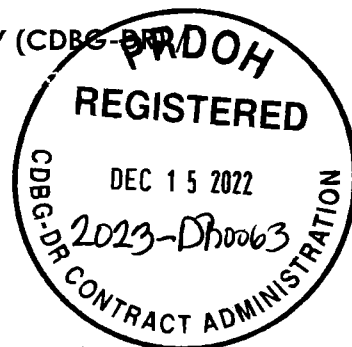




GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING

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

**AGREEMENT FOR  
COST ESTIMATING SERVICES  
BETWEEN THE  
PUERTO RICO DEPARTMENT OF HOUSING  
AND  
ROV ENGINEERING SERVICES, PSC**



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This **AGREEMENT FOR COST ESTIMATING SERVICES (Agreement)** is entered into in San Juan, Puerto Rico, this 12 of December, 2022, by and between the **PUERTO RICO DEPARTMENT OF HOUSING (PRDOH)**, a public agency created under Act No. 97 of June 10, 1972, as amended, 3 LPRA § 441, et seq., known as the "Organic Act of Department of Housing" with principal offices at 606 Barbosa Avenue, San Juan, Puerto Rico, herein represented by William O. Rodríguez Rodríguez, attorney, of legal age, single, and resident of San Juan, Puerto Rico, in his capacity as Secretary; and **ROV ENGINEERING SERVICES, PSC (CONTRACTOR)**, with principal offices in 100 Road 165 Suite 203 CIM Tower 1, Guaynabo, Puerto Rico, herein represented by Víctor M. Rodríguez Ortiz, in his capacity as President of legal age, married, and resident of Dorado, Puerto Rico, duly authorized by Resolution by the CONTRACTOR.

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

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

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

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

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

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

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

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

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

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

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

**WHEREAS**, the PRDOH is interested in contracting a Cost Estimating Firm to assist PRDOH to generate, compare, and scrutinize costs, to ensure the reasonability and fairness of the costs of the procured services for the development and implementation of CDBG-DR and CDBG-MIT programs, as well as of any other federal funds. This firm will support PRDOH's objectives of ensuring compliance with all CDBG-DR/MIT, HUD, and applicable federal and local requirements, rules and regulations, as well as in PRDOH's objectives of the Action Plan, as amended, and adequately coordinating and monitoring all CDBG-DR/MIT related activities.

**WHEREAS**, on June 8, 2022, the PRDOH issued a Request for Proposals "CDBG-DR/MIT-RFP-2022-03" with CDBG-DR funds. This request was placed through the CDBG-DR website and the "Registro Único de Subastas" ("**RUS**", by its Spanish acronym). Afterward, PRDOH requested Quotations or Proposals from qualified Proposers therein registered. Through this procurement process, PRDOH was able to reach four (**4**) qualified firms listed for their capacity and experience with federal grants to deliver qualified services.

**WHEREAS**, on July 20, 2022, the CONTRACTOR submitted a proposal (hereinafter referred to as the "**Proposal**"), which fully complied with the requirements set forth by the PRDOH.

**WHEREAS**, the PRDOH desires to enter into an agreement with **ROV ENGINEERING SERVICES, PSC** to secure its services and accepts the CONTRACTOR's Proposal and reasonable costs, and the CONTRACTOR by its acceptance of the terms and conditions of this Agreement is ready, willing and able to provide the requested services contemplated under this Agreement.

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

I. TYPE OF CONTRACT

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

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

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

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

II. TERM OF AGREEMENT

- A. This Agreement shall be in effect and enforceable between the parties from the date of its execution. The Term of this Agreement will be for a performance period of **twenty-four (24) months**, ending on December, 12, 20<sup>24</sup>.
- B. **Contract Extensions:** PRDOH may, at its sole discretion, extend the Agreement's term for three (3) additional terms of **twelve (12) months**, upon mutual written agreement of the parties.
- C. The term of this Agreement shall not exceed the lifetime of the initial Grant Agreement between PRDOH and HUD, unless the term of the initial Grant Agreement is extended by HUD, in which case the Agreement shall not exceed said extended period.

III. SCOPE OF SERVICES

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

IV. COMPENSATION AND PAYMENT

- A. The PRDOH agrees to pay the CONTRACTOR for allowable Services rendered under this Agreement in accordance with the rates and amounts described in **Attachment C** of this Agreement.
- B. The PRDOH will pay the CONTRACTOR, for allowable services performed during the term of this Agreement, a maximum amount not to exceed **TWO MILLION FIVE HUNDRED FIFTY-NINE THOUSAND SIX HUNDRED DOLLARS AND ZERO CENTS**

(\$2,559,600.00); **Account Number** MITA12ADM-DOH-NA 6090-01-000/ MITI04IMP-DOH-LM 6090-01-000/ MITI04IMP-DOH-UN 6090-01-000/ MITM10EDI-DOH-UN 6090-01-000/ R02A01ADM-DOH-NA 6090-01-000.

- C. Such payment shall be compensation for all allowable services required, performed, and accepted under this Agreement included in **Attachment C** and **Attachment D**.
- D. Any additional funds to complete the services requested by the PRDOH to the CONTRACTOR will be subject to evaluation before acceptance as well as funds availability and will require an amendment to this Agreement.
- E. The CONTRACTOR shall submit an invoice to PRDOH on a monthly basis. Said invoice must be submitted including all required invoice supporting documents, including but not limited to monthly reports, timesheets, invoice and photos evidence, expense plan and/or work projections. If PRDOH determines that the submitted invoice and supporting documents are acceptable, then the invoice will be approved for payment.
- F. The services rendered under the Agreement, shall be payable within **forty-five (45) business days** from the date the invoice is received and approved by a PRDOH representative for payment. If PRDOH raises any objections, PRDOH will return the invoice for corrections and the CONTRACTOR shall modify the invoice and return it within **five (5) business days**. Once the CONTRACTOR returns the modified invoice, the PRDOH shall resume and conclude the payment process within the next **forty-five (45) business days**.
- G. An authorized representative of the PRDOH will review each invoice and, if adequate, will approve and process its payment. Payments to the CONTRACTOR shall be made by electronic funds transfer (**EFT**). PRDOH reserves the right to conduct any audits it deems necessary. The CONTRACTOR agrees to cooperate fully with any such audit or audits.
- H. While providing the services under this Agreement, the CONTRACTOR must adhere to applicable requirements of the CDBG-DR/MIT grant. If the CONTRACTOR performs ineligible activities under the CDBG-DR/MIT grant or program, the CONTRACTOR cannot include them in the invoice for payment to the CONTRACTOR.
- I. CONTRACTOR shall be liable to the PRDOH for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Agreement. CONTRACTOR shall reimburse such disallowed costs from funds other than those CONTRACTOR received under this Agreement.
- J. The CONTRACTOR acknowledges and agrees to repay any CDBG-DR/MIT funds used for ineligible costs.
- K. In order for the CONTRACTOR to receive payment for any work performed hereunder, the following certification must be included in each application for payment or invoice submitted to the PRDOH for payment:

**"Under penalty of absolute nullity, I hereby certify that no public servant of the government entity is a party to or has an interest of any kind in the profits or benefits to be obtained under the contract which is the basis of this invoice, and should he be a party to, or have an interest in, the profits or benefits to be obtained under the contract,**

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**a waiver has been previously issued. The only consideration to provide the contracted goods or services under the contract is the payment agreed upon with the authorized representative of the government entity. The amount that appears in the invoice is fair and correct. The work has been performed, the goods have been delivered, and the services have been rendered, and no payment has been received therefor."**

## **V. REIMBURSABLE EXPENSES**

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

## **VI. ADDITIONAL SERVICES**

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

## **VII. OWNERSHIP AND USE OF DOCUMENTS**

- A.** With the exception of the CONTRACTOR's working papers, the CONTRACTOR acknowledges the PRDOH's ownership of all information, drafts, documents, reports, papers, and other materials developed and prepared by the CONTRACTOR, its agents or representatives, for purposes of performing key obligations hereunder. In the event of any termination, the CONTRACTOR shall deliver such information, drafts, reports, papers and other materials to the PRDOH, in document form or as computer program data, and the CONTRACTOR recognizes the PRDOH's right to request such documentation or computer program data. If the CONTRACTOR fails to deliver said information, the PRDOH may seek a judicial order to enforce its rights.
- B.** Proof of expenditures incurred by the CONTRACTOR on behalf of PRDOH shall be made available to PRDOH. The CONTRACTOR agrees to maintain accurate records and files of all contract documents, correspondence, book estimates, bills, and other information related to the CONTRACTOR account. These documents shall be open for the PRDOH examination at all reasonable times during the term of this Agreement, and up to **five (5) years** from the closeout of the grant to the state, or the period required by other local applicable laws and regulations.

## **VIII. DOCUMENTATION AND RECORDKEEPING**

- A. Records to be Maintained:** The CONTRACTOR shall maintain records of the state and units of general local government, including supporting documentation, which shall be retained for the greater of **five (5) years** from the closeout of the grant to the state, or the period required by other local applicable laws and regulations. Such records include but are not limited to: Records providing a full description of each activity undertaken; Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR/MIT program; Records required to determine the eligibility of activities; Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG-DR/MIT assistance; Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG-DR/MIT program regulations; Financial records as required by 24 C.F.R. § 570.506, and 2 C.F.R. part 200, including records necessary to demonstrate compliance with all applicable procurement requirements; and other records necessary to document compliance with this

agreement, any other applicable Federal statutes and regulations, and the terms and conditions of PRDOH's Federal award.

- B. Access to Records:** The CONTRACTOR shall permit the PRDOH and auditors to have access to the CONTRACTOR's records and financial statements as necessary for the PRDOH to meet its audit requirements under the Federal award.
- C. Record Retention and Transmission of Records to the PRDOH:** Prior to the closeout of this Agreement, the CONTRACTOR must transmit to the PRDOH records sufficient for the PRDOH to demonstrate that all costs under this Agreement met the requirements of the Federal award.
- D. CONTRACTOR's Data and Privileged Information:** The CONTRACTOR is required to maintain confidential data demonstrating client eligibility for activities provided under this Agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided.
- E. PII Policy:** The CONTRACTOR must comply with the PRDOH CDBG-DR/MIT Personal Identifiable Information Policy, as found in the CDBG-DR/MIT Website ([www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov)), which is herein included and made an integral part of this Agreement, as it may be updated from time to time.

