction contract, the increase in construction costs will be evaluated by a third-party cost estimator and documented in a non-substantial amendment to the Action Plan, without the need of ceasing construction activities.

For more details regarding Covered Projects' definitions, evaluation criteria and other requirements, refer to the CDBG-MIT Action Plan, Program Guidelines and policies.

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IV. PERFORMANCE, MONITORING AND REPORTING

A. Monitoring

The PRDOH shall monitor the performance of the Subrecipient as necessary to ensure that the funds allocated to the Subrecipient are used for authorized purposes, in compliance with Federal statutes, regulations, the Program Guidelines, and the terms and conditions of this SRA, including the timeframes and performance goals set forth in **Exhibit B** ("Timelines and Performance Goals"), as further detailed in the approved Project Implementation Plan, and associated with the activities included in **Exhibit A** ("Scope of Work").

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

Substandard performance, defined as a performance that falls short of the standard expected of the Subrecipient, as specified in the SRA's exhibits, shall constitute noncompliance with this SRA.

If action to correct such substandard performance is not taken by the Subrecipient within **thirty (30) calendar days** after being notified by PRDOH, PRDOH may impose additional conditions on the Subrecipient and suspend or terminate this SRA, disallow all or part of the cost of the activity or action not in compliance or initiate other remedies for noncompliance, as appropriate and permitted under 2 C.F.R. § 200.339.

B. Reporting

The Subrecipient shall complete and submit all the required reports, in the form, timeframe, and with the content specified by the PRDOH in accordance with **Exhibit B** ("Timelines and Performance Goals") and the approved Project Implementation Plan. The PRDOH may later notify in writing to the Subrecipient further guidelines and requirements applicable to the submittal of the progress reports, and such notification shall be deemed incorporated by reference into this SRA.

V. EFFECTIVE DATE AND TERM

This SRA shall be in effect and enforceable between the Parties from the date of its execution. The performance period of this SRA is **sixty (60) months** from the date of its execution, ending in March 26, 2029.

The End of Term shall be the later of: (i) March 26, 2029; (ii) the date as of which the Parties agree in writing that all Close-Out Requirements¹ have been satisfied or, where no Close-Out Requirements are applicable to this SRA, the date as of which the Parties agree in writing that no Close-Out Requirements are applicable hereto; or (iii) such later date as the Parties may agree to in a signed amendment to this SRA.

The Subrecipient hereby acknowledges that this SRA is subject to the Grant Agreement between the Government of Puerto Rico or the PRDOH, and HUD ("**Grant Agreement**");

¹ "Close-Out Requirements" means all requirements to be satisfied by each party in order to close-out this SRA and the CDBG-MIT funds provided herein in accordance with applicable Requirements of Law, including the execution and delivery by one or more of the Parties of all close-out agreements or other legal instruments and the taking of any actions by one or more of the Parties in connection with such close-out, in any case as required under applicable Requirements of Law.

and the availability of the allocated CDBG-MIT funds. The Subrecipient also acknowledges and agrees that any suspension, cancellation, termination, or otherwise unavailability of the CDBG-MIT allocation(s) shall result in the immediate suspension, cancellation, or termination of this SRA, upon PRDOH's notice.

A. Contract Extensions:

PRDOH may extend the SRA's term for additional terms, upon mutual written agreement of the Parties. The term of this SRA 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 term of this SRA cannot exceed the extension.

VI. BUDGET

A. Budget

The Subrecipient shall complete all activities in **Exhibit A** ("Scope of Work") of this SRA in accordance with **Exhibit D** ("Budget") attached herein and made an integral part of this SRA as such Budget may be amended from time to time.

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

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

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

B. Indirect Costs

Indirect costs invoiced, if any, must be consistent with the conditions set forth herein. Indirect costs may be charged to PRDOH under a negotiated indirect cost rate agreement with a federal cognizant agency, a *de minimis* indirect cost rate (for applicable entities), or an indirect cost proposal prepared prior to the charging of any indirect cost to the Grant, in accordance with 2 C.F.R. Part 200, subpart E, submitted to a federal cognizant agency, and as approved by PRDOH in accordance with its written policies and procedures, which shall be included in **Exhibit D** ("Budget").

C. Program Income

PRDOH reserves the right to authorize the Subrecipient to retain Program Income² to be used in eligible program activities as described in this SRA. The Subrecipient shall notify

² As defined in section V(A)(19)(a) of the HUD Notice, 84 Fed. Reg. 45838, 45858 (August 30, 2019), as may be amended by HUD), *Program Income* is:

[...] gross income generated from the use of CDBG-MIT funds, or a subrecipient of a State or local government, except as provided in subparagraph (d) of this paragraph."

[...] Program income includes, but is not limited to, the following: (a) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-MIT funds; (b) Proceeds from the disposition of equipment purchased with CDBG-MIT funds; (c) Gross income from the use or rental of real or personal property acquired by a State, local government, or Subrecipient thereof with CDBG-MIT funds, less costs incidental to generation of the income (i.e., net income); (d) Net income from the use or rental of real property owned by a State, local government, or Subrecipient thereof, that was constructed or improved with CDBG-MIT funds; (e) Payments of principal and interest on loans made using CDBG-MIT funds; (f) Proceeds from the sale of loans made with CDBG-MIT funds; (g) Proceeds

quarterly to PRDOH receipt of any Program Income generated by activities carried out with CDBG-MIT funds made available under this SRA. All Program Income (as defined at 24 C.F.R. § 570.500) generated by activities carried out with the CDBG-MIT Funds must be returned to PRDOH if retention of such is not previously authorized by PRDOH. Program Income is subject to all applicable CDBG-MIT laws, regulations and PRDOH policies and procedures for so long as it exists. Contrary to CDBG-MIT provisions, any interest earned on cash advances from the U.S. Treasury or interest paid on CDBG funds held in a revolving fund account is not Program Income.

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

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

D. Property Management and Disposition

PRDOH will comply with regulations governing property management and distribution of real property, equipment, financial obligations, and return of un-obligated cash post program closeout. Applicable regulations can be found in 24 C.F.R. § 570.502, 24 C.F.R. § 570.505, 2 C.F.R. § 200.310, 2 C.F.R. § 200.343, 2 C.F.R. § 200.344(b), 2 C.F.R. § 200.344(d)(4) and 24 C.F.R. § 570.489(j).

For any real property acquired in whole or in part with CDBG funds in excess of \$25,000.00, the Subrecipient must control the use of the property in accordance with its intended purpose and take diligent care of it and may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it meets one of the HUD national objectives. If the Subrecipient changes the use of the property, the Subrecipient may either retain or dispose of the property and reimburse PRDOH the amount of the current fair market value of the property.

Further details on property management and disposition can be found in the Cross Cutting Guidelines as a Property Management and Disposition Policy, available in English and Spanish at the CDBG-DR/MIT website: <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

VII. PAYMENT

A. Amount

This SRA is based on the reimbursement of funds to the Subrecipient expended on approved CDBG-MIT items. Funding is contingent on a CDBG-MIT award to PRDOH or a Grant Agreement between the Government of Puerto Rico or the PRDOH, and HUD, and PRDOH's receipt of CDBG-MIT funds. It is expressly agreed and understood that the total funding amount to be paid by the PRDOH to the Subrecipient under this SRA shall not exceed the amount specified in **Exhibit D** ("Budget"). Such payment shall be

from the sale of obligations secured by loans made with CDBG-MIT funds; (h) Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund account; (i) Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not low- and moderate-income, where the special assessments are used to recover all or part of the CDBG-MIT portion of a public improvement; (j) Gross income paid to a State, local government, or a Subrecipient thereof, from the ownership interest in a for profit entity in which the income is in return for the provision of CDBG-MIT assistance.

compensated for all allowable services required, performed and accepted under this SRA. However, PRDOH reserves the right to reduce the funding amount if CDBG-MIT funding is not provided under the Grant Agreement at the currently anticipated levels and/or if the actual costs for the approved activities are less than those set forth in **Exhibit D** ("Budget").

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

B. Requests for Reimbursement

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

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

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

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

"Under penalty of absolute nullity, I 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."

The PRDOH shall pay to the Subrecipient CDBG-MIT funds available under this SRA [See **Exhibit E** ("Funds Certification")] based upon information submitted by the Subrecipient for allowable costs permitted under this SRA and consistent with the approved Budget. Payments shall be made for eligible and allowed expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. PRDOH reserves the right to adjust payments in accordance with program income balances available in Subrecipient accounts.

All Subrecipient invoicing and payments will be managed through PRDOH's Financial Management Systems, to ensure effective fully compliant cost principles and use of funds, maximizing operational and financial performance, minimizing risk, and providing optimal service.

For detailed requirements, refer to the PRDOH Financial Policy available in English and Spanish at CDBG-DR/MIT Website <https://www.cdbgdr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbgdr.pr.gov/recursos/politicas/politicas-generales/>.

VIII. NOTICES

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

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CDBG-MIT Grantee: William O. Rodríguez Rodríguez
Secretary
Puerto Rico Department of Housing
606 Barbosa Avenue
Juan C. Cordero Building
Río Piedras, Puerto Rico 00918

Subrecipient: Joel A. Pizá Batiz
Executive Director
Puerto Rico Ports Authority
PO Box 362829
San Juan, Puerto Rico 00936-2829
787-729-8715 Ext. 3178
rpedraza@prpa.pr.gov

Point of Contact (POC) Romel Pedraza
Assistant Executive Director, Planning and Engineering
PO Box 362829
San Juan, Puerto Rico 00936-2829
787-729-8715 Ext. 3178
rpedraza@prpa.pr.gov

IX. AMENDMENT AND TERMINATION

I. Amendments

This SRA may be amended provided that such amendments make specific reference to this SRA, comply with programmatic policies, procedures, and guidelines, are executed in writing and signed by a duly authorized representative of each party, and approved by PRDOH. Such amendments shall not invalidate this SRA, nor relieve or release the Parties from their obligations under this SRA. Unless specified, such amendments are not intended to affect, nor will they constitute an extinctive novation of the obligations of the Parties under the SRA and amendment.

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

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

However, PRDOH reserves the right to notify the Subrecipient in writing, email or any other electronic method, of 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 SRA without the need of executing a separate written and signed amendment.

J. Suspension or Termination

1. Termination for Cause

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

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

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

2. Termination for Convenience of the PRDOH

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

This SRA may also be terminated in whole or in part by either the PRDOH or the Subrecipient, or based upon the SRA by both the PRDOH and the Subrecipient in accordance with the requirements in 2 C.F.R. Part 200, subpart D.

3. Notification and Recoupment of Costs Incurred Prior to Termination

The PRDOH shall promptly notify the Subrecipient, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take

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

4. Unilateral Termination

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

5. Suspension

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

6. Immediate Termination

In the event the Subrecipient is subjected to a criminal or civil action, suit, proceeding, inquiry or court of the applicable jurisdiction, or any governmental agency, or the Subrecipient shall be subject to an order, judgment, or opinion, issued by any federal or local authority, a court of the applicable jurisdiction, or any governmental agency, in connection with the execution, delivery, and performance by the Subrecipient of this SRA or the Subrecipient has been non-compliant, in breach, inaccurate in any representation, warranties, covenants, or the certifications provided herein, whether the noncompliance, breach or inaccuracy takes place before or after the execution of this SRA, the PRDOH shall have the right to the immediate termination of this SRA 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 SRA pursuant to Act No. 2 of January 4, 2018, as amended, 3 LPRA § 1881 *et seq.*, known as the "Anti-Corruption Code for the New Puerto Rico". The Subrecipient has a continuous obligation to report to PRDOH any proceedings which apply to the Subrecipient under this paragraph.

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

7. Period of Transition.

Upon termination of this SRA, and for **ninety (90) consecutive calendar days** thereafter (the **Transition Period**), Subrecipient agrees to make himself available to assist the PRDOH with the transition of services assigned to the Subrecipient by the PRDOH. The subrecipient

shall provide to the PRDOH the assistance reasonably requested to facilitate the orderly transfer of responsibility for the 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 Subrecipient 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 SRA will be turned over to PRDOH.

8. Availability of Funds

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

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

The "HUD General Provisions and Other Federal Statutes, Regulations, and PRDOH Requirements", which are attached to, and made an integral part of this SRA as **Exhibit F**, set forth certain requirements imposed by HUD with respect to the PRDOH's Federal award or CDBG-MIT Grant. Furthermore, **Exhibit G** ("Special Conditions"), attached herein and made an integral part of this SRA, is reserved to cover particular circumstances, conditions or specific requirements as they arise from the demands of the Program.

The Subrecipient agrees to carry out its obligations under this SRA in compliance with all the requirements described in **Exhibit F** ("HUD General Provisions and Other Federal Statutes, Regulations, and PRDOH Requirements"), as well as those set forth in the aforementioned **Exhibit G** ("Special Conditions") attached to this SRA.

Moreover, **Exhibit I** ("Non-Conflict of Interest Certification"), attached herein and made an integral part of this SRA, outlines several situations that may reasonably be considered as conflicts of interest. The Subrecipient shall disclose and certify that, to the best of its knowledge, none of the situations exist or may exist at the date of the execution of the SRA.

XI. INSURANCE & BONDING

The Subrecipient shall carry sufficient insurance coverage and bonding from insurers licensed to conduct business in the Government of Puerto Rico to protect all contract assets from loss due to any cause, including but not limited to theft, fraud, and/or physical damage. The aforementioned insurance coverage shall be provided by the Subrecipient, via Commercial General Liability (CGL) insurance policy, during the life of the SRA. The Government of Puerto Rico, the PRDOH and HUD shall be named as additional insurers on all such insurance. The Subrecipient shall meet all other insurance requirements as the PRDOH may impose from time to time. In addition, all insurance carriers and bonding companies shall meet minimum size and financial stability/financial rating requirements as may be imposed by the PRDOH from time to time. Certificates of

insurance shall be provided to the PRDOH and full and complete copies of the policies and/or bonds shall be provided to the PRDOH upon its request for same.

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

Moreover, in accordance with 2 C.F.R. § 200.310, the Subrecipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by PRDOH. Federally owned property need not be insured unless required by the terms and conditions of the Federal award.

XII. FEDERAL LAWS AND REGULATIONS APPLICABLE TO CONSTRUCTION CONTRACTS

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Projects receiving CDBG-MIT funding are required to comply with federal labor standards laws, including Davis-Bacon Act of 1931 and Related Acts (DBRA), as amended, 40 U.S.C. § 3141-3148; Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. § 201 et seq.; Contract Work Hours and Safety Standards Act (CWHSSA), 40 U.S.C. § 3701; Copeland Anti-Kickback Act, 40 U.S.C. § 3145. Together, these laws ensure that workers are paid the appropriate prevailing wage rate and are treated fairly by employers receiving CDBG-MIT funding to execute program activities, and employment opportunities are made available to low-income individuals to the greatest extent possible. Each of these laws requires important recordkeeping practices to ensure compliance and allow for accurate and efficient reporting as required by PRDOH. These laws are described in **Exhibit F** (HUD General Provisions and Other Federal Statutes, Regulations, and PRDOH Requirements).

XIII. CDBG-MIT POLICIES AND PROCEDURES

In addition to what is established in this SRA, the Subrecipient shall comply with all CDBG-MIT program-specific and general policies and procedures, which may include, but are not limited to, the Subrecipient Management Policy, OS&H Guideline, MWBE Policy, URA & ADP Guidelines, Cross Cutting Guidelines, AFWAM Policy, Section 3 Policy, Personally Identifiable Information, Confidentiality, Language Access Plan, and Nondisclosure Policy and Conflict of Interest and Standards of Conduct Policy, as found in the CDBG-DR/MIT Website (<https://cdbg-dr.pr.gov/en/resources/policies/>), which are herein included and made an integral part of this SRA, as they may be updated from time to time, Procurement policies and procedures in accordance with the Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs Regulation No. 9506 (September 25, 2023), and reporting requirements as established by the PRDOH.

XIV. SYSTEM FOR AWARD MANAGEMENT (SAM) REGISTRATION

The Subrecipient must be registered in the System for Award Management (SAM) and shall maintain its registration active during the performance of the SRA and through final payment. The Subrecipient is responsible during performance and through final payment for the accuracy and completeness of the data within SAM. **Failure to maintain registration in SAM can impact obligations and payments under this SRA.**

XV. 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 to as Force Majeure during the term of this SRA, neither the PRDOH nor the Subrecipient 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 Subrecipient 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 Subrecipient may be entitled to reasonable adjustments in the schedule, 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 SRA immediately upon written notification to the Subrecipient.

XVI. INDEPENDENT CONTRACTOR

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

XVII. ASSIGNMENT OF RIGHTS

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

XVIII. SEVERABILITY

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

XIX. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this SRA are included for convenience only and shall not limit or otherwise affect the terms of this SRA, and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this SRA.

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

A. Consolidation or Merger

In the event that the signing party (e.g., Subrecipient) of the SRA with the PRDOH moves for 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 Legal Division at contractscdbgdr@vivienda.pr.gov **at least fifteen (15) days prior to the effective date** of the consolidation or merger. The notice shall include, but not be limited to, a description of: the expected effective date of the consolidation or merger; the 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 SRA 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 SRA may follow. The Amendment would include, but not be 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 SRA will be necessary if the Subrecipient, 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 SRA.

B. Change of Name

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In the event that the signing party (e.g., Subrecipient) of the SRA with the PRDOH initiates a change of name process, written notice of such decision or event shall be delivered to the PRDOH Legal Division at contractscdbgdr@vivienda.pr.gov **at least fifteen (15) days** prior to the effective date of such event. The notice shall include, but not be 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 SRA, 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 SRA 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 SRA.

C. Dissolution

In the event that the signing party (e.g., Subrecipient) of the SRA with the PRDOH moves for dissolution of the entity, written notice of such decision or event shall be delivered to the PRDOH Legal Division at contractscdbgdr@vivienda.pr.gov **at least fifteen (15) days** prior to the effective date of such event. The notice shall include, but not be 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 SRA will follow. Consequently, the signing party acknowledges and agrees to provide to the PRDOH, after termination of the SRA, the assistance reasonably requested to facilitate the orderly transfer of responsibility for the 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 SRA will be turned over to PRDOH following the SRA termination.

XXI. NON-WAIVER

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

XXII. BANKRUPTCY

In the event that Subrecipient files for bankruptcy protection under the Puerto Rico Oversight and Management and Economic Stability Act ("PROMESA") 48 USC Chapter 20, the Government of Puerto Rico and PRDOH may, subject to the provisions pertaining to "Covered Entities" within the PROMESA statute, terminate this Agreement pursuant to Section IX(B)(1).

XXIII. GOVERNING LAW: JURISDICTION

This SRA 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 SRA in the Puerto Rico Court of First Instance, San Juan Part.

XXIV. COMPLIANCE WITH THE LAW

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

XXV. SUBROGATION

The Subrecipient acknowledges that funds provided through this SRA are Federal funds administered by HUD under the CDBG-MIT Program and that all funds provided by this SRA are subject to audit, disallowance, and repayment. Any disagreement with adverse findings may be challenged and subject to Federal regulation, however, the Subrecipient shall promptly return any and all funds to the PRDOH, which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause. This clause shall survive indefinitely the termination of this SRA for any reason in accordance with **Exhibit G** ("Subrogation and Assignment Provisions").

XXVI. COMPTROLLER REGISTRY

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

XXVII. ENTIRE AGREEMENT

This SRA constitutes the entire agreement among the Parties for the use of funds received under this SRA and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written among the Parties with respect to this SRA.

XXVIII. FEDERAL FUNDING

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

XXIX. RECAPTURE OF FUNDS

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

XXX. OVERPAYMENT

Subrecipient shall be liable to the PRDOH for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this SRA. Subrecipient shall reimburse such disallowed costs from funds other than those Subrecipient received under this SRA.

XXXI. COUNTERPARTS

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

XXXII. SURVIVAL OF TERMS AND CONDITIONS

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The terms and conditions of this SRA related to the following subjects shall survive the termination or expiration of this SRA: interpretive provisions; consideration; warranties; general affirmations, federal assurances, federal and state certifications; CDBG-MIT and state funding, recapture of CDBG-MIT and/or state funds, overpayment of CDBG-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, mergers, 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 SRA shall so survive.

XXXIII. LIMITATIONS PENDING ENVIRONMENTAL CLEARANCE

The Subrecipient acknowledges HUD's rules and regulations that govern the environmental review process as per 24 C.F.R. Part 58. In particular, the Subrecipient is aware that the request of release of CDBG funds for any projects or activities under this Agreement may be limited until the environmental review process is completed under PRDOH's satisfaction. Moreover, the Subrecipient acknowledges that the undertaking of activities that would have an adverse environmental impact or limit the choice of reasonable alternatives to the project or site, shall be avoided prior to obtaining environmental clearance.

XXXIV. PUERTO RICO POLITICAL CAMPAIGN FINANCING OVERSIGHT ACT

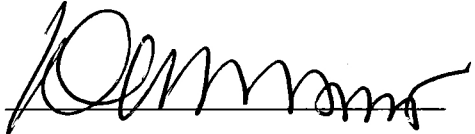
Act 222-2011, known as the "Puerto Rico Political Campaign Financing Oversight Act", 16 LPRA §621-634, as amended, states that starting in January of each general election year, and until the general canvass of the general elections has been completed, and the official and final results thereof have been certified, any entity of the Government of Puerto Rico (Executive Branch, Judicial Branch, Legislative Branch, and Municipalities) is prohibited from disbursing public funds for the purpose of exposing achievements, accomplishments, projections, plans or messages and content for partisan or electoral political purposes that seek to highlight, or disfavor an aspirant, candidate, elected official, political party, or committee. This includes any advertisement or article that has

been purchased, acquired, produced, or assembled prior to the year in which the general election is held, provided that it is to be disseminated during the election year, and regardless of whether the public funds used by the government entity come from the general fund, a special fund, federal funds, municipal funds, or any other source.

It will be the Subrecipient's responsibility to comply with the requirements set forth in Act 222-2011. Failure to comply with the provisions of this legislation and applicable regulations, as determined by a competent authority, may affect the disbursement of funds allocated under this Agreement.

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

PUERTO RICO DEPARTMENT OF HOUSING
CDBG-MIT Grantee

By: 
Name: William O. Rodríguez Rodríguez
Title: Secretary

PUERTO RICO PORTS AUTHORITY
CDBG-MIT Subrecipient

By: 
Name: Joel A. Pizá Batiz
Title: Executive Director



EXHIBIT A

SCOPE OF WORK

INFRASTRUCTURE MITIGATION PROGRAM

PUERTO RICO PORTS AUTHORITY

The Puerto Rico Department of Housing (PRDOH) has established the following Scope of Work (SOW) as part of the Subrecipient Agreement (SRA) between PRDOH and Subrecipient for the Infrastructure Mitigation (INFRA-MIT) Program (Program) as part of the Community Development Block Grant for Mitigation (CDBG-MIT) Program.

The Subrecipient will prepare and submit all necessary documentation related to the Reconstruction of Army Terminal Project (Project) for development under this Program. The Project documentation shall demonstrate compliance with all eligibility requirements established in the Infra-MIT Program Guidelines.

The Subrecipient shall ensure compliance with Act No. 173 of August 12, 1988, as amended, known as the "Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects of Puerto Rico Act," 20 LPRA §§ 7n-711z, which requires all personnel that will exercise the profession of engineering, architecture, surveying or landscaping architecture in Puerto Rico, be registered in the official Register of the Board, and be an active member of the College of Engineers and Surveyors of Puerto Rico or the College of Architects and Landscape Architects of Puerto Rico, as applicable.

PRDOH will provide funding and technical assistance to the Subrecipient to complete the following tasks:

Task 1. Project Management Services

Activity: Utilizing internal staff and/or procured professional services, Subrecipient shall perform all required Project Management services including, but not limited to, the following roles and responsibilities:

- a) Act as point of contact between PRDOH, its representatives, and Subrecipient's contractors.
- b) Lead coordination and control over execution of approved Project activities.
- c) Assist in the coordination and reporting of overall and specific Project activities.
- d) Monitor Project status and establish necessary tools for controlling schedule, budget, and scope.
- e) Lead and coordinate the implementation of change management, risk management, and quality assurance.
- f) Lead and approve Project monitoring activities to prepare and present reports as required by the PRDOH.
- g) Lead, coordinate, and facilitate all necessary high profile, program-wide public presentations and meetings, and government or non-government stakeholder meetings.
- h) Coordinate, support, and analyze performance measurement of contractors, and report results in coordination with PRDOH or its authorized representative.
- i) Maintain a complete understanding of all applicable CDBG-MIT Program policies, requirements, procedures, and guidelines; and identify/promote all necessary corrective actions. Ensure all such requirements are met throughout Project development and implementation.
- j) Coordinate documentation submissions for the approved Project.
- k) Track and report status and performance of approved Project.
- l) Provide, coordinate, or manage technical assistance to technical team (e.g., consultants and employees performing technical work to develop Project).
- m) Review and recommend for payment, all invoices related to professional services including change orders. Submit all invoice documentation using the PRDOH Financial Management System (System).
- n) Monitor and prepare progress reports to communicate the status of the work, pending matters, and the budgetary situation of the Project.