#### **IX. ACCESS TO RECORDS**

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

#### **X. NON-DISCLOSURE AND CONFIDENTIALITY**

- A. Confidential Information; Definition:** The term Confidential Information as used throughout this Section, means any information concerning PRDOH operations and that of its CONTRACTOR (e.g., the projects, computer processing systems, object and source codes and other PRDOH business and financial affairs). The term Confidential Information shall also deem to include all notes, analysis, compilation, studies and interpretation or other documents prepared by CONTRACTOR, its agents or representatives, in connection with PRDOH operations.
- B. Non-Disclosure:** CONTRACTOR agrees to take all reasonable steps or measures to keep confidential all Confidential Information and will not, at any time, present or future, without PRDOH express written authorization, signed by the Secretary of the PRDOH, use or sell, market or disclose any Confidential Information to any third party, contractor, corporation, or association for any purpose whatsoever. CONTRACTOR further agrees that, except as they relate to the normal course of the service, the CONTRACTOR will not make copies of the Confidential Information except upon PRDOH express written authorization, signed by an authorized representative of PRDOH, and will not remove any copy or sample of Confidential Information without prior written authorization from PRDOH. CONTRACTOR retains the right to control its work papers subject to these confidentiality provisions.

- C. Return Documents:** Upon receipt of written request from the PRDOH, CONTRACTOR will return to PRDOH all copies or samples of Confidential Information which, at the time of the notice are in CONTRACTOR's or its agent's possession. CONTRACTOR reserves the right to retain a set of its work papers.
- D. Equitable Relief:** The CONTRACTOR acknowledges and agrees that a breach of the provision of subparagraph B and C of this Section may cause PRDOH to suffer irreparable damage that could not be remedied or compensated adequately only by mere monetary retribution. The CONTRACTOR further agrees that money damages may not be a sufficient remedy for any breach of this Section. Accordingly, the CONTRACTOR agrees that PRDOH shall have the right to seek injunctive relief and the specific performance of the provisions of this Section to enjoin a breach or attempted breach of the provision hereof, such right being in addition to any and all other rights and remedies that are available to PRDOH by law, equity, or otherwise.

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## **XI. PERFORMANCE WARRANTY**

- (a) CONTRACTOR warrants that it will perform all work and provide all Deliverables under this Contract in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
- (b) CONTRACTOR warrants that all Deliverables it completes under this Contract shall: meet or exceed the standards of CONTRACTOR's trade, profession, or industry; meet or exceed the specifications set forth in the Attachments to this Agreement; and be fit for ordinary use, of good quality, and with no material defects.
- (c) If CONTRACTOR submits Deliverables that do not meet specifications, fails to complete Deliverables timely, or fails to perform its obligation under this Contract, PRDOH may require CONTRACTOR, at its sole expense, to:
1. repair or replace Deliverables that do not meet specifications;
  2. refund payment for Deliverables that do not meet specifications and accept the return of such Deliverables;
  3. pay liquidated damages for any past due Deliverable; and
  4. take necessary action to ensure that future performance and Deliverables meet specifications and conform to the Contract.

## **XII. TERMINATION**

- A. Termination for Cause or Default:** The PRDOH may terminate this Agreement, in whole or in part, because of CONTRACTOR's failure to fulfill any of its obligations. The PRDOH shall terminate this Agreement by delivering to the CONTRACTOR a **thirty (30) calendar day** notice of termination specifying the extent to which the performance of the service under this Agreement is terminated, the reason therefor and the effective date of termination. CONTRACTOR shall, upon written notice, be provided a **ten (10) calendar day** opportunity to cure the alleged defect that resulted in the perceived default. If the defect is not cured within that period of time, CONTRACTOR shall immediately discontinue all such services being terminated and deliver to the PRDOH all information, notes, drafts, documents, analysis, reports, compilations, studies and other materials accumulated or generated in performing the services contemplated in this Agreement, whether completed or in process. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the PRDOH for damage sustained to PRDOH CDBG-DR/MIT Program by virtue of any breach of the Agreement by the CONTRACTOR. The PRDOH may withhold any payments to the CONTRACTOR, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the PRDOH by the CONTRACTOR. PRDOH shall make payment, in

accordance with the terms of this Agreement, of any amounts due to CONTRACTOR for allowable services rendered prior to the termination notice.

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- B. Termination for Convenience:** The PRDOH may terminate this Agreement, in whole or in part, whenever the PRDOH determines that such termination is necessary or convenient to the Agency. The PRDOH will terminate this Agreement by delivering to the CONTRACTOR a **thirty (30) calendar days'** notice of termination specifying the extent to which the performance of the work under this Agreement is terminated, and the effective date of termination. Upon receipt of such notice, the CONTRACTOR shall immediately discontinue all services affected and deliver to the PRDOH all information, studies and other materials property of the PRDOH. In the event of a termination by Notice, the PRDOH shall be liable only for payment of services rendered up to and including the effective date of termination. PRDOH shall make payment, in accordance with the terms of this Agreement, of any amounts due to CONTRACTOR for allowable services rendered prior to the termination notice.
- C. Termination by Unilateral Abandonment:** The PRDOH will consider this Agreement immediately terminated, in the event that the CONTRACTOR unilaterally and without prior notice, chooses to abandon (in any shape, form or fashion) cease and desist in the specific performance of its general and particular duties and responsibilities as agreed in this Agreement. Upon the knowledge of such event, the PRDOH will not be held liable and will immediately, automatically and retroactively deduct from any future reimbursement, all funds from the day such unilateral abandonment took place. The PRDOH will not be compelled to continue the performance of this Agreement, should the CONTRACTOR breach this Agreement by unilateral abandonment. For the purposes of this Section, Abandonment shall mean that CONTRACTOR voluntarily and intentionally disavows its contractual duties in a manner that is overt and without question a relinquishment of said contractual duties.
- D. Unilateral Termination:** The PRDOH may terminate this Agreement, in whole or in part, at PRDOH's sole discretion, with or without cause, at any time. The PRDOH will terminate this Agreement by delivering to the CONTRACTOR a **thirty (30) calendar days'** notice of termination specifying the extent to which the performance of the work under this Agreement is terminated, and the effective date of termination. Upon receipt of such notice, the CONTRACTOR shall immediately discontinue all services affected and deliver to the PRDOH all information, studies and other materials property of the PRDOH. In the event of a termination by Notice, the PRDOH shall be liable only for payment of services rendered up to and including the effective date of termination.
- E. Suspension:** The PRDOH may suspend this Agreement in whole or in part at any time for the PRDOH's convenience. The PRDOH shall give the CONTRACTOR **five (5) business days'** written notice of such suspension. Upon receipt of said notice the CONTRACTOR shall immediately discontinue all Services affected.
- F. Immediate Termination:** In the event the CONTRACTOR is subjected to a criminal or civil action, suit, proceeding, inquiry or court of applicable jurisdiction, or any governmental agency, or the CONTRACTOR shall be subject to an order, judgment, or opinion, issued by any federal or local authority, a court of applicable jurisdiction, or any governmental agency, in connection with the execution, delivery, and performance by the CONTRACTOR of this Agreement or the CONTRACTOR of this Agreement has been noncompliant, breach, inaccuracy of any representation, warranties, covenants, or the certifications provided herein, whether the noncompliance, breach or inaccuracy takes place before or after the execution of this Agreement, the PRDOH shall have the right to the immediate termination of this



Agreement notwithstanding, any provisions to the contrary herein. This Section will apply in the event of any judgment that may obligate the PRDOH to terminate the Agreement pursuant to Act Number 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico.

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

### **XIII. PENALTIES AND LIQUIDATED DAMAGES**

#### **A. Penalties**

1. In the event the CONTRACTOR is determined to have engaged in any proscribed conduct or otherwise is in default as to any applicable term, condition, or requirement of this Agreement, at any time following the Effective Date of the Agreement, the CONTRACTOR agrees that PRDOH may impose sanctions against the CONTRACTOR for any default in accordance with **Attachment B** and **Attachment D** and this Section. Refer to all required provisions set forth at 2 C.F.R. § 200.326 and 24 C.F.R. § 570.489(g), if applicable, and the Contract and Subrecipient Agreement Manual, Section 2, Subsection 2.4.1(a), as found in the CDBG-DR/MIT Website ([www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov)) which is herein included and made an integral part of this Agreement, as it may be updated from time to time.
2. If the CONTRACTOR fails to comply with federal statutes, regulations or the terms and conditions of the Agreement, PRDOH may take one or more of the following actions:
  - i. Temporarily withhold cash payments pending correction of the deficiency by the CONTRACTOR.
  - ii. Disallow all or part of the cost of the activity or action not in compliance.
  - iii. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. part 180.
  - iv. Withhold further Federal awards for the project or program.
  - v. Take other remedies that may be legally available.

#### **B. Liquidated damages**

The CONTRACTOR shall pay to PRDOH, as liquidated damages, \$150.00 for each calendar day that any task deliverable required is late until deemed in compliance subject to a maximum of \$1,500.00 established in this Contract between PRDOH and the CONTRACTOR, in accordance with **Attachments B** and **Attachment D**. Said sum, in view of the difficulty of accurately ascertaining the loss which PRDOH will suffer by reason of delay in the completion of the Work hereunder, is hereby fixed and agreed as the liquidated damages that PRDOH will suffer by reason of such delay. Liquidated damages received hereunder are not

intended to be nor shall they be treated as either a partial or full waiver or discharge of the PRDOH's right to indemnification, or the CONTRACTOR's obligation to indemnify the PRDOH pursuant to this Contract, or to any other remedy provided for in this Contract or by Law. Liquidated damages may be assessed at the sole discretion of PRDOH. For the purpose of applying and calculating such liquidated damages, a grace period of **ten (10) business days** shall be observed. The PRDOH may deduct and retain out of the monies which may become due hereunder, the amount of any such liquidated damages; and in case the amount which may become due hereunder shall be less than the amount of liquidated damages due to the PRDOH per the formula above, the CONTRACTOR shall be liable to pay the difference.

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**XIV. LIABILITY**

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

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

**XV. INSURANCE**

**A. Required Coverage**

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

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

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

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

**B. Endorsements**

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

1. PRDOH, Government of Puerto Rico, HUD and its officers, agents and employees are named as additional insured (except Worker's Compensation) but only with respect to liability arising out of tasks performed for such insured by or on behalf of the named insured.