- o) Identify, communicate, and resolve delays or situations that affect the scope, budget, or schedule of the Project.
- p) Lead the management of Project development from Project initiation through necessary planning and design.
- q) Monitor compliance with regulations, laws, safety codes, standards, policies, management of program resources, and current procedures applicable to the design of construction projects.
- r) Prepare and update the Project Implementation Plan, as needed, identifying key activities, deliverables, and timeframes of performance for the Project.

Task 2. Architecture and Engineering Services/Project Design Development

Activity: Utilizing internal staff and/or procured professional services, Subrecipient shall perform all required Architecture and/or Engineering (A&E) Design services including, and not limited to, the following responsibilities:

- a) Ensure professional, architectural, or engineering services are performed by licensed professionals with the proper qualifications, skills, and experience necessary to perform such services, according to applicable federal and local rules and regulations.
- b) Lead and complete the A&E Design Services of the Project to 100% Construction Documents, with the ultimate purpose of completing its construction. A&E Design Services shall include the following:
 - 1. Conceptual Design,
 - 2. Land Acquisition, if applicable,
 - 3. Feasibility Review, if applicable,
 - 4. Environmental Review,
 - 5. Cost Estimates,
 - 6. Development of Design Documents, and
 - 7. Studies needed to complete the project Statement of Work, drawings, specifications, and corresponding documents such as, Geotechnical studies, LBP/ACM, etc.
- c) Participate in the identification of current best practices and cost-effective solutions required to be considered in construction documentation.
- d) Services are to be provided in compliance with HUD Regulations including Section 3 and Minority- and Women-Owned Business Enterprises (M/WBE) best faith efforts.
- e) Coordinate and perform necessary field studies.
- f) Prepare, coordinate, and manage required permitting documentation.
- g) Coordinate and prepare necessary cost estimates to determine reasonable costs of the Project(s).
- h) Coordinate and prepare Design/Build or Construction procurement documentation of the Project, in compliance with 2 C.F.R. § 200.318 through §200.327.
- i) If necessary, participate in the supervision of construction activities.
- j) Prepare and implement work plan for environmental review performance in coordination with Environmental Professional as soon as the Project reaches sufficient level of development to identify Project elements and activities to begin the assessment as established in 24 C.F.R. Part 58.
- k) Coordinate and perform delivery of conceptual/schematic design documentation to PRDOH for review. The design documentation to be delivered to PRDOH shall include drawings, plans, specifications, permit documentation, studies, cost estimate, and any other document required upon request.
- l) Apply the most recent federal and local construction codes applicable to the Project.
- m) Manage changes and risks associated with changes in policies, regulations, and construction codes applicable to the Project.
- n) If necessary, prepare presentations for PRDOH regarding the Project.

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The Subrecipient shall prepare all necessary documents for Project development and implementation, including the following examples: drawings, specifications, property acquisition drawings and documentation, technical studies and analyses, required permits and endorsements, cost estimates, construction schedule, and necessary procurement documentation.

The Subrecipient shall perform all necessary deliveries to PRDOH of construction documents at established benchmarks for revision and to demonstrate progress of the work. The schedule of deliveries shall be coordinated with the PRDOH before commencing the design development of the Project.

After the revision of each delivery, the Subrecipient may receive comments from PRDOH that may result in required revisions of the documentation. PRDOH expects to receive all necessary progress deliveries with a compliance certification of applicable codes and regulations and the progress accomplished, prepared by the architect/engineer in charge of the design of each Project.

Deliverable: The Subrecipient shall submit a Project Implementation Plan indicating the established timeframe for each of the deliverables, and for each design phase. Once established, PRDOH expects the submission of construction documents, at the expected delivery schedule, submission of Design/Build RFP or Construction Bid documents (including Independent Construction/Cost Estimates or ICE) and subsequent construction documents, at established benchmarks.

Task 3. Environmental Review and Clearance

Activity: The Subrecipient shall coordinate and prepare all necessary information to complete the Environmental Review for the Project in compliance with 24 C.F.R. Part 58 regulation. This task can be carried out with internal staff and/or procured professional services. The Subrecipient may request technical assistance from the PRDOH for this task.

The Subrecipient shall prepare and submit for PRDOH's review all required documentation necessary to support the environmental findings for one of the following, as applicable:

- a) If Exempt or Categorically Excluded Not Subject to 24 C.F.R. § 58.5 (**CENST**), complete review for this category using the provided template and submit to PRDOH for review.
- b) If Categorically Excluded Subject to 24 C.F.R. § 58.5 (**CEST**), complete review for this category using the provided template and submit to PRDOH for review.
- c) If an Environmental Assessment (**EA**) is required, complete review for this category (including any requirements for Phase I or II site assessment) using the provided template and submit to PRDOH for review.

The Subrecipient shall submit the Environmental Review Record (**ERR**), in accordance with 24 C.F.R. § 58.38, to the PRDOH for review and signature of PRDOH's Certifying Officer. All activities must be of no significant impact or with obtainable mitigation activities to render the action to one of no impact. All mitigation activities must be clearly identified in the Environmental Review.

If approved and the Findings of No Significant Impact (**FONSI**) and CEST are certified by the PRDOH Certifying Officer, the Subrecipient must publish the FONSI or the Notice of Intent (**NOI**) to Request Release of Funds (**RROF**) public notice for an EA or a NOI/RROF for a CEST in a newspaper of general circulation (in accordance with 24 C.F.R. § 58.43).

After all comments are received and addressed by the Subrecipient with revisions to the Environmental Review, as appropriate, the PRDOH will complete the applicable Sections of the provided template for the RROF and submit the RROF to HUD for approval as the responsible entity.

The Subrecipient cannot initiate any non-exempt activities for which the funding is requested before the AUGF is received by the PRDOH and forwarded to the Subrecipient. The Subrecipient shall notify the PRDOH, in writing, of any changes to the approved Project scope and shall perform a re-evaluation of the Environmental Review to determine if the change(s) impact the environmental determination for the Project. During the performance of this Task, the Subrecipient shall deliver reports of progress of

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the work to PRDOH for revision. After PRDOH's review of each delivery, the Subrecipient shall expect comments from PRDOH that may result in required revisions of the documentation.

The Subrecipient shall perform all necessary Environmental Services including, but not limited to, the following roles and responsibilities:

- a) Maintain awareness, knowledge, and applicability of most recent federal and local environmental laws, regulations, and policies that may apply to PRDOH CDBG-MIT projects.
- b) Support preliminary environmental evaluations to determine eligibility of project under CDBG-MIT Program.
- c) Lead the coordination and preparation of environmental related studies, analysis of impacts, and recommendations for Project under CDBG-MIT programs.
- d) Participate in the identification of current best practices and cost-effective solutions required to be considered in construction documentation.
- e) Lead the coordination and preparation of all required documentation to comply with NEPA, 24 C.F.R. Part 58, and all applicable environmental related laws and regulations in Puerto Rico.
- f) Prepare, complete and submit to PRDOH, for review and approval, all documents for Environmental Review of the Project.
- g) Lead the coordination and preparation of all documentation required to accomplish environmental reviews, for example: project description, maps, photographs, studies, consultations and other correspondence, public notices, programmatic agreements, etc.
- h) Provide all necessary support to the PRDOH to develop and process activities regarding RROFs for CDBG-MIT programs.
- i) Lead the coordination of monitoring activities for environmental compliance during the construction of Project.

The Subrecipient must perform any necessary procurement for professional services to complete this task, in compliance with local and federal procurement rules and regulations. The Subrecipient may request technical assistance from the PRDOH in order to prepare any required documentation related to the procurement process.

Deliverable: If not Exempt, the publication of the FONSI/NOI/RROF for an EA or a NOI/RROF for a CEST in a newspaper of general circulation (in accordance with 24 C.F.R. § 58.43). Subsequently, PRDOH will submit the RROF to HUD. With HUD's approval for the AUGF, the Subrecipient will be allowed to move forward with the Project. With PRDOH's approval of the Feasibility Study, if applicable, and HUD's approval for the AUGF, the Subrecipient will be authorized to continue project implementation.

Task 4. Design, Construction & Construction Inspection Services Procurement

Activity: Upon PRDOH's approval of the Feasibility Study, if applicable, the completion of the Environmental Review, and receipt of HUD's AUGF, the Subrecipient shall complete the Procurement Packages necessary for the procurement of the Design Services, Construction Services, and the Construction Inspection services. The contracted Design Professional/Firm shall be responsible of the design of the Project and the required documentation for obtaining the necessary permits and/or endorsements for the Project. The Construction contractor(s) shall be responsible for construction of the Project and acquiring the necessary permits for construction. The Construction Inspection Firm will carry out the construction inspection and environmental monitoring services required for the Project.

The Subrecipient shall follow and comply with the provisions of 2 C.F.R. §§ 200.318-200.327 and applicable regulations for the procurement of the Design, Construction and Construction Inspection services. The Subrecipient may request technical assistance from the PRDOH for the RFP processes.

The SOW of the procurement process must be in compliance with the approved Project. The Subrecipient may submit the SOW to PRDOH for validation in terms of compliance with the approved Project. Once the Design, Construction and the Construction

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Inspection Services Procurement packages are completed, the Subrecipient must submit the Procurement packages to PRDOH for review.

The Subrecipient shall register the executed contract in the Office of the Comptroller of Puerto Rico's Contract Registry in compliance with applicable laws and regulations.

Deliverable: Procurement packages and RFP announcement publication. After completion of procurement processes, registry of the executed Design, Construction and Construction Inspection contracts with the Office of the Comptroller Office of Puerto Rico.

Task 5. Construction Inspection Services

Activity: Utilizing internal staff and/or contracted professional services, the Subrecipient shall provide appropriate construction inspection services for the Project.

The Subrecipient may acquire professional services to perform construction inspection services for the Project. To acquire professional services the Subrecipient shall comply with procurement processes in compliance with the provisions of 2 C.F.R. §§ 200.318-200.327.

The Subrecipient shall comply, at a minimum, with the following roles and responsibilities for construction inspection services:

- a) Services shall be provided by a professional engineer or architect licensed in Puerto Rico.
- b) Supervise all construction activities to be performed as a part of the Project.
- c) Attend preconstruction meetings and participate in recurrent construction meetings.
- d) Serve as the field/construction Point of Contact.
- e) Provide daily and regular correspondence with the Construction Contractor(s).
- f) Coordinate Project schedules with Construction Contractor(s) and other required participants.
- g) Maintain necessary written communication with Project Manager(s) and the Subrecipient.
- h) Inspect progress and construction methods to ensure construction work meets contract requirements.
- i) Communicate and resolve field problems with Construction Contractor(s), Project Manager(s), and any other affected parties.
- j) Coordinate necessary activities to perform required materials testing.
- k) Coordinate testing results evaluation with Architect and/or Engineer to ensure compliance with Project requirements.
- l) Aid in the coordination of inspection activities with required Public or Private Utility Entities as required by permits or endorsements.
- m) Prepare and submit necessary digital daily and monthly reports to at least document weather conditions, on-site construction personnel, hours worked, construction equipment used, detailed description of construction activities observed, photos, and documentation of any field decisions.
- n) Ensure compliance with all permits and endorsements of the construction project.
- o) Measure and document Project quantities, maintain digital record, and log of all quantities.
- p) Review and recommend Contractor invoices and change order requests (cost estimates). Coordinate review and approval of such documentation as needed by the Project Manager, Architect and/or Engineer.
- q) Review Contractor quality control documentation.
- r) Coordinate survey and staking needs for the Project.
- s) Supervise compliance with HUD requirements, including Davis Bacon requirements. This may require conducting wage interviews with individual employees and providing reporting documentation to the Oversight Manager.
- t) Prepare necessary Project closeout documentation.
- u) Prepare punch list with, among other necessary items, list of deficiencies to be corrected.
- v) Monitor work zone traffic control.
- w) Monitor Project safety in compliance with OSHA regulations.

- x) Monitor and report on environmental requirements established in the ERR for the Project.

If necessary, the Subrecipient shall perform the procurement for construction inspection services of the Project. The Subrecipient is responsible for coordinating construction inspection services to ensure this service is contracted prior to construction start. Construction inspection services shall be provided in compliance with all applicable laws and regulations.

Deliverable: Appropriate construction inspection services capacity is in place with construction activities. Submit evidence and credentials of the selected inspector(s) to PRDOH.

Task 6. Construction

Activity: Utilizing internal staff and/or contracted professional services, Subrecipient shall perform all required services required to procure, contract, implement, monitor, supervise, inspect, and complete the construction of the Project in accordance with established requirements and in compliance with applicable laws and regulations, including all established CDBG-MIT compliance requirements.

Task 7. Compliance with CDBG-MIT Operation and Maintenance requirements

Activity: The Subrecipient shall perform the necessary actions to plan for the long-term operation and maintenance (**O&M**) of the Project funded under this SRA.

The Subrecipient shall submit an Operation and Maintenance Plan (**OMP**) to the PRDOH that shall describe, at minimum, the following:

- a) The Subrecipient's ability to operate the Project for its useful life.
- b) Preliminary estimate of that useful life.
- c) The O&M costs required and the proposed source of such funding.
- d) Identify the responsible entity (or entities) in charge of such O&M activities including, but not limited to, any letters of intent, Memorandums of Understanding (**MOUs**), or other agreements, as necessary, when multiple parties are involved, as well as any other aspect or requirement established by the PRDOH, CDBG-MIT Program and/or HUD, associated with this task.

The OMP shall be updated and submitted for PRDOH review and comments as the Project progresses in accordance with PRDOH Guidelines.

All Subrecipients who are awarded funds for a Project acknowledge the requirement of an OMP as part of compliance with a National Objective. Failure to comply with this requirement could result in a potential repayment of funds to PRDOH.

Deliverable: An OMP updated at established Project development milestones. The OMP should describe and comply with established PRDOH requirements.

Task 8. Compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (more commonly known as URA) and Section 104(d) of the Housing and Community Development Act of 1992, as amended (Section 104(d))

Activity: Utilizing internal staff and/or contracted professional services, the Subrecipient shall comply with the URA requirement for the Project.

The Subrecipient may acquire professional services to perform valuation, surveys, and inspections of properties and provide legal assistance for the Project. To acquire professional services the Subrecipient shall comply with procurement processes in compliance with the provisions of 2 C.F.R. § 200.318-200.327 and with the grantee's HUD-approved procurement policy.

Relocation and Real Property Acquisition shall be carried out in compliance with URA, Section 104(d) and PRDOH requirements.

Deliverable: Upon completion of all URA activities the Subrecipient shall submit to PRDOH all required documentation for URA phase closeout in compliance with PRDOH's requirements.

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Task 9. Training

Activity: The Subrecipient will be responsible to participate in mandatory training sessions pertaining to the following topics:

- a) CDBG-MIT eligible Project requirements and national objectives,
- b) CDBG-MIT Procurement requirements,
- c) Prevention of Fraud, Waste, and Abuse,
- d) Duplication of Benefits avoidance,
- e) CDBG-MIT financial management,
- f) CDBG-MIT monitoring and reporting, and
- g) Others, as requested by PRDOH.

Task 10. Reporting

Activity: The Subrecipient will be responsible for submitting monthly reports to the PRDOH to inform status of tasks, work progress, construction schedule analysis, and financial status by project. Each report must be prepared in compliance with PRDOH's reporting requirements.

Task 11. Invoicing

Activity: The Subrecipient will be responsible for submitting monthly invoices for reimbursement of costs of internal staff or contracted services. Each invoice must be prepared in compliance with PRDOH's invoicing requirements. The PRDOH will not reimburse the Subrecipient for work performed by employees without an authorization before performing work related to the Project.

Upon CDBG-MIT compliance determination by the Program, the Subrecipient agrees to submit a Request for Reimbursement, uploaded to PRDOH's **System**. The Subrecipient will be required to set up a unique account through the System and provide all required information, including information related to dedicated bank accounts.

A key area of focus for HUD is ensuring CDBG-MIT projects are reimbursement-based and that Contractors who undertake work are paid for services provided. HUD requires all documented costs be incurred and completed at the time of invoice submission. As such, PRDOH cannot approve CDBG-MIT reimbursement for work the Subrecipient undertook until it has obtained proof that the work was performed, completed and all required information is uploaded to PRDOH databases.

Task 12. Closeout

Activity: Once final completion of the activities established herein is obtained, the Subrecipient shall submit to PRDOH all required documentation necessary for SRA closeout in compliance with PRDOH's requirements.

Deliverable: The Subrecipient is responsible for submitting an SRA Closeout Binder.

END OF DOCUMENT



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

EXHIBIT B

TIMELINES AND PERFORMANCE GOALS

INFRASTRUCTURE MITIGATION PROGRAM

PUERTO RICO PORTS AUTHORITY

1. PROGRAM OBJECTIVE:

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The Infrastructure Mitigation (**INFRA-MIT**) Program (**Program**) serves to address mitigation needs by improving the built environment in order to mitigate hazardous threats. Infrastructure mitigation projects must mitigate risk to infrastructure assets within one (1) or more of the seven (7) community lifelines. The Program will fund projects within the full range of eligible public facilities improvement activities so long as the project mitigates identified risk(s). Projects must demonstrate risk mitigation properties that benefit the population under the urgent need or LMI national objective, and LMI beneficiaries must be prioritized.

2. TERMS:

Indicator – The quantitative method used to demonstrate that the Key Activities have been performed.

Key Component – The major components the Program wants to achieve throughout implementation.

Key Activity – The activities necessary to carry out the Objective.

Project Planning Phase – Refers to the initial architectural and engineering services to be performed and approved by PRDOH including conceptual and schematic design, Feasibility Study (if applicable), Environmental Review, and Cost Estimating of project costs. Services in this phase include all architectural and engineering services needed to define the project scope and requirements up to thirty percent (30%) Design Development.

Project Implementation Plan: - Refers to a document consisting of a table and project schedule where the SRA's Key Activities, deliverables, and timeframes of performance are established in detail. The document serves as an expansion of the Timelines and Performance Goals set forth in general terms under this Exhibit. The document is to be prepared by the Subrecipient and sent to the PRDOH for concurrence and approval. An approved Project Implementation Plan is binding upon the parties for monitoring, measurement, and oversight of the SRA Key Activities' progress.

Source of Verification – The documentation used to verify that the Indicators have been met, and thus, the Key Activities are complete.

Target – The goal for each of the indicators.

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3. KEY ACTIVITIES, TIMELINES & PERFORMANCE

KEY COMPONENT	KEY ACTIVITY	INDICATORS	SOURCE OF VERIFICATION	TARGET GOALS	TIMELINE
1. Project Implementation Plan	1.1 Development & approval of the Project Implementation Plan (and accompanying project schedule)	(#) of Project Implementation plans	Approved Project Implementation Plan	1 Project Implementation Plan	60 calendar days from execution of SRA.
2. Program related procurements	2.1 Submission of Procurement Packages and documentation	(#) of procurements completed and contracts executed.	Procurement Packages completed. Executed contracts submitted through the Grant Compliance Portal.	Procurement of all required services for project development, including, but not limited to, Project/Construction Management, A&E, Design, Permitting, Environmental Review, Feasibility Review, and Construction, as required.	As per Project Implementation Plan.

3. Design, Operations & Maintenance Plan, Environmental, Feasibility Review, and Permitting	3.1 Project Planning Phase design is completed and delivered.	(#) of projects that receive Planning Phase Design approval of Project Design Development	Approval of Project Design Development at Planning Phase threshold.	Completion of all required Planning design phases.	As per the Project Implementation Plan.
	3.2 Project Design Development	(#) of projects that receive 60%, 90%, and 100% approval of Project Design Development	Approval of Project Design Development at 60%, 90% and 100% threshold.	Completion of all design phases.	As per the Project Implementation Plan.
	3.3 Development & Submission of O&M Plan (OMP)	(#) of OMP that are updated and submitted at specified development stages	Approval of OMP at specified development stages.	Prepare and/or update OMP at Conceptual/ Schematic Design (30%), 60%, and 90% Design Development and Completed OMP at Construction Completion.	As per the Project Implementation Plan.
	3.4 Completion of Environmental Review Documents	(#) of projects that receive approval of Environmental Review Documents	HUD form 7015.16 – Authority to Use Grant Funds (AUGF)	1 Complete Environmental Review Record towards obtaining AUGF.	As per the Project Implementation Plan.
	3.5 Completion of Feasibility Review, if applicable	(#) of projects that receive approval of Feasibility Review	Approval of Feasibility Review by PRDOH.	1 Feasibility Review Report.	As per the Project Implementation Plan.

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Subrecipient Agreement
Between PRDOH and the Puerto Rico Ports Authority
For the Infrastructure Mitigation Program under CDBG-MIT
Exhibit B: Timelines and Performance Goals
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	3.6 Permits	(#) of projects that receive approval of Construction Permits.	Construction Permits issued by OGPe and other regulatory agencies	Acquisition of all Construction Permits.	As per the Project Implementation plan.
#4-Relocation and Acquisition of Real Property	4.1 Acquisition of Right of Way, if applicable	(#) of properties Acquired.	Deeds of properties acquired.	(#) Acquisition of Right of Way for project	As per the Project Implementation Plan.
	4.2 Relocations Performed, if applicable	(#) Commercial Entities Relocated	Relocation Plan	Relocations of tenants	As per the Project Implementation Plan.
#5-Construction	5.1 Project Construction is completed	(#) of projects that started construction, (#) of projects that achieve substantial completion, and (#) of projects that achieve final completion.	Inspection Certification and Construction Monitoring Construction Documents submission Substantial Completion Certificate Final Inspection Certification	Construction completion of the project in its entirety.	As per the Project Implementation Plan.

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#6- Construction Closeout	6.1 Project Delivery & Closeout. Proper documentation is provided to ensure that construction was completed to standard.	(#) of closeout binders including final OMP. (#) of certificates of occupancy	Closeout binder-delivered and includes Final Completion Report Certificate of Occupancy – ("Permiso de Uso")	1 Project complete Closeout process and submit complete required documentation. 1 Certificate of Occupancy Project's Final Acceptance from Subrecipient.	As per the Project Implementation Plan.
#7- SRA Closeout	7.1 SRA Closeout is completed	(#) of closeout binders	Closeout binder delivered	1 Complete SRA Closeout process and submit completed required documentation	As per the Project Implementation Plan.

KEY ACTIVITY 1.1: DEVELOPMENT & APPROVAL OF PROJECT IMPLEMENTATION PLAN

Key activities, deliverables, and timeframes for the SRA's implementation activities will be established in a Project Implementation Plan. The Project Implementation Plan will be prepared and submitted by the Subrecipient and approved by the PRDOH.

The Project Implementation Plan must include, at a minimum, commencement, intermediate, and completion milestones for the following:

1. Environmental Review,
2. Feasibility Review, if applicable,
3. Procurement for all services to be contracted,
4. Design Development at 30%, 60%, 90% and 100% of each of the projects,
5. Permitting for each of the project,
6. Relocation/Property Acquisition,
7. Achievement of construction milestones showing progress for each of the projects,
8. Construction Closeout for each project,
9. SRA Closeout, and
10. Disaster Recovery Grant Reporting (**DRGR**) outcome metrics projections and timelines.

The Subrecipient agrees key activities, deliverables, and timeframes established in the Project Implementation Plan and approved by the PRDOH will be binding upon the parties.

The Subrecipient and PRDOH may, by written agreement between the parties, change an originally approved Project Implementation Plan to add, remove, or modify Key Activities, deliverables, and timeframes associated with the SRA's implementation activities. Neither the original Project Implementation Plan nor any subsequent changes to it will require an amendment to the SRA for it to be binding between the parties.

PRDOH will monitor, measure, and oversee the Subrecipient's performance of the Key Activities, deliverables, and timeframe requirements set forth in the latest approved Project Implementation Plan, in accordance with the terms and conditions of the SRA and its exhibits. Consequently, the submittal and performance of the Project Implementation Plan, and any subsequent modified version, will be subject to the nonperformance standard and substandard performance provisions established in **Section III. SCOPE OF**

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WORK, Subsection E. Nonperformance and **Section IV. PERFORMANCE, MONITORING AND REPORTING** of the SRA.