2. To provide waiver of subrogation coverage for all insurance policies provided or herein in favor of PRDOH and its respective officers, agents and employees.
3. The insurer shall be required to give PRDOH written notice at least **thirty (30) days** in advance of any cancellation in any such policies.

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

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### C. Related Requirements

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

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

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

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

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

## **XVI. HOLD HARMLESS**

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

## **XVII. FORCE MAJEURE**

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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 Agreement, neither the PRDOH nor the CONTRACTOR shall be liable to the other party for nonperformance during the conditions created by such event.

The CONTRACTOR shall notify, as soon as possible, the PRDOH of the occurrence of the *Force Majeure* event and describe in reasonable detail, the nature of the *Force Majeure* event.

## **XVIII. CONFLICTS OF INTEREST**

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

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

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

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

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

## **XIX. INDEPENDENT CONTRACTOR**

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The relationship of the CONTRACTOR to PRDOH shall be that of an independent CONTRACTOR rendering professional services. Neither the CONTRACTOR nor any personnel of the CONTRACTOR shall have any authority to execute contracts or make commitments on behalf of PRDOH. Nothing contained herein shall be deemed to create the relationship of employer/employee, principal/agent, joint venture or partner between the CONTRACTOR and PRDOH. Further, the CONTRACTOR recognizes that in view of its status as an independent CONTRACTOR, neither it nor its employees or subcontractors will be entitled to participate in or receive any fringe benefits normally granted to PRDOH employees under such programs, including, but not limited to, worker's compensation, voluntary disability, travel accident insurance, medical/dental insurance, life insurance, long-term disability, holiday pay, sick pay, salary continuation pay, leaves of absence (paid or unpaid), pension plan and savings plan.

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

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

## **XX. NOTICES**

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

To: PRDOH

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

To: CONTRACTOR

Víctor M. Rodríguez Ortiz  
President  
ROV Engineering Services, PSC  
100 Road 165  
Suite 203 CIM Tower 1  
Guaynabo, PR 00968

**XXI. THIRD PARTIES**

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

**XXII. SUBCONTRACTS**

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

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

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

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

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

**E. Notification:** CONTRACTOR shall notify and provide a copy of any and all subcontracts 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) business days** of its execution.

**XXIII. CERTIFICATION OF COMPLIANCE WITH LEGAL REQUIREMENTS**

Given that the Agreement involves funds for which HUD is the oversight agency, the CONTRACTOR agrees to carry out its obligations under this Agreement in compliance

with all the requirements described in **Attachment F** (HUD General Provisions), **Attachment G** (Contractor Certification Requirement) and following provisions:

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- A. Compliance with Executive Order No. 24:** Pursuant to Executive Order No.24 of June 18, 1991, the CONTRACTOR certifies and guarantees that at the signing of this Agreement it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last **five (5) years**. The CONTRACTOR further certifies that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. The CONTRACTOR shall hand out, to the satisfaction of the PRDOH and whenever requested by the PRDOH during the term of this Agreement, the necessary documentation to support its compliance of this clause. The CONTRACTOR will be given a specific amount of time by the PRDOH to produce said documents. During the term of this Agreement, the CONTRACTOR agrees to pay and/or to remain current with any repayment plan agreed to by the CONTRACTOR with the Government of Puerto Rico.
- B. Compliance with Act No. 173:** The CONTRACTOR hereby certifies that in signing this Agreement it is in 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 §§ 711-711z to exercise the profession of engineering, architecture, surveying or landscaping architecture in Puerto Rico, is registered in the official Register of the Board, and is 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.
- C. Compliance with Executive Order 52:** Pursuant to Executive Order No. 52 of August 28, 1992, amending Executive Order No.1991-24, the CONTRACTOR certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. The CONTRACTOR accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every CONTRACTOR and subcontractor whose service the CONTRACTOR has secured in connection with the services to be rendered under this Agreement and shall forward evidence to PRDOH as to its compliance with this requirement.
- D. Compliance with Circular Letter No. 1300-16-16 of the Puerto Rico Department of Treasury:** The CONTRACTOR accepts and acknowledges its responsibility of acquiring the certifications required in the Puerto Rico Department of Treasury Circular Letter No. 1300-16-16 issued on January 19, 2016. All certifications must be submitted during their term of validity, in accordance with applicable laws. Certifications expired or issued more than **sixty (60) calendar days** prior to the contract date will not be accepted. The last payment to be made under the contract will only be issued if the 'Debt Certifications' by the Puerto Rico Department of Treasury indicate that the CONTRACTOR has no debt with the Department of Treasury. The CONTRACTOR agrees to cancel any debt that cannot be clarified with the Department of the Treasury through a withholding made by PRDOH from the payments to which it is entitled to receive under the contract.
- E. Social Security and Income Tax Retentions:** The CONTRACTOR will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income from this Agreement.

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- F. Government of Puerto Rico Municipal Tax Collection Center (CRIM, for its Spanish acronym):** The CONTRACTOR certifies and guarantees that at the signing of this Agreement it has no current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center. The CONTRACTOR further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The CONTRACTOR shall hand out, to the satisfaction of the PRDOH and whenever requested by the PRDOH during the term of this Agreement, the necessary documentation to support its compliance of this clause. The CONTRACTOR will deliver upon request any documentation requested under this clause as per request of PRDOH. During the Term of this Agreement, the CONTRACTOR agrees to pay and/or to remain current with any repayment plan agreed to by the CONTRACTOR with the Government of Puerto Rico with regards to its property taxes.
- G. Income Tax Withholding:** The PRDOH shall retain the corresponding amount from all payments made to the CONTRACTOR, as required by the Puerto Rico Internal Revenue Code. The PRDOH will advance such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda del Gobierno de Puerto Rico*). The PRDOH will adjust such withholdings provided the CONTRACTOR produces satisfactory evidence of partial or total exemption from withholding.
- H. Compliance with Act No. 45 of April 18, 1935, as amended, 11 LPRA § 1, et seq.:** The CONTRACTOR certifies and guarantees that at the signing of this Agreement has valid insurance issued by the State Insurance Fund Corporation (CFSE, for its Spanish Acronym), as established by Act No. 45, *supra*, known as the "Puerto Rico Workers' Accident Compensation Act".
- I. Government of Puerto Rico's Agency for the Collection of Child Support (ASUME, for its Spanish acronym):** The CONTRACTOR certifies and guarantees that at the signing of this Agreement that the CONTRACTOR nor any of its Partners, if applicable, have any debt or outstanding debt collection legal procedures with regards to child support payments that may be registered with the Government of Puerto Rico's Child Support Administration. The CONTRACTOR hereby certifies that it is a limited liability company organized and existing in good standing under the laws of the Government of Puerto Rico. The CONTRACTOR shall present, to the satisfaction of PRDOH, the necessary documentation to substantiate the same. The CONTRACTOR will be given a specific amount of time by PRDOH to deliver said documents.
- J. Compliance with Act No. 168-2000, as amended, 8 LPRA § 711, et seq.:** The CONTRACTOR is in full compliance with Act No. 168-2000, as amended, known as "Act for the Improvement of Elderly Support of Puerto Rico."
- K. Compliance with Act No. 1-2012, as amended, 3 LPRA § 1854, et seq.:** The PRDOH and the CONTRACTOR hereby certify that in signing this Agreement they are in compliance with Act No. 1-2012, as amended, known as the "Puerto Rico Government Ethics Act of 2011", in connection with the possibility of a conflict of interest.
- L. Clause of Governmental Ethics Certification of Absence of Conflict of Interests -** The CONTRACTOR certifies that: (1) No public servant of this executive agency has a pecuniary interest in this contract, purchase or commercial transaction. (2) No public servant of this executive agency has requested me or accepted from me, directly or indirectly, for him (her), for any member of his family unit or for any person, gifts, bonuses, favors, services, donations, loans or anything else of monetary value. (3) No public servant (s) requested or accepted any good of economic value, linked to this



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

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

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

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

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

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

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

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

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

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

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

**A. Interagency Services Clause:** Both contracting parties acknowledge and agree that services retained may be provided to any entity of the Executive Branch with which the contracting entity makes an interagency agreement or by direct provision of the Office of the Chief of Staff of the Governor (*Secretaría de la Gobernación*). These services will be performed under the same terms and conditions in terms of hours of work and compensation set forth in this Agreement. For purposes of this clause, the term "Executive Branch entity" includes all agencies of the Government of Puerto Rico, as well as public instrumentalities and corporations and the Office of the Governor.

**B. Termination Clause:** The Chief of Staff (*Secretario de la Gobernación*) of the Governor shall have the power to terminate this Agreement at any time.

**C. Contract Review Policy of the Financial Supervision and Administration Board for Puerto Rico:** The parties acknowledge that the CONTRACTOR has submitted the certification entitled "Contractor Certification Requirement" required in accordance with the Contract Review Policy of the Financial Oversight and Management Board (**FOMB**) for Puerto Rico, effective as of November 6, 2017, as amended on October 30, 2020, signed by the Contractor's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor's Certification Requirement" is included as **Attachment G** to this contract.

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

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

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

The CONTRACTOR acknowledges that HUD financial assistance will be used to fund the Agreement only. Also, the CONTRACTOR shall comply with all applicable Federal, state and local laws, rules, regulations, and policies relating to CDBG-DR/MIT and CDBG Program services. This includes without limitation, applicable Federal Registers; 2 C.F.R. part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Housing and Community Development Act of 1974; 24 C.F.R. part 570 Community Development Block Grant; applicable waivers; Fair Housing Act, 24 C.F.R. Part 35, 24 C.F.R. Part 58, 24 C.F.R. Part 135; National Historic Preservation Act, and any other applicable state laws or regulations, including the requirements related to nondiscrimination, labor standards, and the environment; and Action Plan amendments and HUD's guidance on the funds. Also, the CONTRACTOR shall comply, without limitation, with those set forth in **Attachment F** and in compliance with all the requirements described in **Attachment G**.

**XXVIII. CDBG-DR/MIT POLICIES AND PROCEDURES**

In addition to what is established in this Agreement, the CONTRACTOR shall comply with all CDBG-DR/MIT program-specific and general policies and procedures, including, but not limited to, the Contract and Subrecipient Agreement Manual, OS&H Guideline, MWBE Policy, Procurement Manual for the CDBG-DR/MIT Program, URA & ADP Guidelines, Cross Cutting Guidelines, AFWAM Policy, Section 3 Policy, Personally Identifiable Information, Confidentiality, and Nondisclosure Policy and Conflict of Interest and Standards of Conduct Policy, as found in the CDBG-DR/MIT Website ([www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov)), which are herein included and made an integral part of this Agreement, as

they may be updated from time to time, and reporting requirements as established by the PRDOH.