KEY ACTIVITY 2.1: SUBMISSION OF PROCUREMENT PACKAGES AND DOCUMENTATION

Subrecipient shall prepare and present a procurement package establishing all requirements needed to perform the project/construction management services, construction inspection services, and the design and construction components needed to complete the Project. These documents and the procurement processes to be performed shall comply with all applicable laws and regulations including the provisions in 2 C.F.R. §§ 200.318-200.327.

The Feasibility Review, if applicable, and the Environmental Review processes must be completed prior to execution of the Construction Services Agreement.

KEY ACTIVITY 3.1: PROJECT PLANNING PHASE DESIGN IS COMPLETED AND DELIVERED

After completion of the procurement and contracting processes for the Design Services, the Planning Phase A&E Design Services shall be carried out as established in the Project Implementation Plan and must include, at a minimum, Conceptual/Schematic Design and will be carried out as established in the Project Implementation Plan.

KEY ACTIVITY 3.2: PROJECT DESIGN DEVELOPMENT IS COMPLETED AND DELIVERED

After the approval of the Planning Phase design, the Project Design Development process shall begin. Design Development phases shall be carried out as established in the Project Implementation Plan.

KEY ACTIVITY 3.3 DEVELOPMENT & SUBMISSION OF OPERATION AND MAINTENANCE PLAN (OMP)

The U.S. Department of Housing and Urban Development (**HUD**) requires Grantees and Subrecipients to establish plans for funding the long-term operation and maintenance of infrastructure and public facility projects funded by the Community Development Block Grant-Mitigation (**CDBG-MIT**) Program. The OMP must demonstrate the Project owners' ability to operate and maintain the Project throughout its useful life, including funding sources and other necessary resources.

Drafting and development of the OMPs for the Project will occur during the Planning and Design Phase of the Project, with draft submittals at 30%, 60%, and 90% design. Upon completion of the Planning and Design Phase, a final OMP must be submitted.

KEY ACTIVITY 3.4: COMPLETION OF ENVIRONMENTAL DOCUMENTS

The Subrecipient shall submit the Environmental Review Record (**ERR**), in accordance with 24 C.F.R. § 58.38, to the PRDOH for review and approval (signature) of PRDOH's Certifying Officer. All activities must be of no significant impact or with obtainable mitigation activities to render the action to one of no significant impact. Once the ERR is completed, the PRDOH, as the responsible entity, will submit the Request for Release of Funds (**RROF**) to HUD and once approved, receive the AUGF.

KEY ACTIVITY 3.5: COMPLETION OF FEASIBILITY REVIEW

The Subrecipient shall submit the completed Feasibility Report, if applicable to the Project, in compliance with PRDOH guidance. The Feasibility Report will need to be presented for PRDOH review and approval prior to contracting of the Construction or Design/Build Services.

KEY ACTIVITY 3.6: PERMITS

After the execution of the Construction or Design/Build contract, the Contractor shall initiate the submission of all the required documentation to obtain the required permits from corresponding municipal, state and federal government entities. Permits shall be obtained for the work as established in the Project Implementation Plan.

KEY ACTIVITY 4.1: LAND ACQUISITION

After the execution of the SRA, the Subrecipient shall implement all required actions to obtain the title for all real property and negotiation contracts for relocation of all tenants located within the proposed right of way or area of impact of the Project. All relocation and real property acquisition activities must be carried out in accordance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (more commonly known as URA) and section 104(d) of the Housing and Community Development Act of 1992, as amended (**Section 104(d)**).

KEY ACTIVITY 4.2: RELOCATION OF TENANTS

After the execution of the SRA, the Subrecipient shall implement all required actions to relocate all residential and/or commercial tenants as required by project requirements. All relocation activities must be carried out in accordance with URA and section 104(d).

KEY ACTIVITY 5.1: PROJECT CONSTRUCTION – START TO COMPLETION

Following the environmental review process and the permitting stage of the Project, construction will commence. For Design-Build Projects, construction will be scheduled to commence based on the level of completion of the design development documents. Disbursements for each phase shall be approved by the PRDOH and processed for payment after presentation of construction documents, site inspection by engineers and issuance of certifications pursuant to the inspection services agreement. A total of ten percent (10%) of each of the requested disbursements shall be retained and disbursed after the Project's final inspection and resulting observations have been addressed. Indicators to measure construction phase are to be established in the Project Implementation Plan.

KEY OBJECTIVE 6.1: PROJECT DELIVERY & CONSTRUCTION CLOSEOUT

Once all the physical work has been completed the construction closeout phase is initiated. The construction closeout process includes, but is not limited to, the following:

1. Certificate of Substantial Completion,
2. Completed Punchlist,
3. Design Team Approvals,
4. Inspection Certificates,
5. Certificate of Occupancy,
6. OMP,
7. Final Pay Applications,
8. Documentation of materials and equipment used in the Project (submittals), and
9. Any and all certifications and/or documentation required for the intended use of the facility.

KEY OBJECTIVE 7.1: COMPLETION OF SRA CLOSEOUT

For the Project to be considered "completed" milestones must be delivered to ensure the safety of the Project's user(s). The Project's completion is not based solely upon the completion of the Project's Planning Phase but is also demonstrated by obtaining the approval of the Project Closeout binder.

The Closeout process will begin when all eligible activities and national objectives have been completed, and all CDBG-MIT funds have been disbursed. Before the commencement of the closeout process, the Subrecipient must complete the Closeout Package, which includes the following information for the Project:

1. Subrecipient name.
2. Designated Point of Contact.

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3. SRA Number.
4. Amendment(s) to the SRA and date(s) of execution, if any.
5. Obligated amounts by work types.
6. List of activities exactly as they are identified in the Action Plan (or subsequent Amendments) and the DRGR System.
7. Updated data on budgeted, obligated, and expended amounts, by activity.
8. Requests for disbursements and supporting documentation.
9. Disbursements and supporting documentation.
10. Certification of compliance with terms of SRA, financial requirements, programmatic requirements, and monitoring requirements, if any.
11. Any relevant documentation the Subrecipient deems necessary to submit to PRDOH to complete the closeout process.

Additional documentation may vary depending on the Subrecipient, or SRA requirements. The aforementioned list is not meant to substitute or replace programmatic requirements and is not meant to be exhaustive. The Program may require additional documentation.

Furthermore, the following compliance matters shall also be documented in the Closeout Package:

- a. All activities were eligible, completed, and met a national objective.
- b. Grant funds allocated to the Project were expended on necessary and reasonable costs, and any remaining funds were returned to the grant account.
- c. All funds used for the Program have been properly accounted for and reconciled.
- d. All required permits have been properly closed out with the proper governmental entities.
- e. All deliverables were completed.
- f. All milestones were met.
- g. All reporting requirements were completed and submitted.
- h. SRA responsibilities have been fulfilled and any special conditions of the grant award were met.
- i. Necessary documentation and records have been collected.
- j. Performance reports and Key Performance Indicators have been submitted and documented.
- k. Local and federal compliance requirements have been met.
- l. Program compliance requirements have been met.
- m. Any applicable special conditions were met.

END OF DOCUMENT



EXHIBIT C

KEY PERSONNEL

INFRASTRUCTURE MITIGATION PROGRAM

PUERTO RICO PORTS AUTHORITY

The following table shows the Key Personnel staffing plan indicated by **Subrecipient** that will be participating in the Infrastructure Mitigation Program (**Program**) as part of the Community Development Block Grant – Mitigation (**CDBG-MIT**) Program. This information reflects a combination of existing employees or employees to be recruited that will participate in the Program.

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I. Roles	
Roles	FTE Count
Manager	1
Coordinator	3
Financial Manager	1
Financial Assistant	1
Compliance Manager	1
Administrative Assistant	3

II. Role Descriptions:	
Roles	Descriptions
Manager	Subrecipient's key staff member leading the staff and managing CDBG-MIT Program activities including communications, meetings, documentation, compliance, procurements, contracting, project development, invoicing, and reporting.
Coordinator	Subrecipient's key staff member providing support to coordinate CDBG-MIT Program activities including communications, meetings, documentation, compliance, procurements, contracting, project development, invoicing, and reporting.
Financial Manager	Subrecipient's key staff member leading CDBG-MIT Program finance related activities including policies, procedures, controls, payroll, budget management, invoicing, accounting, and reporting.
Financial Assistant	Subrecipient's key staff member providing assistance regarding CDBG-MIT Program finance related activities

Roles	Descriptions
	including policies, procedures, controls, payroll, budget management, invoicing, accounting, and reporting.
Compliance Manager	Subrecipient's key staff member managing all CDBG-MIT Program compliance related activities including policies, procedures, training, monitoring, and reporting.
Administrative Assistant	Subrecipient's key staff members aiding and supporting in CDBG-MIT Program administrative activities including communications, meetings, documentation, compliance, procurements, contracting, project development, invoicing, and reporting.

III. Notes:

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1. Staff position names, as they appear in the first (Roles) column are generic names assumed to designate roles to Subrecipient's staff, therefore, these position names may not necessarily coincide to current positions within Subrecipient's roster of employees.
 2. Subrecipient must request authorization before any staff performs any work for the CDBG-MIT Program. The request shall be completed submitting a standard form provided by PRDOH. Failure to obtain staff authorization from PRDOH, will result in payroll payment deduction for each unauthorized staff member.
 3. Subrecipient may use one or more of its employees for each of the approved staff roles. As such, the maximum budget shall consider the summary of payroll costs for employees authorized for the role.
 4. Subrecipient may recruit new employees to fill-in staff roles included in the first column that are not occupied at the start date of this SRA.
 5. Subrecipient shall require daily time entry reports of each staff member fulfilling these roles with a description of work performed during the report period.
 6. The total authorized available budget for all Subrecipient's staff positions will be established in the Budget Exhibit (**Exhibit D**) of this SRA. The specific amount will be indicated in the item described as "Subrecipient Self-Performed Services" of the Budget Exhibit (**Exhibit D**).

END OF DOCUMENT



EXHIBIT D

BUDGET

INFRASTRUCTURE MITIGATION PROGRAM

PUERTO RICO PORTS AUTHORITY

1. Total Allocation and Authorized Budget

The Puerto Rico Department of Housing (PRDOH) awarded to the Subrecipient a total allocation amount of **eighty-five million three hundred twenty-nine thousand seven hundred thirty-seven dollars and zero cents (\$85,329,737.00)** under the Infrastructure Mitigation Program for activities included in this SRA.

2. Distribution of Authorized Maximum Budget

The maximum budget amount shall be distributed in the following three (3) items:

Item Id	Item Name:	Maximum Authorized Budget
1	Self-Performed Services	\$432,287.00
2	Professional Services	\$4,504,709.00
3	Construction Services	\$80,392,741.00

Total Authorized Budget: \$85,329,737.00

3. Budget Re-Distribution

- The Subrecipient may submit a written request to the PRDOH for a redistribution of the Maximum Authorized Budgets shown above without exceeding the Total Authorized Budget.
- The PRDOH will evaluate the redistribution request to validate the purpose and balance of funds, and if the redistribution is determined to be of benefit for the Program and the balance of funds is validated, the PRDOH will issue a written authorization to the Subrecipient. The redistribution of funds cannot be considered as authorized until PRDOH's written authorization is received by the Subrecipient.
- An authorized redistribution of funds obtained as described herein shall be considered binding and will not require an amendment to this SRA.

END OF DOCUMENT



CERTIFICATION OF FUNDS

Requested on behalf: CDBG-DR Director

The Finance Division certifies the availability of the following funds:

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Contracting Of: Puerto Rico Port Authority
Source of Funds: 14.228 CDBG Funds
For: Infrastructure Mitigation Program | Army Terminal Pier Reconstruction
Amount: \$85,329,737.00

The breakdown and grant of the certified funds is as follows:

Grant	Area / Project	Activity Code	Category Description	Account	Amount
B-18-DP-72-0002	Infrastructure	miti04imp-doh-lm	I - Construction Services (Sub-recipient)	6090-01-000	\$40,196,370.50
B-18-DP-72-0002	Infrastructure	miti04imp-doh-lm	I - Professional Services (Sub-recipient)	6090-01-000	\$2,252,354.50
B-18-DP-72-0002	Infrastructure	miti04imp-doh-lm	I - Staff Salaries (Sub-recipient)	6090-01-000	\$216,143.50
B-18-DP-72-0002	Infrastructure	miti04imp-doh-un	I - Construction Services (Sub-recipient)	6090-01-000	\$40,196,370.50
B-18-DP-72-0002	Infrastructure	miti04imp-doh-un	I - Professional Services (Sub-recipient)	6090-01-000	\$2,252,354.50
B-18-DP-72-0002	Infrastructure	miti04imp-doh-un	I - Staff Salaries (Sub-recipient)	6090-01-000	\$216,143.50
					\$85,329,737.00

The above distribution of funds is subject to changes and will be allocated in accordance with the executed agreement within the parties. These funds do not affect the Puerto Rico Department of Housing (PRDOH) operational budget, and are available to be use.

If you have any questions, feel free to contact us at (787)274-2527.

Cesar Candelario Signed Date - 12/12/2023
Electronic Approval
Budget Manager

Jackzaira Vega Signed Date - 12/12/2023
Electronic Approval
Finance Director

**This transaction does not represent an overcharge of the account herein.*



EXHIBIT F

HUD GENERAL PROVISIONS AND OTHER FEDERAL STATUTES, REGULATIONS, AND PRDOH REQUIREMENTS INFRASTRUCTURE MITIGATION PROGRAM

PUERTO RICO PORTS AUTHORITY

Given that the Subrecipient Agreement (SRA) 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 SRA. In addition, SUBRECIPIENT shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at <https://www.hudexchange.info/resource/2490/hud-form-4010-federallaborstandards-provisions/>.

These terms and conditions must be included in their entirety by the SUBCONTRACTOR in all purchase orders or subcontracts that are directly related to the SRA, even though some of the terms and conditions might not apply to a particular kind of purchase order or subcontract.

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

General Provisions:

1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this SRA shall be deemed to be inserted herein and the SRA 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 SRA shall forthwith be physically amended to make such insertion or correction.

2. STATUTORY AND REGULATORY COMPLIANCE

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

3. BREACH OF SUBRECIPIENT AGREEMENT 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 SRA, in instances where the SUBRECIPIENT or any of its subcontractors violate or breach any SRA term. If the SUBRECIPIENT or any of its subcontractors violate or breach any SRA term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the SRA 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 SUBRECIPIENT shall complete and submit all reports, in such form and according to such schedule, as may be required by the PRDOH and/or the Government of Puerto Rico. The SUBRECIPIENT shall cooperate with all the PRDOH and/or the Government of

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Puerto Rico efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 2 C.F.R. § 200.328 and 24 C.F.R. § 570.507, when applicable.

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

The SUBRECIPIENT 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 SUBRECIPIENT shall file Form HUD 2516 (Contract and Subcontract Activity) with the PRDOH on a quarterly basis.

6. 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.

7. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The SUBRECIPIENT 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.

8. CONFLICTS OF INTEREST

The SUBRECIPIENT shall notify the PRDOH as soon as possible if this SRA or any aspect related to the anticipated work under this SRA raises an actual or potential conflict of interest, if applicable. The SUBRECIPIENT 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 SUBRECIPIENT shall provide the PRDOH any additional information necessary to fully assess and address such actual or potential conflict of interest. The SUBRECIPIENT 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.

9. SUBCONTRACTING

When subcontracting, the SUBRECIPIENT 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:

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- (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 SUBRECIPIENT 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 SRA.

The SUBRECIPIENT 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.

10. ASSIGNABILITY

The SUBRECIPIENT 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.

11. COPELAND "ANTI-KICKBACK" ACT

(Applicable to all construction or repair contracts)

Salaries of personnel performing work under this SRA 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 1934, 48 Stat. 948; (codified at 18 U.S.C. § 874; and 40 U.S.C. § 3145). The SUBRECIPIENT 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.

12. 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 SUBRECIPIENT 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).

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

13. DAVIS-BACON ACT

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

The SUBRECIPIENT 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 SUBRECIPIENTS or subcontractors, including employees of other governments, on construction work assisted under this SRA, 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 SUBRECIPIENT shall submit Form HUD 4710 (Semi-Annual labor Standards Enforcement Report) to PRDOH.

14. TERMINATION FOR CAUSE

(Applicable to contracts exceeding \$10,000)

If, through any cause, the SUBRECIPIENT shall fail to fulfill in a timely and proper manner his or her obligations under this SRA, or if the SUBRECIPIENT shall violate any of the covenants, agreements, or stipulations of this SRA, the PRDOH shall thereupon have the right to terminate this SRA by giving written notice to the SUBRECIPIENT 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 SUBRECIPIENT under this Agreement shall, at the option of the PRDOH, become the PRDOH's property and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the SUBRECIPIENT 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 SUBRECIPIENT, and the Government of Puerto Rico and/or PRDOH may withhold any payments to the SUBRECIPIENT 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 SUBRECIPIENT is determined.

15. TERMINATION FOR CONVENIENCE

(Applicable to contracts exceeding \$10,000)

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

16. SECTION 503 OF THE REHABILITATION ACT OF 1973

(Applicable to contracts exceeding \$10,000)


The SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on

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their physical or mental disability in all employment practices, including the following:

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- (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 SUBRECIPIENT;
 - (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 SUBRECIPIENT including social or recreational programs; and
 - (ix) Any other term, condition, or privilege of employment.

- 2) The SUBRECIPIENT 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 SUBRECIPIENT'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 SUBRECIPIENT 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 SUBRECIPIENT's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The SUBRECIPIENT must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the SUBRECIPIENT 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 SUBRECIPIENT will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the SUBRECIPIENT 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 SUBRECIPIENT 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 Rehabilitation Act of 1973, as amended,, as amended, so that such provisions will be binding upon each subcontractor or vendor. The SUBRECIPIENT 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.

17. EQUAL EMPLOYMENT OPPORTUNITY

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

The SUBRECIPIENT 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. Subpt. B, Ch. 60).

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

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- 1) The SUBRECIPIENT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - 3) The SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the SUBRECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - 4) The SUBRECIPIENT 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 SUBRECIPIENT'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 SUBRECIPIENT will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - 6) The SUBRECIPIENT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- 7) In the event of the SUBRECIPIENT'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 SUBRECIPIENT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- 8) SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the SUBRECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

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

The SUBRECIPIENT 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 SUBRECIPIENT agrees that a breach of this certification is a violation of the equal opportunity clause of this Agreement.

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


The SUBRECIPIENT 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).

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

The SUBRECIPIENT 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 40 C.F.R. Ch. I, Subch. C, Pt. 60, Subpt. B and Ch. I, Subch. C, Pt. 93, Subpt. B, as amended, Section 508 of the

Federal Water Pollution Control Act (33 U.S.C. § 1368) and Executive Order 11738 of September 10, 1973.

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

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- 1) A stipulation by the SUBRECIPIENT 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 Ch. I, Subch. C, Pt. 93, Subpt. B or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Ch. I, Subch. C, Pt. 60, Subpt. B, as amended.
 - 2) Agreement by the SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT will take such action as the government may direct as a means of enforcing such provisions.

20. ANTI-LOBBYING

(Applicable to contracts exceeding \$100,000)

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

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the SUBRECIPIENT, 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 SUBRECIPIENT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- 3) The SUBRECIPIENT 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 31 U.S.C. § 1352. 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.

21. BONDING REQUIREMENTS

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

The SUBRECIPIENT shall comply with 2 C.F.R. § 200.326 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 SUBRECIPIENT for one hundred percent (100%) of the Agreement price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the SUBRECIPIENT's obligations under such contract.
- 3) A payment bond on the part of the SUBRECIPIENT for one hundred percent (100%) of the Agreement price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

22. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

- A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this Agreement agree to comply with HUD's regulations in 24 C.F.R. Part 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 in 24 C.F.R. Part 75 regulations.
- C. The SUBRECIPIENT agrees to send to each labor organization or representative of workers with which the SUBRECIPIENT has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the SUBRECIPIENT'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.

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- D. The SUBRECIPIENT 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 SUBRECIPIENT will not subcontract with any subcontractor where the SUBRECIPIENT has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 75.
 - E. The SUBRECIPIENT acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contracting requirements of 24 C.F.R. 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts signed after this SRA.
 - F. The SUBRECIPIENT will certify that any vacant employment positions, including training positions, that are filled: (1) after the SUBRECIPIENT is selected but before the Agreement 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 SUBRECIPIENT'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 Agreement for default, and debarment or suspension from future HUD assisted contracts.
 - 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 Agreement. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).
 - I. The SUBRECIPIENT 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.

**23. 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/MIT) 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 AntiDisplacement 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/MIT programs. The primary purpose of these laws and regulations is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

When CDBG-DR/MIT 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/MIT funds are not used to fund the purchase, if the contract to acquire property is executed with the intention of seeking CDBG-DR/MIT funds to complete the project or an interdependent phase of the project. Subrecipients 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.

24. FAIR HOUSING ACT

SUBRECIPIENT 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, disability, 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.

25. ENERGY POLICY AND CONSERVATION ACT

SUBRECIPIENT 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).

26. POLITICAL ACTIVITY

The SUBRECIPIENT agrees to comply with mandatory standards and policies relating to Hatch Political Activity Act (Hatch Act), 5 U.S.C. §§ 1501–1508, which limits the political activity of employees.

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

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The Hatch Act applies to political activities of certain state and local employees. As a PRDOH's SUBRECIPIENT, you may participate in 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 SUBRECIPIENT 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.

27. HEALTH AND SAFETY STANDARDS

All parties participating in this project agree to comply with Sections 3702 and 3704 (a) of the Contract Work Hours and Safety Standards Act (CWHSSA), 40 U.S.C. §§ 3702 and 3704. Section 3704 (a) 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 a contract to acquire a commercial product (as defined in 41 U.S.C. § 103) or a commercial service (as defined in 41 U.S.C. § 103a).

28. PERSONNEL

The SUBRECIPIENT 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 SUBRECIPIENT 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 SRA.

29. WITHHOLDING OF WAGES

If in the performance of this Agreement, there is any underpayment of wages by the SUBRECIPIENT or by any subcontractor thereunder, the PRDOH may withhold from the SUBRECIPIENT 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 SUBRECIPIENT or subcontractor to the respective employees to whom they are due.

30. 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 SRA shall be promptly reported in writing by the SUBRECIPIENT to the PRDOH for the latter's decision, which shall be final with respect thereto.

31. 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.

32. INTEREST OF MEMBERS OF LOCAL PUBLIC AGENCY AND OTHERS

The SUBRECIPIENT 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 SUBRECIPIENT 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 SUBRECIPIENT 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.

33. 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.

34. INTEREST OF SUBRECIPIENT

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

35. RELIGIOUS ACTIVITY

The SUBRECIPIENT, in compliance with 24 C.F.R. 570.200(j) and 24 C.F.R. § 5.109 (c), agrees to provide equal participation to faith-based organizations in HUD programs and activities and to abstain from disfavoring any faith-based organization, including by failing to select a faith-based organization, disqualifying an faith-based organization, or imposing any condition or selection criterion that otherwise disfavors or penalizes an faith-based organizations in the selection process using any funds related to this Agreement.

36. FLOOD DISASTER PROTECTION ACT OF 1973

The SUBRECIPIENT will ensure that procedures and mechanisms are put into place to monitor compliance with all flood insurance requirements as found Section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106, and the regulations in 44 C.F.R. Parts 59 through 79 and 24 C.F.R. § 570.605.

37. LEAD BASED PAINT

The SUBRECIPIENT must comply with the regulations regarding lead-based paint found at 24 C.F.R. Part 35, Subpt. A on LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES with regards to all housing units assisted using CDBGDR/MIT funds.

38. VALUE ENGINEERING

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

The SUBRECIPIENT 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 2 C.F.R. § 200.318(g).

39. GENERAL COMPLIANCE

The SUBRECIPIENT shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 C.F.R. § 570, as modified by the Federal Register notices that govern the use of CDBGDR/MIT funds available under this Agreement. See Federal Register Notice 83 FR 5844 (February 9, 2018). Notwithstanding the foregoing, (1) the SUBRECIPIENT does not assume any applicable of the PRDOH's responsibilities for environmental review, decision making, and action, described in 24 C.F.R. Part 58 and (2) the SUBRECIPIENT does not assume any applicable of the PRDOH's responsibilities for initiating the review process under the provisions of 24 C.F.R. Part 52.