**XXIX. SECTION 3 CLAUSE**

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

**B.** The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediments that would prevent them from complying with the part 75 regulations.

**C.** The CONTRACTOR agrees to send to each labor organization or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the CONTRACTOR'S commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

**D.** The CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 75. The contractor will not subcontract with any subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 75.

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

**F.** The CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled (1) after the CONTRACTOR is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 75 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR'S obligations under 24 C.F.R. part 75.

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

**H.** With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (46 U.S.C. § 5307) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of

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contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

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

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

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

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Forms-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The CONTRACTOR shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). The CONTRACTOR acknowledges that any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

**XXXI.EQUAL OPPORTUNITY**

- A. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during

employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

**B.** The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

**C.** When applicable, the CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**D.** The CONTRACTOR will comply with all provisions of Exec. Order No. 11246 of September 24, 1965, as amended by Exec. Order No. 11375 of October 13, 1967, and as supplemented by the rules, regulations, and relevant orders of the United States Secretary of Labor.

**E.** The CONTRACTOR will furnish all information and reports required by Exec. Order No. 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

**F.** In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Exec. Order No. 11246 of September 24, 1965, as amended, and such other sanctions as may be imposed and remedies invoked as provided in Exec. Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

**G.** The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (F) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Exec. Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

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### XXXII.SOLID WASTE DISPOSAL ACT

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

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

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

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

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

### XXXIII. DRUG FREE WORKPLACE

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

### XXXIV.SUSPENSION AND DEBARMENT

- A.** This Agreement is a covered transaction for purposes of 2 C.F.R. part 180 and 2 C.F.R. part 2424. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. §180.905) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. §180.935).
- B.** The CONTRACTOR must comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 2424, and must include a requirement to comply with these regulations in any lower-tier covered transaction it enters into.
- C.** This certification is a material representation of fact relied upon by PRDOH. If it is later determined that the CONTRACTOR did not comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 2424, in addition to remedies available to PRDOH, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- D. The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. part 180, subpart C and 2 C.F.R. part 2424, while this Agreement is valid. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower-tier covered transactions.

#### **XXXV. SYSTEM FOR AWARD MANAGEMENT (SAM) REGISTRATION**

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

#### **XXXVI. NO OBLIGATION BY THE FEDERAL GOVERNMENT**

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

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

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

#### **XXXVIII. BANKRUPTCY**

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

#### **XXXIX. ENTIRE AGREEMENT**

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

#### **XL. MODIFICATION OF AGREEMENT**

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if written and signed by both parties, and its authorized representatives. Those amendments shall make specific reference to this Agreement, comply with programmatic policies, procedures, and guidelines. Such amendments shall not invalidate this Agreement, nor relieve or release the Parties from their obligations under this Agreement.

However, PRDOH reserves the right to notify in writing to CONTRACTOR any applicable policies, procedures, regulations, requirements, guidelines, or change in law, whether existing or to be established, as well as changes and/or amendments thereof, and the notified policies, procedures, regulations, requirements, guidelines and laws shall be

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deemed incorporated by reference to this Agreement without the need of executing a separate written and signed amendment.

#### **XLI. BINDING EFFECT**

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

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

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#### **XLII. ASSIGNMENT OF RIGHTS**

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

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#### **XLIII. NON-WAIVER**

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

#### **XLIV. ORDER OF PRECEDENCE**

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

#### **XLV. GOVERNING LAW JURISDICTION**

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

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

##### **A. Consolidation or Merger**

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH moves for a consolidation or merger with another entity (private or public), by its discretion or otherwise, written notice of such decision or event shall be delivered to the PRDOH **at least fifteen (15) business days prior to the effective date** of the consolidation or merger. The notice shall include, but not limited to, a description of: the expected effective date of the consolidation or merger; name of each of the constituent entities moving to consolidate or merge into the single resulting or surviving entity; the proposed name of the resulting entity (in case of a consolidation) or the name of the surviving entity (in case of a merger) if necessary; reference to the

projected capacity of the resulting or surviving entity to comply with the terms, conditions, obligations, tasks, services, and performance goals or requirements included in the Agreement as well as its Exhibits or Attachments; and a brief summary of the proposed plan to achieve the transition of duties (Scope of Work or Scope of Services), tasks, and performance goals or requirements to the resulting or surviving entity.

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

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

#### **B. Change of Name**

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

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

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

#### **C. Dissolution**

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

### **XLVII. HEADINGS**

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

### **XLVIII. FEDERAL FUNDING**

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

#### **XLIX. RECAPTURE OF FUNDS**

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

#### **L. OVERPAYMENT**

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

#### **LI. SEVERABILITY**

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

#### **LII. COUNTERPARTS**

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

#### **LIII. SURVIVAL OF TERMS AND CONDITIONS**

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

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**  
**[SIGNATURES ON THE FOLLOWING PAGE]**

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

PUERTO RICO DEPARTMENT OF HOUSING

ROV ENGINEERING SERVICES, PSC

*William O. Rodríguez Rodríguez*  
William O. Rodríguez Rodríguez (Dec 12, 2022 15:21 AST)

William O. Rodríguez Rodríguez, Esq.  
Secretary



Víctor M. Rodríguez Ortiz  
President

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PROPOSED PLAN OF ACTION / WORK APPROACH

INTRODUCTION

In the section ROV Engineering Services, PSC (ROV) will present its project approach and methodology to be used in the development of this program as well as the project organization proposed for it.

It is ROV's compromise to fully comply with the five tasks described in the RFP issued by the PRDOH; that they are:

- Task - General Administration and Coordination
- Task - Cost Estimates
- Task - Cost Estimates Review
- Task - Cost Analysis
- Task - Price Analysis

ROV will also fully comply with the deliverables required by the PRDOH on its RFP; that they are:

- Task - Cost Estimates
- Task - Price and Cost Analysis
- Task - Reconciliation
- Task - Recommendations

In the following sections of this project approach, ROV presents some good project management practices that has been very successful in the management of similar project managed by ROV.

PROPOSED PROJECT MANAGEMENT PRACTICES

The project approach and methodology that ROV proposes for this project are based on our extensive experience in the management of complex large project some of them similar to the scope of services requested by PRDOH. The following are the highlights of our approach/methodology for this project:



- Proactive Strategic Plan: identify issues, needs, objectives, and problems before they happen, and establish solutions and action plans.
- Careful application of sound management principles to manage schedule, cost, and quality to assure success.
- Develop a seamless partnership between PRDOH, ROV and Contractors to form a cohesive Project Team.
- Benefit from our experience with PRDOH toward the aggressive solution of problems.
- Development and management of comprehensive master schedule.
- Development and manage a master program cost estimate control table.
- Effective budget and cost management system.

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Review every week project schedule to monitor actual process of work. If discrepancies occur, ROV will advise PRDOH of corrective actions.

**Weekly Meetings** to discuss:

- Schedule up-date and compare actual vs. real
- Develop a project mitigation plan if project is behind schedule
- Coordination with PRDOH, Designer & Contractors
- Review construction industry conditions and volatility
- Review project general conditions, overhead and margin of profit
- Review any cost estimate that needs clarifications or modifications

Periodic meetings with PRDOH to discuss compliance with project objectives & goals:

- Action items pending
- Modification to procedures
- Corrective actions to vendors, manufacturers, suppliers, designers and contractor
- Schedule
- Market condition and volatility

## QUALITY CONTROL

ROV will provide the PRDOH with a quality management plan that will describe the type of actions, reporting, and client deliverables ROV will deliver. The Project Manager and key staff will be responsible for ensuring that all ROV Staff performs in accordance with PRDOH Standards as well as all other federal and local standards. ROV Project Manager and Senior Estimators will review and approve all the following documents:

- Cost Estimates
- Cost and Price Analysis
- Reconciliation
- Recommendations
- Monthly Reports
- External Correspondence

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**Monthly Progress Reports** will be prepared before invoicing, containing the following deliverables:

- Schedule analysis
- Actions for behind schedule
- Cost Estimates Performed
- Cost and Price Analysis Reports
- Reconciliations
- Recommendations
- Meeting minutes
- External Communications

**Document Control** will also be carefully structured and is briefly described as follows:

All documentation generated during the performance of the contract with the PRDOH will be entered on a portal developed by ROV for the management of projects, data base as well as a document control tool. The PRDOH will have access (read only) to this portal during the development of the project. Documents prepared for and entered in the project portal will be

authorized by the Project Manager and Senior Estimators after they had been reviewed and approved by them.

#### **ROV's Project Management Portal**

ROV will implement and use PROCORE; a cloud-based project management, software application helps firms increase their project efficiency and accountability by providing streamlined project communication and documentation. Project management software is designed to help project managers deliver more projects on time and on budget by centralizing data and strengthening consultant / client communications.

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Procore is the world's number one most widely used project management software, helping firms drastically increase project efficiency and accountability by streamlining and mobilizing project communication and documentation. It has 24/7 accessibility to project data minimizes costly risks and delays, ultimately boosting quality and reliability.

ROV will assign two document control specialists to manage all information received from the program participants; communications from PRDOH, reports prepared by ROV and will process it through the program. All other documents received or send from the project will be process by it.

#### **COST ESTIMATING SOFTWARE**

For the last fifteen-year ROV has been successfully developing construction cost estimate to Contractors, State/Federal/Municipal government agencies and private clients using R.S. Means data, Xactimate and estimating tools.

Since the occurrence of Hurricane Maria in 2017; ROV performed over 110,000 cost estimates for tree of the largest insurance companies in Puerto Rico (Mapfre, Triple S and Universal) of which only .03% were challenged by the policy owner.



Also, ROV has performed several thousand cost estimates for state and municipal governments, using an estimating format developed by FEMA using the data base of R.S. Means.

**Detail Project Approach by Activities**

The following is a chronological sequence of events that ROV Team will perform to achieve the project objective in time, budget and of the highest quality. In this process, PRDOH will find activities that based on our experience are necessary to comply with municipal, state, or federal agencies:

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**Activity 1 - Kickoff Meeting**

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The ROV Team is ready to begin work immediately upon selection and notice of award. With a large program such as PRDOH’s revitalization and recovery efforts, it is important to establish upfront the “rules of engagement” and expectations that will define success and drive program delivery in the weeks, months, and years to come.