The SUBRECIPIENT shall also comply with all other applicable Federal, state and local laws, regulations, and policies that govern the use of the CDBG-DR/MIT funds in complying with its obligations under this Agreement, regardless of whether CDBGDR/MIT funds are made available to the SUBRECIPIENT on an advance or reimbursement basis. This includes without limitation, applicable Federal Registers; 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Community Development Act of 1974; 24 C.F.R. Part 570 Community Development Block Grant; applicable waivers; Fair Housing Act, 24 C.F.R. Part 35, Subpt. A; 24 C.F.R. Part 58; 24 C.F.R. Part 75; 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.

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

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

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

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40. DUPLICATION OF BENEFITS

The SUBRECIPIENT shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5155) and described in Appropriations Act. The SUBRECIPIENT must comply with HUD's requirements for duplication of benefits, imposed by Federal Register notice on the PRDOH, which are published in a separate notices entitled: "Clarification to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees" (November 16, 2011, 76 FR 71060); "Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees" (June 20, 2019, 84 FR 28836); and "Applicability of Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees," (June 20, 2019, 84 FR 28848). The SUBRECIPIENT shall carry out the activities under this Agreement in compliance with PRDOH's procedures to prevent duplication of benefits.

41. DRUG-FREE WORKPLACE

The SUBRECIPIENT must comply with drug-free workplace requirements in 2 C.F.R. §§ 182.200 through 182.230 of the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 81018106.

42. HOLD HARMLESS

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

43. PRDOH RECOGNITION

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

44. LOGOS CLAUSE

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

45. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

The SUBRECIPIENT shall comply with the applicable provisions in 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200.

46. FINANCIAL & PROGRAM MANAGEMENT

The SUBRECIPIENT shall expend and account for all CDBG-DR/MIT funds received under this Agreement in accordance with 2 C.F.R. § 200.302 and 2 C.F.R. § 200.303 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

The SUBRECIPIENT shall administer its program in conformance with Cost Principles as outlined in 2 C.F.R. § 200.400 through 2 C.F.R. § 200.476, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

47. DOCUMENTATION AND RECORD KEEPING

The SUBRECIPIENT shall maintain all records required by applicable law to be maintained, including but not limited to the Federal regulations specified in (1) 2 C.F.R. Part 200; (2) 24 C.F.R. § 570.506; and (3) the applicable HUD Notices that are pertinent to the activities to be funded under this Agreement, as well as any additional records required by the PRDOH. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR/MIT programs, as modified by the HUD Notices;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG-DR/MIT funds;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG-DR/MIT program;
- f. Financial records as required by (1) 24 C.F.R. § 570.502; and (2) 2 C.F.R. Part 200;
- g. Other records necessary to document compliance with Subpart K of 24 C.F.R. Part 570.

48. 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 SUBRECIPIENT which are related to this SRA, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

49. RECORD RETENTION AND TRANSMISSION OF RECORDS TO THE PRDOH

The SUBRECIPIENT shall retain all official records on programs and individual activities shall be retained for the greater of **five (5) years**, starting from the closeout of the grant between PRDOH and HUD, or the end of the affordability period for each housing activity, whichever is longer. If any other laws and regulations as described in 24 C.F.R. § 570.490 applies to a project, the record retention period may be extended. All records involved in litigation, claims, audits, negotiations, or other actions, which have started before the expiration date of their retention, will be kept until completion of the action and resolution of all issues or the end of the regular **five (5) years period**, whichever is longer. (See 2 C.F.R. § 200.334 and 24 C.F.R. § 570.490(d).)

Records shall be made available to PRDOH upon request.

50. CLIENT DATA AND OTHER SENSITIVE INFORMATION

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

The SUBRECIPIENT must comply with 2 C.F.R. § 200.303 and shall take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. § 200.82, and other information HUD or the PRDOH designates as sensitive or the SUBRECIPIENT considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality. Additionally, the Subrecipient must comply with the *PRDOH CDBG-DR Personally Identifiable Information, Confidentiality, and Nondisclosure Policy*, as found in the CDBG-DR Website (<https://cdbg-dr.pr.gov/en/download/personally-identifiable-informationconfidentiality-and-nondisclosure-policy/>), which is herein included and made integral part of this Agreement, as it may be updated from time to time

The SUBRECIPIENT shall comply with all State or local requirements concerning the privacy of personal records, consistent with 24 C.F.R. § 570.508 (local governments) and § 570.490(c) (States).

51. CLOSE-OUT

The SUBRECIPIENT's obligation to PRDOH shall not end until all close-out requirements are completed. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the PRDOH), properly addressing Program Income (as that term is defined in Section VI (A)(19) of the HUD Notice 83 FR 5844, 5856 (February 9, 2018, as may be amended by HUD)), balances, and accounts receivable to the PRDOH), determining the custodianship of records, and the SUBRECIPIENT certification of compliance with the terms of this Agreement. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the SUBRECIPIENT has control over CDBG-DR/MIT funds, including Program Income.

Notwithstanding the terms of 2 C.F.R. § 200.343, upon the expiration of this Agreement, the SUBRECIPIENT shall transfer to the recipient any CDBG-DR/MIT funds on hand at the time of expiration and any accounts receivable attributable to the use of

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CDBGDR/MIT funds, further, any real property under the SUBRECIPIENT's control that was acquired or improved in whole or in part with CDBG-DR/MIT funds (including CDBGDR/MIT funds provided to the SUBRECIPIENT in the form of a loan) shall be treated in accordance with 24 C.F.R. § 570.503(b)(7).

52. AUDITS AND INSPECTIONS

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

53. SINGLE AUDIT

The SUBRECIPIENT must be audited as required by 2 C.F.R. Part 200, Subpt. F, when the SUBRECIPIENT's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. § 200.501 (Audit requirements). Once said threshold is reached or exceeded, the SUBRECIPIENT shall notify the PRDOH and shall report that event in the corresponding monthly progress report, as provided in Part VI - Performance, Monitoring, and Reporting, Subpart B (Reporting) of this Agreement.

The SUBRECIPIENT shall procure or otherwise arrange for the audit to be conducted for that year, as required in 2 C.F.R. § 200.501(a)-(b); moreover, that it is properly performed and submitted when due in accordance with provisions that include but are not limited to those set forth in 2 C.F.R. § 200.512 (Report submission), as stated in 2 C.F.R. § 200.508(a) (Auditee responsibilities).

Among other relevant provisions, the SUBRECIPIENT shall comply with: (a) the Electronic submission of data and reports to the Federal Audit Clearinghouse (FAC) (2 C.F.R. § 200.512(d)) and; (b) ensuring that reports do not include protected personally identifiable information as set forth in 2 C.F.R. § 200.512(a)(2)).

54. INSPECTIONS AND MONITORING

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

55. CORRECTIVE ACTIONS

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

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compliance or provide training and technical assistance as needed to correct noncompliance.

56. NONDISCRIMINATION

The SUBRECIPIENT shall comply with 24 C.F.R. Part 6, which implements the provisions of Section 109 of Title I of the Housing and Community Development Act of 1974, 42 U.S.C. § 5309. Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance.

The SUBRECIPIENT shall adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (**Age Discrimination Act**) and the prohibitions against discrimination on the basis of disability under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504). Section 109 of the Housing and Community Development Act of 1974 makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR/MIT funds. Thus, the SUBRECIPIENT shall comply with regulations of 24 C.F.R. Part 8, which implement Section 504 for HUD programs, and the regulations of 24 C.F.R. Part 146, which implement the Age Discrimination Act for HUD programs.

The SUBRECIPIENT shall ensure that all CDBG-DR/MIT activities conducted by itself or its contractors are consistent with the applicable federal and local legal provisions, regulations, and policies that prohibit discrimination on the basis of race, creed, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation or gender identity, marital status, or age, as established in the CDBG-DR Fair Housing and Equal Opportunity (FHEO) Policy for CDBG-DR Programs.¹

57. ARCHITECTURAL BARRIERS ACT AND THE AMERICANS WITH DISABILITIES ACT

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

The Architectural Barriers Act of 1968, 42 U.S.C. §§ 4151-4156, requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 C.F.R. § 40.2 or the description of "facilities" in 41 C.F.R. § 102-76.60 are subject to the requirements of the Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 C.F.R. Part 40 for residential structures, and 41 C.F.R. Subt. C, Ch. 102, for general type buildings).

The Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101 et seq. (**ADA**), provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA

¹ Follow the link for document access at the CDBG-DR Website: <https://cdba-dr.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/>.

requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

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

58. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (24 C.F.R. PART 1)

1) General Compliance:

The SUBRECIPIENT shall comply with the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., and 24 C.F.R. § 570.601 and § 570.602. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Agreement. The specific nondiscrimination provisions at 24 C.F.R. § 1.4 apply to the use of these funds. The SUBRECIPIENT shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Title VI of the Civil Rights Act of 1964 or 24 C.F.R. Part 1, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 C.F.R. Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 C.F.R. Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

2) Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the SUBRECIPIENT assures that the program or activities described in this Agreement shall be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided shall be operated and administered in compliance with all requirements imposed by or pursuant to this 2 C.F.R. Part 1.

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

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

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR/MIT funds and provided to the SUBRECIPIENT under this Agreement, the instrument effecting any disposition by the SUBRECIPIENT of such real property, structures or improvements thereon, or interests therein, shall contain a covenant

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running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

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

3) Women- and Minority-Owned Businesses (W/MBE)

The SUBRECIPIENT shall take the affirmative steps listed in 2 C.F.R. § 200.321(b)(1) through (6) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the SUBRECIPIENT procures property or services under this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended, 15 U.S.C. § 632 (a), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish heritage Americans, Asian- Americans, and American Indians. The SUBRECIPIENT may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

In compliance with the CDBG-DR/MIT Minority and Women-Owned Business Enterprise Policy (M/WBE Policy), the SUBRECIPIENT shall complete a utilization plan to identify how they plan on successfully achieving the contracting goals for MBE and WBE's. SUBRECIPIENT shall also complete quarterly reporting to provide information on contracting opportunities and payouts provided to WBE or MBE contractors or subcontractors. SUBRECIPIENT shall also document their efforts and submit those to PRDOH on a quarterly basis. See the M/WBE Policy, as found in the CDBG-DR Website (www.cdbg-dr.pr.gov) which is herein included and made integral part of this Agreement, as it may be updated from time to time.

4) Notifications

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

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

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

59. LABOR STANDARDS

The SUBRECIPIENT shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, 42 U.S.C. § 5310, and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance

received under this Agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act, as amended (40 U.S.C. § 3141, et seq.), and 29 C.F.R. Parts 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than eight (8) units.

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

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

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[Signature]

60. CONDUCT

1) Contracts

- a. Monitoring: As applicable, the SUBRECIPIENT will monitor all contracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
- b. Content: The SUBRECIPIENT shall cause all of the provisions of this contract in its entirety to be included in and made a part of any contract executed in the performance of this Agreement, as applicable.
- c. Selection Process: The SUBRECIPIENT shall ensure that all contracts awarded after the execution of this Agreement and in the performance of such, follow the procurement policies and procedures described in this Agreement.
- d. Notification: The SUBRECIPIENT shall notify and provide a copy of any and all contracts related to this Agreement and CDBG-DR/MIT funds to the Contract Administration Area of the PRDOH CDBG-DR/MIT Legal Division within **three (3) days** of its execution.

2) Conflict of Interest

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

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

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

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

61. CITIZEN GRIEVANCES

If the SUBRECIPIENT receives any complaint or grievance, it shall refer said complaint or grievance immediately to the PRDOH CDBG-DR/MIT Program so that PRDOH may respond appropriately.

62. TECHNICAL ASSISTANCE AND TRAININGS

The SUBRECIPIENT shall attend any and all technical assistance and/or trainings that the PRDOH requires from time to time at its discretion. Failure to attend may be considered as cause for termination.

63. DISASTER RELIEF ACCOUNT

Pursuant to Federal Register Vol. 85, No. 17, 85 FR 4681 (January 27, 2020), PRDOH must comply with an additional requirement imposed by an Order of October 26, 2017,

granted by the United States District Court for the District of Puerto Rico, as may be amended from time to time. As required by the Order, grant funds or disaster relief funds received by the Commonwealth of Puerto Rico or other Non-Federal Entities (as defined by 2 C.F.R. § 200.69) shall be deposited solely into a Disaster Relief Account.