ROV will work with PRDOH to schedule a Program kick-off meeting as soon as possible following selection. The purpose of this meeting is to establish team member roles and points of contact, including authorized decision makers. At the kick-off meeting, we will confirm PRDOH’s primary goals and objectives for the program overall and establish clear expectations for program implementation timeframes, project control measures, and the Master Plan framework.

After this meeting, and with the input of the participants, ROV team will finalize a complete workplan for the management of the program and for the management of each project contained in the program. This workplan will be the guide for the management and coordination of the program between the PRDOH team, ROV team, and all other members of the program development team.



The content of this workplan is as follows:

- Description of the Program
- Description of Projects Scope of Works
- Project Organization
- Cost Management
- Schedule Management
- QA-QC Management
- Document Management
- Risk Management
- Other Program Standards and Procedures

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Through careful organization and open communication with all project participants, coordination of all project tasks can be achieved for a successful project. Two critical components of the Program initiation phase, in addition to the Program kick-off and exchange of information, are establishing the systems of record and the communication plan.

## **Activity 2 - Activate Document Control Program and Dashboard Reporting**

### **Document Control Program**

ROV's Key Staff manage all information received from the program participants; communications from PRDOH, reports prepared by ROV and will process it through the program. All other documents received or send from the project will be process by it. As mentioned above ROV Team will use the software Procore for the project management and document control.

### **Dashboard Reporting**

ROV will activate its web-based portal, which will provide upper management a quick and graphic way real time project information to include the following: overall progress, progress by established zones: number of projects, in estimates in process, cost estimates review and analysis, and completed. Additional status will be included after our proposed kickoff meeting.

### Activity 3 - Assessment of Building and Sites to be included in Project

ROV perform a site visit to all buildings and sites their present condition and difficulties that each structure/site present. This site visit will be used to:

- Verify present condition of facilities
- Assess accessibility to the site
- Availability of contractors in project area
- Availability of material, equipment, and labor in project area
- Compliance with PRDOH and FEMA's program requirements

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### Task 4 - Activate Master Control Program and Keeper

ROV will activate the Master Control Software to electronically safe all data transferred by PRDOH once a review has been made by ROV and determined that the structure or site will be included on the project. An ROV IT Engineer will be the responsible of feeding all the information obtained for each property. Each Property will be classified by:

- Municipality
- Coordinates of Building / Industrial Park
- PRDOH's Numbering System (Buildings or Site)
- Square Footage of Building or Area of Site
- Scope of Repairs or Reconstruction
- Status of Occupancy
- Number of floors and apartments

The software to be used as Master Control Program has the capability of assignment of properties to be assess by the ROV Staff. The Program Keeper will distribute the facilities to the ROV Staff based on location.

### Activity 5 – Project Master Schedule

The ROV Scheduler will develop a master schedule for the program that will include:

- Scheduled Site Visits by Municipalities or Regions

- Milestones:
  - Project Start
  - General Administrative and Coordination
  - Cost estimate development by project
  - Review cost estimates by project
  - Perform cost analysis by project
  - Perform price analysis by project
  - Reconciliations
  - Recommendations
  - Monthly Reports
  - Deliverables
  - Project conclusion and closeout

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#### **Activity 6 – Develop Cost Estimating Format**

ROV will create a master format for the cost estimates to be use in the preparation of the cost estimates for the project. The format used by ROV in other project is highly recommended by because of its completeness and ease of use.

#### **Activity 7 – Review Cost Data Base**

ROV will verify with R.S. Means the lates update that was made to their data base and the changes that were made; ROV will verify with local vendor, contractors, manufactures, material suppliers and equipment rentals the validity of the R.S. Means data base.

#### **Activity 8- Start Development of Cost Estimates**

ROV will proceed with the development of the construction cost estimates using the approved cost estimate and the updated cost data base. It is important to mention that due to the volatility of the construction market; special considerations should be incorporated in the estimates to extend its useful life. All cost estimates will fully comply with the requirements indicated on the RFP.

#### **Activity 9 – Review Cost Estimates**

All cost estimates developed by the staff estimators will be reviewed and approved by the Senior Estimator before delivering them to PRDOH. All cost estimates will fully comply with the requirements indicated on the RFP.

#### **Activity 10 – Cost Analysis**

ROV will perform a cost analysis for each cost estimate develop for the project and issue a report on its findings. All cost analysis will fully comply with the requirements indicated on the RFP.

#### **Activity 11 – Price Analysis**

ROV will perform a price analysis for each cost estimate develop for the project and issue a report on its findings. All price analysis will fully comply with the requirements indicated on the RFP.

#### **Activity 12 – Reconciliation**

ROV will perform a reconciliation of each selected Proposer's estimate and issue a report on its findings. All reconciliations will fully comply with the requirements indicated on the RFP.

#### **Activity 13 – Recommendations**

ROV will analyze a proponents estimate and make recommendations to the PRDOH on any suggested course of action to be followed. A report will be issued on the suggestions and/or recommendations made to the PRDOH. All suggestions/recommendations will fully comply with the requirements indicated on the RFP.

#### **Activity 13 - Project Closeout**

ROV will retrieve from its Portal, all project closeout documentation required by the CBDG-DR and CBDG-MIT Programs. All documentation of the closeout process will be hand delivered to PRDOH.

**ATTACHMENT B**  
**SCOPE OF SERVICES**  
**Request for Proposals**  
**Cost Estimating Services**  
**Community Development Block Grant- Disaster Recovery**  
**Community Development Block Grant - Mitigation**  
**Puerto Rico Department of Housing**  
**CDBG-DR/MIT-RFP-2022-03**

## 1. Introduction and Overview

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The Puerto Rico Department of Housing (PRDOH) is issuing this Request for Proposals (RFP) to procure cost estimating services on an as-needed basis for the Community Development Block Grant-Disaster recovery (CDBG-DR) and Community Development Block Grant-Mitigation (CDBG-MIT) grants, under the Action Plan and subsequent action plans, and any other federal grant(s). It seeks to select a Cost Estimating Firm(s) that will aid PRDOH to generate, compare, and scrutinize costs, to ensure the reasonability and fairness of the cost of the procured services for the development and implementation of CDBG-DR and CDBG-MIT programs, as well as of any other federal funds. Proposers must understand CDBG-DR and CDBG-MIT's program initiatives, goals, and regulations, including Federal Register Notices Vol. 84, No. 169 (August 30, 2019), 84 FR 45838 and Federal Register Vol. 85, No. 17 (January 27, 2020), 85 FR 467, 86 FR 561. Proposers must be familiar with the Department of Housing and Urban Development (HUD) latest acronyms, glossary, laws, policies, guidelines, and design standards applicable to this RFP's Scope of Service. The proposer remains fully responsible for determining if the information mentioned before has been revised or updated.

The PRDOH reserves the right, without limitations, to: (i) cancel this solicitation and reissue the RFP or another version of it, if it deems that doing so is in the best interest of the Public Interest; (ii) amend the contract(s) of the Selected Proposer(s) to, among others, extend its original duration, as further explained in the RFP, or to extend the scale of its scope to include work under subsequent CDBG-DR and CDBG-MIT action plans as related to the services requested herein, or to reduce the scale of its scope to decrease work as a consequence of underperformance or inexcusable delays related to the services requested herein; and (iii) to contract with one or more qualified proposers for Cost Estimating Firms as result of the selection of qualified Proposers or the cancellation of this RFP. There is no guarantee of a minimum level of services that may be requested by the PRDOH under this contract.

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

The PRDOH reserves the right to partially retain cost estimating services internally, to select one or more cost estimators, and distribute services required among Selected Proposer(s) in the manner PRDOH understands reasonable, without any particular services distribution guaranteed to any Cost Estimator. PRDOH reserves the right to conduct any additional procurement processes deemed necessary to complete the required services. After the execution of the contract, PRDOH may consider any amendments necessary to extend the services here described under the contract, considering budget availability and the need for additional services.

PRDOH is not obligated to accept proposals submitted by Proposers and is not responsible for costs incurred by Proposers in preparing and submitting their proposals. Prior to the execution of a contract for the services requested here, this RFP may be canceled and terminated at its discretion without liability by the PRDOH, the Government of Puerto Rico and HUD.

## 2. CDBG-MIT and CDBG-DR Programs

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

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

The cost estimating services for all CDBG-DR and CDBG-MIT funded items will include those tied to goods, construction, and non-construction services, including any required materials or associated costs and services for the CDBG-DR and CDBG-MIT programs as required by HUD. The PRDOH reserves the right to complete the cost estimating services for some of these programs internally or have PRDOH partners, contractors and/or subrecipients complete them on behalf of CDBG-DR and CDBG-MIT. A detailed description of the CDBG-DR and CDBG-MIT programs are to be found in the Action Plans approved by the U.S. Department of Housing and Urban Development (HUD), available at <https://cdbg-dr.pr.gov/en/download/action-plan-amendment-8-nonsubstantial-amendment-effective-on-february-25-2022/> and <https://cdbg-dr.pr.gov/en/download/cdbg-mit-action-plan-effective-on-april-19th-2021/>.

## 3. Staff, Services and Tasks

This section details the cost estimating staff that the Selected Proposer(s) must retain in order to support the PRDOH. Staff is divided between Key Staff and Technical Staff. The Selected Proposer(s) will be directly responsible for ensuring the accuracy, timeliness, and completion of all tasks assigned under this contract by the Staff. Project tasks will be assigned to the Selected Proposer(s) by PRDOH, its Grant Manager or the assigned Program Manager, or any other authorized representative. All invoiced time by a Technical Staff member shall be billed to a specific project assignment.

### 3.1. Staff Requirements

The Selected Proposer(s) shall have or will secure, at its own expense, all personnel required to perform the services under the Cost Estimating Services contract. Key Staff are resources who must be ready to begin working within two (2) weeks upon the contract execution date and who are expected to work throughout the term of the contract. PRDOH expects the Selected Proposer(s) to provide competent and fully qualified staff that are authorized or permitted under federal, state, and local law to perform the scope of services under this contract.

#### 3.1.1. Staff Experience and Qualifications

The Proposer(s) shall provide detailed information about the experience and qualifications of all the Proposer(s) staff, including the Proposer(s) principals, project managers, key personnel, and staff to be assigned, including degrees, certifications, licenses, and years of relevant experience. The Proposer(s) shall specifically identify people currently employed by the Selected Proposer(s) who will serve as Key Staff. This includes the Proposer(s) own staff and staff from any subcontractors to be used. The Proposer(s) should demonstrate that its staff (and/or subcontractor's staff) meet the desired requirements listed below and have the necessary experience and knowledge to successfully implement and perform the tasks and services.

3.1.2. **Organizational and Staffing Plan**

Proposer shall submit to PRDOH an initial organizational chart detailing the identity of each person (whether employed by Proposer or a subcontractor) who shall perform any cost estimating service required or any related work in conjunction with a CDBG-DR and CDBG-MIT Program, or any other federal fund(s). The Proposer's organization and staffing plan shall specifically include the required number of personnel, role, and responsibilities of each person on the project, name of the resource or subcontractor, resume or professional information, their planned level of effort, their anticipated duration of involvement, and their on-site availability. The Proposer should demonstrate their ability to adequately staff and scale each functional area to maintain agreed-upon service levels throughout the life of the contract.

Staff	Requirements	Roles & Responsibilities
<b>Project Manager</b>  <b>[Key Staff]</b>	<ul style="list-style-type: none"><li>+ Must have bachelor's degree in Business, Management, Engineering, Architecture, or related areas.</li><li>+ Must have at least ten (10) years of experience in the construction industry.</li></ul>	<ul style="list-style-type: none"><li>+ Oversees the operational planning, establishment, execution, and evaluates the activities.</li><li>+ Serves as the Point of Contact (<b>POC</b>) and liaison with PRDOH on operational matters.</li><li>+ Provides day-to-day technical guidance and leadership as appropriate to the area of expertise.</li></ul>
<b>MEP Senior Estimator</b>  <b>[Technical Staff]</b>	<ul style="list-style-type: none"><li>+ Must have a bachelor's degree in Engineering, Architecture, Cost Management, or a similar field</li><li>+ Must have at least ten (10) years of experience in construction</li></ul>	<ul style="list-style-type: none"><li>+ Supervises and assists in the preparation of cost estimates for mechanical, electrical, and plumbing (MEP),</li></ul>

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Staff	Requirements	Roles & Responsibilities
	and/or construction cost estimating of mechanical, electrical, and plumbing (MEP) systems. + Must have vast knowledge and understanding of mechanical, electrical, and plumbing systems + Must have vast knowledge and experience in cost estimating of mechanical, electrical, and plumbing systems + Must have experience preparing detailed estimate updates, including preparing variance summaries	systems and components + Compares estimates for mechanical, electrical, and plumbing systems + Verifies detailed quantity surveys of mechanical, electrical, and plumbing systems + Evaluates cost models and databases for mechanical, electrical, and plumbing systems and components pricing + Supervises budget development and compliance + Performs and supervises progressive cost estimating + Supervises change order analysis as related to mechanical, electrical, and plumbing systems
Site/Civil Senior Estimator	+ Must have a bachelor's degree in Civil Engineering or Construction Management	+ Supervises and assists in the preparation of cost estimates for construction
[Technical Staff]	+ Must have at least eight (8) years of experience in construction cost estimating and/or the construction industry + Must have knowledge and understanding of unit costs and the factors that affect construction cost. + Must have a thorough business knowledge of the construction industry as it relates to new constructions and rehabilitation of houses and infrastructure, among other construction projects. + Must have experience preparing detailed estimate updates, including preparing variance summaries	+ Compares estimates for construction + Verifies detailed quantity surveys + Evaluates cost models and databases for construction activities and components + Supervises budget development and compliance + Performs and supervises progressive cost estimating + Supervises change order analysis as related to construction

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Staff	Requirements	Roles & Responsibilities
<b>Subject-Matter Expert</b>  [Technical Staff]	<ul style="list-style-type: none"><li>+ Must have a bachelor's degree in their technical field of expertise. Master's Degree preferred.</li><li>+ Must have at least ten (10) years of experience in their technical field of expertise</li><li>+ Subject-Matter Experts throughout the provision of services will vary according to the services for which the PRDOH requires a cost analysis. The Proposer shall submit to the PRDOH the subject-matter experts to be used for specific tasks as cost estimates for technical fields are required. Subject-Matter Experts may include technical fields such as design, law, software development, environmental, finance, economic development, housing, specialized medical or infrastructure costs, energy etc.</li><li>+ SME's shall provide services with prior approval by the PRDOH of the specialized task needed.</li></ul>	<ul style="list-style-type: none"><li>+ Supervises and assists in the preparation of cost estimates for the technical field of expertise</li><li>+ Compares estimates for the technical field of expertise</li><li>+ Evaluates cost models and databases for pricing for the technical field of expertise</li><li>+ Supervises budget development and compliance for the technical field of expertise</li><li>+ Performs and supervises progressive cost estimating for the technical field of expertise</li><li>+ Supervises change order analysis as related to the technical field of expertise</li></ul>
<b>Junior Estimator</b>  [Technical Staff]	<ul style="list-style-type: none"><li>+ Must have a bachelor's degree in Engineering, Architecture, Construction Management, Project Management, Finance, Accounting, Business, or a related field.</li><li>+ Must have at least two (2) years of experience in cost estimating</li><li>+ Must have knowledge and experience in cost estimating</li></ul>	<ul style="list-style-type: none"><li>+ Prepares cost estimates</li><li>+ Performs detailed quantity surveys</li><li>+ Prepares budgets</li><li>+ Performs progressive cost estimating</li><li>+ Performs change order analysis</li><li>+ Assist Senior Cost Estimator in benefit of the project</li></ul>

The PRDOH reserves the right to request the removal of any staff not performing to standard. The Selected Proposer(s) agrees to defend, hold harmless, and indemnify the PRDOH and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorney's fees and court costs) made against the PRDOH, occurring on account of, arising from or in connection with the removal and replacement of any of the Selected Proposer(s) personnel performing Cost Estimating Services hereunder at the behest of the PRDOH. No personnel may be assigned to the resulting contract without the written consent of the PRDOH.

**NOTE:** FALSE OR MISLEADING STATEMENTS REGARDING STAFF QUALIFICATIONS OR PRIOR PROJECTS WILL RESULT IN THE DISQUALIFICATION OF THE RESPONSE AND CANCELLATION OF ANY RESULTING CONTRACT IF DISCOVERED AFTER AWARD.

#### 4. Tasks

PRDOH as the Grantee of the CDBG-DR and CDBG-MIT funds allocated to Puerto Rico must comply with the Uniform Administrative Requirements outlined in 2 C.F.R. part 200 including 2 C.F.R. § 200.323, among others, which require for every procurement action using HUD grant funds to perform independent cost estimates (**ICE**) and cost or price analysis.

Furthermore, as stipulated in 84 FR 45852 prior to PRDOH's execution of a contract for the construction, rehabilitation, or reconstruction of an approved Covered Project, PRDOH shall have engaged an independent third-party entity (cost estimator) to verify the planned project costs and cost changes to the contract during implementation to determine that the costs of the contract and any changes to it are reasonable.

In accordance with the above-mentioned regulations, Federal and Local regulations, and the Procurement Manual for the CDBG-DR Programs, Selected Proposer(s) shall be able to provide cost estimating services for a variety of CDBG-DR and CDBG-MIT funded items including goods, construction, and non-construction services, as well as any required materials or associated costs **on an as-needed basis**. The Selected Proposer(s) may be called upon to provide services that could include, but not be limited to: independent cost estimating, bid evaluation, special cost reports, change order cost analysis, cost-benefit analysis, claims analysis, price and/or cost analysis. Proposer(s) agrees to provide all necessary expertise and services to professionally and diligently prosecute the work authorized and to be issued by the PRDOH.

The following are the tasks that shall be performed by the Selected Proposer(s):

##### 4.1 Task 01: General Administration and Coordination

The specific services of the Selected Proposer(s) required under this task include, but are not limited to, collaboration with the CDBG-DR and CDBG-MIT Operations, Procurement, Legal Divisions and all other programs, the Grant Manager, partner agencies, contractors hired by PRDOH, local government, and non-profit agencies, and maintaining a cooperative and collaborative attitude throughout the life of the contract. The general administration and coordination activities to be performed by the Proposer are anticipated but not limited to the below:

- Supply a Project Manager to coordinate with other Key Staff and support the PRDOH in the CDBG-DR and CDBG-MIT cost estimates, cost analysis, and price analysis.
- Attend periodic meetings as required to discuss tasks assigned and their status.
- Becoming thoroughly familiar with CDBG-DR and CDBG-MIT programs.
- Producing reports to serve as a summary of work with each invoice.
- Becoming familiar with local labor rates, labor conditions/availability, materials availability, fee requirements of law, and local industry standards and methodologies.

##### 4.2 Task 02: Cost Estimates

The Selected Proposer(s) will provide services for all the procurement processes and benefit cost analysis (**BCA**), as required by 2 CFR 200.323, the PRDOH Procurement Manual, Contracting Requirements and 84 FR 45852. The Selected Proposer(s) may

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be required to prepare detailed construction estimates for various projects reflecting the specific development phase of the project to verify that the design and scope of the project are within the budget parameters. The cost estimating support shall include but is not limited to; calculating and verifying quantities, preparing Independent Cost Estimates, material/supplies cost forecasting, providing input on risks associated with the procured service or comments that are evident during the course of the estimating work.

The cost estimation activities to be performed by the Selected Proposer(s) are anticipated but not limited to the below:

- Preparing and delivering Independent Cost Estimates for each procurement process for all goods, services and covered projects as well as for BCA, as requested by PRDOH and must be available to answer questions associated to proposed costs.
- Providing, with each estimate, a Basis of Estimate (**BOE**) report, which will include the following minimum components as applicable to the estimate:
  - + Narrative including assumptions and clarifications;
  - + Material quantity take offs;
  - + Unit prices;
  - + Labor rates;
  - + Equipment rates or prices;
  - + Material prices;
  - + Supplies prices;
  - + Subcontractor rates/costs; and
  - + Any market pricing received and/or used as reference.
- The Proposer shall produce narratives and charts to explain estimate variance reports, as solicited.
- All reports must be properly supported by data and documentation, this may include commercial pricing and sales information adequate to evaluate the reasonableness of the cost or price, such as, contracts of similar scope and scale; average cost for similar work in the area published cost from a national cost estimating database or construction estimating software; a catalog, or other evidence of the market price, or documentation showing that the cost/price is set by law or regulation.
- All reports to be provided in the English language.
- The Proposer(s) may be tasked to provide independent cost estimating services to support a cost reasonableness analysis of any work performed or proposed, not related to procurement processes or a BCA, and/or the negotiation of any proposed adjustment to the construction.