As a result thereof, under the terms of the beforementioned Court order and under the conditions of this Agreement, any and all CDBG-DR/MIT funds subawarded by PRDOH to its SUBRECIPIENTS shall be deposited into a new, separate, non-co-mingled, unencumbered account held in the name of the SUBRECIPIENT. The funds shall be used solely for eligible activities. Further, the SUBRECIPIENT shall provide and make available to PRDOH any and all documentation related to such account.

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64. ADDITIONAL SPECIFIC CONDITIONS

Notwithstanding the special conditions established in this SRA and its exhibits, in accordance with 2 C.F.R. § 200.208, PRDOH reserves the right and authority to impose additional specific conditions under any of the following circumstances:

- a) At the PRDOH's sole discretion when PRDOH finds that SUBRECIPIENT has a history of failure to comply with the general or specific terms and conditions applicable to the CDBG-DR and/or CDBG-MIT funds allocated under this or previous SRAs.
- b) When SUBRECIPIENT fails to meet expected performance goals under this SRA.
- c) When SUBRECIPIENT poses an increased risk for noncompliance based on factors including, but not limited to, financial stability, quality of management systems, history of performance under Federal awards, history of timeliness under Federal awards, history of conformance with terms and conditions of previous federal awards, and reports and findings from audits.
- d) When, in the PRDOH's sole discretion, such conditions are necessary to ensure timely and compliant performance under the CDBG-MIT Program.

Such additional specific conditions may include but are not limited to, withholding of authority to proceed to the next phase of an otherwise eligible Project, requiring additional detailed financial reports, requiring additional project monitoring, requiring the SUBRECIPIENT to obtain technical or management assistance, establishing additional prior approvals, or any other condition PRDOH deems reasonable and necessary to safeguard Federal funds or the PRDOH's interests.

Notice of additional specific conditions shall include, but not be limited to, the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the action needed to remove the additional requirement (if applicable), and the time allowed for completion of the actions (if applicable).

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

The SUBRECIPIENT 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.

Subrecipient 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.

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EXHIBIT G

SPECIAL CONDITIONS

INFRASTRUCTURE MITIGATION PROGRAM

PUERTO RICO PORTS AUTHORITY

1. Attend Training Curriculum:

Within **one hundred and twenty (120) days** after this SRA is executed, Subrecipient's staff must participate in capacity-building activities directed at the development and implementation of effective internal controls of federal awards to ensure that the Subrecipient can manage federal awards in compliance with federal statutes and regulations. Subrecipient's staff must complete the Core Curriculum developed by CDBG-DR/MIT programs, through its Learning Management System.

2. Needs Assessment:

Within **one hundred and twenty (120) days** after this SRA is executed, Subrecipient shall participate in a Needs Assessment with PRDOH Staff and/or a PRDOH Technical Assistance Provider (TAP) and shall complete the recommendations resulting from the Needs Assessment to improve organizational capacity.

3. Staffing and Training Plan:

Within **one hundred and twenty (120) days** after this SRA is executed, Subrecipient must develop a staffing and training plan that identifies specific personnel responsible for implementation and compliance of key requirements, including citizen complaints, financial management, payments, internal controls, procurement, monitoring, and CDBG-MIT specific requirements (e.g., national objective) and submit the plan to the Program POC and Subrecipient Management Unit.

The entity must develop and implement an organizational structure that clearly establishes the segregation of duties in the implementation and management of the CDBG-MIT programs and activities, including the finance division, in compliance with the requirements in 2 C.F.R § 200.303 for internal controls and the Standards for Internal Controls in the Federal Government by GAO. A final staffing capacity analysis must be completed to cover the positions listed to perform the roles and responsibilities under the different areas where no names were added, as required for the implementation and management of the CDBG-MIT federally funded program.

4. Policies and Procedures:

Within **one hundred and twenty (120) days** after this SRA is executed, the Subrecipient must develop, update, and implement all policies and procedures in compliance with PRDOH CDBG-MIT policies and state and federal regulations. The Subrecipient must certify the compliance with this requirement through the Grant Compliance Portal (GCP).

END OF DOCUMENT



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

EXHIBIT H

SUBROGATION AND ASSIGNMENT PROVISIONS INFRASTRUCTURE MITIGATION PROGRAM PUERTO RICO PORTS AUTHORITY

1. General Provisions.

- a) The Parties acknowledge that the following provisions of this Exhibit are hereto incorporated by reference and made an integral part of the aforementioned Subrecipient Agreement as **Exhibit H**.
- b) Changes in the provisions of this Exhibit will require an amendment to the Subrecipient Agreement. Such amendment would result in the incorporation by reference of a modified **Exhibit H** to the Subrecipient Agreement.

2. Subrogation and Assignment Relating to Funds Received from the Puerto Rico Department of Housing – Infrastructure Mitigation Program.

- a) These provisions are incorporated into the Subrecipient Agreement in consideration of the commitment by PRDOH to evaluate the Subrecipient's application for the award of disaster assistance funds (the "**Application**") or the Subrecipient's receipt of CDBG-DR/MIT disaster recovery and mitigation funds (the "**Grant Proceeds**") under the Program being administered by PRDOH.
- b) Subrecipient understands and acknowledges that the Program is subject to the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121-5207 (the "**Act**") and that, under such Act, the Subrecipient may only receive assistance to the extent that the Subrecipient has a disaster recovery need that is not fully met by insurance or other forms of disaster assistance. Subrecipient further acknowledges that these provisions are intended to ensure that Subrecipient does not receive duplicate benefits available to the Subrecipient from another source, for the same purposes as the Grant Proceeds provided under the Program, and that, any assistance determined to be duplicative must be deducted from the Program's calculation of the Subrecipient's total need before awarding assistance.
- c) Subrecipient hereby subrogates and assigns to PRDOH any and all of Subrecipient's future rights to, and any interest Subrecipient may have in, any reimbursement and all payments received or subsequently received from any grant, loan, insurance policy, or policies of any type (each individually, a "**Policy**" and collectively, the "**Policies**"), or under any subsidy, reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("**FEMA**"), insurance payments, or any other federal, state

or local government agency (each, individually, a "**Disaster Program**" and collectively, the "**Disaster Programs**") to the extent of all Grant Proceeds paid or to be paid under the Program and that are determined, in the sole discretion of PRDOH or its designated agent, to be a duplication of benefits ("**DOB**"). Any payments referred to in this paragraph, whether they are from Policies, FEMA, or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "**Proceeds**"; any Proceeds that are determined to be a DOB shall be referred to herein as "**DOB Proceeds**".

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- d) Subrecipient agrees that in the event that Subrecipient receives additional Proceeds related to disaster recovery that are not listed on the Duplication of Benefits Certification submitted in connection with the Application, Subrecipient will notify the PRDOH within **ten (10) working days** of receipt of the funds by sending a written notification to inframit@vivienda.pr.gov. PRDOH will, in turn, determine, in its sole discretion, if such Proceeds constitute DOB Proceeds. If any of the Proceeds are determined to be DOB Proceeds, the Subrecipient shall pay PRDOH the DOB Proceeds, to be disbursed as provided in Section 3 of this Agreement.

3. Cooperation and Further Documentation.

- a) If PRDOH elects to pursue any of the claims Subrecipient has or may have under any Policies, Subrecipient agrees to assist and cooperate with PRDOH. Subrecipient's assistance and cooperation shall include, but shall not be limited to, allowing the suit to be brought in Subrecipient's name(s) and providing any additional documentation concerning such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the PRDOH. Subrecipient also agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Assistance Program.
- b) If requested by PRDOH, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better subrogate and assign to PRDOH (to the extent of the Grant Proceeds paid to Subrecipient under the Program) the Policies, any amounts received under the Disaster Assistance Programs that are determined to be DOB Proceeds and/or any rights thereunder. The subrecipient further agrees to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the PRDOH to consummate and make effective the purposes of these provisions.

- c) Subrecipient expressly allows and authorizes PRDOH to request information from any company with which Subrecipient holds or held any insurance policy or policies of any type, any other company or entity -public or private- from which the Subrecipient has applied for or is receiving assistance (such as FEMA, or others), or any non-public or confidential information determined by PRDOH, in its sole discretion, to be reasonably necessary to monitor/enforce its interest in the rights subrogated and assigned to it under this Agreement, and grant consent to such company or entity to release said information to the PRDOH.

4. Agreement to Turn Over Proceeds; Future Reassignment.

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- a) If Subrecipient (or, to the extent permitted by superior loan documents, any lender to which DOB Proceeds are payable) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to PRDOH, if Subrecipient received Grant Proceeds under the Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.
- b) In the event that Subrecipient receives or is scheduled to receive any Proceeds not listed on its Duplication of Benefits Certification ("**Subsequent Proceeds**"), Subrecipient shall pay such Subsequent Proceeds directly to the PRDOH, and PRDOH will determine the amount, if any, of such Subsequent Proceeds that are DOB Proceeds ("**Subsequent DOB Proceeds**"). Subsequent Proceeds shall be disbursed as follows:
- (i) If Subrecipient has received full payment of the Grant Proceeds, Subrecipient shall remit any Subsequent DOB Proceeds to PRDOH. PRDOH shall return to the Subrecipient any Subsequent Proceeds in excess of the Subsequent DOB Proceeds.
 - (ii) If Subrecipient has received no payment of the Grant Proceeds, PRDOH shall reduce the payment of the Grant Proceeds to Subrecipient by the amount of the Subsequent DOB Proceeds and shall return all Subsequent Proceeds in excess of the Subsequent DOB Proceeds to Subrecipient.
 - (iii) If Subrecipient has received a portion of the Grant Proceeds, the following shall occur: (A) PRDOH shall reduce the remaining payments of the Grant Proceeds and return Subsequent DOB Proceeds in such amount to the Subrecipient, and (B) Subrecipient shall remit any remaining Subsequent DOB Proceeds to PRDOH. PRDOH shall also return to the Subrecipient any Subsequent Proceeds in excess of the Subsequent DOB Proceeds.
 - (iv) If the PRDOH determines that Subrecipient does not qualify to participate in the Program or the Subrecipient decides not to participate in the Program,

PRDOH shall return the Subsequent Proceeds to Subrecipient, and the Agreement shall terminate.

- c) Once PRDOH has recovered an amount equal to the Grant Proceeds paid to Subrecipient, PRDOH will reassign to Subrecipient any rights given to PRDOH under these provisions.

5. Miscellaneous.

- a) Subrecipient hereby represents that all statements and representations made by Subrecipient regarding any Proceeds are true and correct, as of the date of the issuance of the Grant Proceeds.
- b) In any proceeding to enforce these provisions, PRDOH shall be entitled to recover all costs of enforcement, including PRDOH's attorney fees.
- c) The parties hereto each waive the right to have any judicial proceeding concerning any of the provisions hereof tried by a jury.
- d) Neither these provisions, nor any portion or provisions hereof may be changed, waived, or terminated orally or by any course of dealing, or in any manner other than by an agreement in writing, signed by all parties hereto and approved by PRDOH.
- e) These provisions, and the rights and obligations of the parties shall be governed and construed by federal law and the laws of the Government of Puerto Rico without giving effect to conflict of law provisions. Any action arising out of or related to this Subrogation and Assignment provisions shall be brought within the Government of Puerto Rico.
- f) The captions of the various sections of this Subrogation and Assignment provisions have been inserted only for the purpose of convenience; such captions are not a part of the Agreement and shall not be deemed in any manner to modify, explain, enlarge or restrict any provisions of this Subrogation.
- g) Subrecipient acknowledges that making a false, fictitious, or fraudulent statement or representation in this agreement is punishable under State and Federal law (18 U.S.C. 287, 1001, and 31 U.S.C. 3729), and shall constitute a separate criminal offense each time a public benefit is fraudulently received.
- h) The subrecipient acknowledges that they have been informed and understand the penalties for making a materially false or misleading statement to obtain CDBG-MIT funds under the Program or any other of the PRDOH's Programs.

END OF DOCUMENT



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

EXHIBIT I

NON-CONFLICT OF INTEREST CERTIFICATION INFRASTRUCTURE MITIGATION PROGRAM PUERTO RICO PORTS AUTHORITY

The Subrecipient certifies that to the best of its knowledge:

1. No public servant of this executive agency has a pecuniary interest in this agreement, 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 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 of 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

Joel A. Pizá Batiz
Printed Name

26/03/24
Date

Executive Director
Puerto Rico Ports Authority
Position