#### 4.3 Task 03: Cost Estimate Reviews

The Selected Proposer(s) will provide services for the review of cost estimates as required by procurement processes and **BCA** required by 2 CFR 200.323, the PRDOH Procurement Manual, Contracting Requirements, and 84 FR 45852. The selected Proposer(s) may be required to review construction estimates for projects reflecting the specific development phase of the project to verify that the cost estimates reflect the design and scope of the project, that the design and scope of the project are within the budget parameters. The cost estimate review shall include but is not limited to; calculating and verifying quantities, material/supplies cost forecasting,

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providing input on risks associated with the procured service, or comments that are evident during the course of the estimating work.

The anticipated cost estimate review activities to be performed by the selected Proposer(s) include but are not limited to the following:

- Reviewing estimates prepared by PRDOH, Applicants/Subrecipients or any other source, as required by the PRDOH for CDBG-DR and CDBG-MIT procurement and or BCA processes.
- Review of project documentation and estimates to determine if the estimate covers the entire project scope.
- Review of project documentation and estimates to determine if the estimate is free of errors and omissions.
- Assess the correctness of quantities.
- Validate unit rates and make certain the markups applied are adequate and reasonable.
- Confirm if the estimate assumptions and basis are appropriate.
- Review of Basis of Estimate (**BOE**) to determine if complete and accurate.
- The Proposer shall produce narratives and charts to explain estimate variance reports, as solicited.
- Proposer shall be available to answer questions associated with proposed costs and findings of the review.
- Providing, with each estimate review:
  - + A revised Cost Estimate that incorporates all errors, omissions, and other observations that were discovered during the cost estimate review.
  - + A Cost Estimate Review Report, which will include the following minimum components as applicable to the estimate:
    - Identification of work scope omitted;
    - Observations that were discovered during the review;
    - Narrative including assumptions and clarifications;
    - Unit prices;
    - Labor rates;
    - Equipment rates or prices;
    - Material prices;
    - Supplies prices;
    - Subcontractor rates; and
    - Any market pricing received.
- The Proposer(s) may be tasked to review a cost estimate to support a cost reasonableness analysis of any work performed or proposed, not related to procurement processes or a BCA, and/or the negotiation of any proposed adjustment to the construction.
- All reports must be properly supported by data and documentation, this may include commercial pricing and sales information adequate to evaluate the reasonableness of the cost or price, such as, contracts of similar scope and scale; average cost for similar work in the areal published cost from a national cost estimating database or construction estimating software; a catalog, or other evidence of the market price, or documentation showing that the cost/price is set by law or regulation.
- All reports are to be provided in the English language.

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#### 4.4 Task 04: Cost Analysis

Cost analysis is the evaluation of the separate elements (e.g., labor, materials, equipment, etc.) that make up a contractor's total cost proposal or price (for both new contracts and modifications) to determine if they are allowable, directly related to the requirement, and ultimately reasonable.

The cost analysis activities to be performed by the Proposer may include the below:

- Verifying the accuracy of the proposed cost and pricing information.
- Advising PRDOH in the suitability of cost analysis or price analysis, contingent to the facts of the procurement.
- Evaluating the reasonableness of the cost of the proposed costs items.
- Evaluating the projections of the offeror's cost trends.
- Comparing costs proposed by the offeror with:
  - + Historical costs of the same or similar work performed by the same or other contractors;
  - + Previous cost estimates from the offeror or other offerors for the same or similar items;
  - + Independent cost estimates.
- Verifying the accuracy of the proposed cost and pricing information.
- Advising PRDOH in the suitability of cost analysis or price analysis, contingent to the facts of the procurement.
- Evaluating the reasonableness of the cost of the proposed costs items.
- Evaluating the projections of the offeror's cost trends.
- Comparing costs proposed by the offeror with:
  - + Historical costs of the same or similar work performed by the same or other contractors;
  - + Previous cost estimates from the offeror or other offerors for the same or similar items;
  - + Independent cost estimates.
- Verifying that the offeror's cost submissions comply with the appropriate set of cost principles.

#### 4.5 Task 05: Price Analysis

Price analysis is the evaluation of a proposed price (i.e., lump sum) without analyzing any of the separate cost elements of which it is composed of.

The price analysis activities to be performed by the Selected Proposer(s) are anticipated but not limited to the below:

- Verifying the accuracy of the proposed cost and pricing information.
- Advising PRDOH on the suitability of cost analysis or price analysis, contingent to the facts of the procurement.
- Comparing competitive prices received in response to the solicitation to one another.
- Comparing proposed prices with prices under existing contracts and with prices proposed in the past for the same or similar items/services. Be sure to factor in any market changes (e.g., commodity price changes) or other influences (e.g., inflation).

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- Comparing competitive price lists, published catalogs, or market prices of commodities and products, similar indices, and discount or rebate arrangements.
- Comparing proposed prices with the Proposer's independent (i.e., in-house) cost estimates.

## 5. Key Deliverables

Deliverables shall be considered those tangibles and resulting work products which are to be delivered to the PRDOH, such as draft documents, data, interim findings, schematics, meetings, presentations, and reports. Reports shall include detailed narrative including assumptions and clarifications; unit prices; labor rates; equipment rates or prices; material prices; supplies prices; subcontractor rates (if applicable); scope of assumptions and clarifications. All reports must be properly supported by data and documentation, this may include commercial pricing and sales information adequate to evaluate the reasonableness of the cost or price, such as, contracts of similar scope and scale; average cost for similar work in the area published cost from a national cost estimating database or construction estimating software; a catalog, or other evidence of the market price, or documentation showing that the cost/price is set by law or regulation; and any other information or documentation that was used to reach the conclusions as established in the reports. Reports must also establish each and every resource that participated in its development.

Deliverables shall be in an editable format such as Word, Excel, PowerPoint, or Visio and/or other formats. All deliverables and resulting work products from this contract will become the property of the PRDOH. The Proposer shall certify the accuracy of its deliverables to the PRDOH. All deliverables, including the reports must be signed. Any work/information provided by PRDOH for use in the performance of the services and all work resulting from the services performed shall be held as confidential by the Proposer.

The key deliverables to be provided include, but are not limited to, the following:

### 5.1 Cost Estimates

An estimate of probable cost or an Independent Cost Estimate. The unit prices will be a composite of labor, material, and equipment, and other items included in the proposal. The estimate will reflect prevailing rates in the location of the project and market conditions. These estimates shall also consider indirect costs such as taxes, utilities, insurance, and any other overhead and profit that may be part of the services being estimated.

- o The Cost Estimate must be submitted within fifteen (15) business days of the request by PRDOH. Additional time can be provided when required. The additional time shall be mutually agreed upon between the PRDOH and the Selected Proposer(s).

### 5.2 Price and Cost Analysis

A report setting forth the price analysis of contractors' asking total costs for products or services when competition is adequate for any procurement process to determine if costs are fair and reasonable; or a report setting forth the cost analysis of each element of contractors' total asking costs when a price analysis is not sufficient to establish cost reasonableness. Cost analysis shall also be performed by the selected Proposer for change orders or written amendments to contracts in-place by the PRDOH.

- o The Price or Cost Analysis must be submitted within ten (10) business days of the request. Additional time can be provided when required. The additional time shall be mutually agreed upon between the PRDOH and the Selected Proposer(s).

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### 5.3 Reconciliation

Reconciliation of the Selected Proposer's estimate at the conclusion of each estimate with any other source for costs available for the services being estimated.

- o The Reconciliation must be submitted within seven (7) business days of the request.

### 5.4 Recommendations

Recommendations to the PRDOH as to the suggested course of action based on the results of any of the previous deliverables set forth herein; and other items related to cost estimates as agreed upon by the selected Proposer and PRDOH.

- o The Recommendations must be submitted with the deliverable requested.

The Selected Proposer(s) shall be responsible for completing the activities outlined in this Scope of Services. The Selected Proposer shall assist CDBG-DR and CDBG-MIT by providing additional resources to accomplish assignments authorized by the PRDOH.

## 6. Contract Term

The PRDOH anticipates awarding the contract for an initial term of **two (2) years** with the option of three (3) annual extensions, upon mutual written agreement of the parties.

## 7. PRDOH's Reservation of Rights

The PRDOH reserves the right, without limitations, to:

- (i) Reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed to be in its best interests.
- (ii) Reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested goods.
- (iii) Cancel this solicitation and reissue the RFP or another version of it, if it deems that doing so is in the Public Interest.
- (iv) PRDOH shall have no obligation to compensate any proposers for any costs incurred in responding to this RFP.
- (v) To reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to, if:
  - a. Funding is not available.
  - b. Legal restrictions are placed upon the expenditure of monies for this category.
  - c. PRDOH's requirements in good faith change after award of the contract.
- (vi) To require additional information from all proposers to determine the level of responsibility.
- (vii) To contact any individuals, entities, and/or organizations that have had a business relationship with the proposers, regardless of their inclusion in the reference section of the proposal's submittal.
- (viii) To contract with one or more proposer or the cancellation of this RFP.
- (ix) To negotiate any price from the awarded proposer(s) in response to a specific order under this solicitation.
- (x) To modify the quantity of the listed items and/or services during the term of the contract without being in compliance with policies and procedures.



The Proposer shall be responsible for providing all services outlined in this Scope of Service.

## 8. Response Requirements

In response to this Solicitation, Proposers should return the entire completed Proposal Submission package. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required.

The proposal shall be written quite detailed to permit the PRDOH to conduct a meaningful evaluation of the proposed services. However, overly elaborate responses are not requested or desired.

**NOTE:** FALSE OR MISLEADING STATEMENTS REGARDING STAFF QUALIFICATIONS OR PRIOR PROJECTS WILL RESULT IN THE DISQUALIFICATION OF THE RESPONSE AND CANCELLATION OF ANY RESULTING PURCHASE ORDER IF DISCOVERED AFTER AWARD.

### 8.1. SAM Registry

Proposers must be registered in the System for Award Management (SAM) at the time of the Proposal submission or initiate the registration process right after the Proposal submission. For more information about the System for Award Management (SAM) go to <https://sam.gov/content/home>. Awards will only be issued to entities which are cleared and not ineligible for award of a contract due to suspension, debarment, or HUD imposed limited denial of participation.

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

**END OF SCOPE OF SERVICES**

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ATTACHMENT C  
COMPENSATION SCHEDULE

ROV Engineering Services

Cost Estimating Services  
Request for Proposals No. CDBG-DRMIT-RFP-2022-03

The following sections contain cost information that considers the annual cost and hourly costs distributed by the Procurement Division for Cost Estimating Services in compliance with the Request for Proposals (RFP) CDBG-DRMIT-RFP-2022-03 and the Price Forms (Revised for Addendum #2) provided by the Contractor.

The Contractor presented monthly costs for all Key Staff Positions requested in the RFP that would be compensated for the actual hours worked. This contract is expected to function as a not-to-exceed contract from which services will be invoiced based on the annual cost and the actual hours worked by each hourly rate resource.

In case of a discrepancy between the Price Form and this document (Compensation Schedule) rates per hour and/or unit costs, the Price Form will prevail.

ROV Engineering Services, PSC contract is for the total amount \$2,559,600.00 for the term two (2) years with the option of annual extensions of up to three (3) years for Cost Estimating Services. The Contractor will be compensated based on worked hours and hourly rates for each staff, as identified in the Scope of Services.

Table 1: Distribution-ROV Engineering Services, PSC

Key Staff Positions	Estimated Quantity of Resources	Max Hours per Month per Resources	Rate Per Hour	Estimated Monthly Cost
Project Manager	1	180	\$140.00	\$25,200.00
Technical Staff Positions				
MEP Senior Estimator	1	90	\$100.00	\$9,000.00
Site/Civil Senior Estimator	1	90	\$100.00	\$9,000.00
Subject-Matter Expert	2	90	\$140.00	\$25,200.00
Junior Estimator	5	90	\$85.00	\$38,250.00
Monthly Sub-Total				\$106,650.00
[E] Maximum Total Cost for 2 Years (24 Months)				\$2,559,600.00

The following notes, Price Form Notes (Revised for Addendum #2), will apply to all recommended distribution mentioned above.

**Notes on: Cost Estimating Services and Tasks**

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- 1) **Estimated Qty. of Resources** represents the estimated quantity of personnel to be employed by each key position. Should not be interpreted as a cap on the allowed quantity of staff. Monthly cost caps are established in Note 7 below.
- 2) **Max. Hours Per Month Per Resource** represents the estimated quantity of monthly hours to be employed by each key position. Should not be interpreted as a cap on the allowed level of effort per position. Monthly cost caps are established in Note 7 below.
- 3) **Rate Per Hour** includes overhead, profit, royalties, reimbursements, travel, fringe benefits, taxes, as well as any other additional fees and administrative costs applicable to the services.
- 4) **Estimated Monthly Cost Per Position** represents the estimated cost of positions based on the Estimated Quantity of Resources and the Estimated Hours Per Month Per Resource in the price form. Should not be interpreted as a cap on the allowed billing per position. See Note 7 for monthly cost caps for Cost Estimating Services and Tasks.
- 5) Maximum Monthly Cost in [E] will be used for cost estimate evaluation purpose only, final cost established in selected Proposer(s) contracts may vary after negotiations.
- 6) Timeframe of two (2) years considered will be used for cost estimate evaluation purpose only, PRDOH reserves the right of establish a shorter or longer contract term with selected Proposer(s).
- 7) **Monthly Sub-Total** represents the maximum amount that the Program Manager is allowed to invoice for the positions included in this Price Form for any given month. An individual position may invoice for an amount greater than that established in the **Estimated Monthly Cost Per Position** column at any given month; but the total amount to be invoiced for the group of positions may not exceed the **Monthly Sub-Total**.
- 8) Services contracted through this RFP will be available in a tiered manner, as per the funding allocation from HUD. Additional services may be contracted or added through amendments, as funds become available.

**END OF DOCUMENT**

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# ATTACHMENT D

## PERFORMANCE REQUIREMENTS

### SCOPE OF WORK

The Contractor is responsible for compliance with all aspects of the Scope of Work included as **Attachment B** of the Contract.

### DELIVERABLES

Deliverables shall be considered those tangibles and resulting work products which are to be delivered to the PRDOH, such as draft documents, data, interim findings, schematics, meetings, presentations, and reports. Reports shall include detailed narrative including assumptions and clarifications; unit prices; labor rates; equipment rates or prices; material prices; supplies prices; subcontractor rates (if applicable); scope of assumptions and clarifications. All reports must be properly supported by data and documentation, this may include commercial pricing and sales information adequate to evaluate the reasonableness of the cost or price, such as, contracts of similar scope and scale; average cost for similar work in the areal published cost from a national cost estimating database or construction estimating software; a catalog, or other evidence of the market price, or documentation showing that the cost/price is set by law or regulation; and any other information or documentation that was used to reach the conclusions as established in the reports. Reports must also establish each and every resource that participated in its development.

Deliverables shall be submitted in an editable format such as Word, Excel, PowerPoint, or Visio and/or other formats, and must be signed as applicable and submitted in PDF format. All deliverables and resulting work products from this contract will become the property of the PRDOH. The Proposer shall certify the accuracy of its deliverables to the PRDOH. All deliverables, including the reports must be signed. Any work/information provided by PRDOH for use in the performance of the services and all work resulting from the services performed shall be held as confidential by the Proposer.

The key deliverables to be provided shall include, but are not limited to, the following:

Deliverable	Timeline
Cost Estimates	<ul style="list-style-type: none"><li>The Cost Estimate must be submitted within <b>fifteen (15) business days</b> of the request by PRDOH. Additional time can be provided when required. The additional time shall be mutually agreed upon between the PRDOH and the Selected Proposer(s).</li></ul>
Price and Cost Analysis	<ul style="list-style-type: none"><li>The Price or Cost Analysis must be submitted within <b>ten (10) business days</b> of the request. Additional time can be provided when required. The additional time shall</li></ul>

	<div>be mutually agreed upon between the PRDOH and the Selected Proposer(s).</div> <div><div></div><div>The Price or Cost Analysis related to Procurement Processes must be submitted within <b>five (5) business days</b> of the request. Additional time can be provided when required. The additional time shall be mutually agreed upon between the PRDOH and the Selected Proposer(s).</div></div>
Reconciliation	<div><div></div><div>The Reconciliation must be submitted within <b>seven (7) business days</b> of the request.</div></div>
Recommendations	<div><div></div><div>The Recommendations must be submitted with the deliverable requested.</div></div>

Unless otherwise stated, terms will apply from the date the task required by the PRDOH is notified to the Contractor. Moreover, they may be modified if deemed necessary by the PRDOH, with due notification to the Contractor.

Performance requirements included in this document will apply to the Contractor and any subcontractor, according to the contract.

Engagement in proscribed conduct by the vendor may result in the cancellation of the contract, penalties under federal and state laws, such as Act No. 2 of July 4, 2018 and Act No. 1 of January 3, 2012, as amended, as well as federal and state regulations. Policies, procedures, directives, and executive orders may also be of application, according to contract terms.

END OF DOCUMENT



INSURANCE REQUIREMENTS  
Request for Proposals  
COST ESTIMATING SERVICES  
Community Development Block Grant-Disaster Recovery  
Community Development Block Grant-Mitigation  
Puerto Rico Department of Housing

SPECIAL INSURANCE SPECIFICATIONS  
For Professional Services

Request for Proposals CDBG-DR/MIT-RFP-2022-03

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- A. The successful proposer before commencing to work, or receiving a written notice to proceed with, or being allowed to start to work, must submit to the **Puerto Rico Department of Housing (\*PRDOH)**, original and two (2) certified copies of the hereafter mentioned insurance policies and/or bonds, thus including all endorsements as agreements required under the special contractual conditions as per the following:

1. (X) State Insurance Fund Workers' Compensation Insurance Policy

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

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

COVERAGE	LIMIT
<b>I. Commercial General Liability:</b>	
• Each Occurrence	\$3,000,000
• General Aggregate	\$3,000,000
• Products & Complete Operations	\$3,000,000
• Personal Injury & Advertising	\$3,000,000
• Fire Damage	\$500,000 (Any one Fire)
• Medical Expense	\$ 20,000 (Any one person)
<b>II. Employer's Liability Stop Gap:</b>	
• Bodily Injury by Accident	\$2,000,000
• Each Employee	\$2,000,000
• Each Accident	\$2,000,000
• Bodily Injury by Disease	\$2,000,000
• Each Employee	\$2,000,000
• Each Accident	\$2,000,000

**INSURANCE REQUIREMENTS**  
**Request for Proposals**  
**COST ESTIMATING SERVICES**  
**Community Development Block Grant-Disaster Recovery**  
**Community Development Block Grant-Mitigation**  
**Puerto Rico Department of Housing**

**3. (X) Comprehensive Automobile Liability Form including the following Insurance Coverages**

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LIMIT	
• Auto Liability -	\$3,000,000
• Physical Damages -	\$3,000,000
• Medical Payments -	\$ 20,000
The Commercial Auto cover must be applied to the following symbols:	
• Liability Coverage -1	
• Physical Damages – 2 and 8	
• Hired – Borrowed Auto – 8	
• Non-Owned Auto Liability – 9	

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**4. (X) Professional Liability for and not limited to Project Manager, MEP Senior Estimator, Site Civil Senior Estimator, Subject Matter Experts, Junior Estimator and any subcontractor or other Professional related to the Services.**

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

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

**(X) A. 2** Limits:

(X) each occurrence	\$5,000,000
(X) Aggregate	\$5,000,000
(X) Deductible	\$ 20,000

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

**5. (X) Umbrella**

Limit - \$10,000,000

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

**INSURANCE REQUIREMENTS**  
**Request for Proposals**  
**COST ESTIMATING SERVICES**  
**Community Development Block Grant-Disaster Recovery**  
**Community Development Block Grant-Mitigation**  
**Puerto Rico Department of Housing**

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

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

**B. IMPORTANT NOTICE TO INSURANCE AND SURETY COMPANIES AND THEIR REPRESENTATIVES**

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

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



**INSURANCE REQUIREMENTS**  
**Request for Proposals**  
**COST ESTIMATING SERVICES**  
**Community Development Block Grant-Disaster Recovery**  
**Community Development Block Grant-Mitigation**  
**Puerto Rico Department of Housing**

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

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

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

Therefore, we emphasize that prior to commencing work or receiving written notice to proceed with such work, or being authorized to commence work the **successful proposer** has the responsibility to provide the **\*PRDOH** with all the certifications of insurance and/or bonds required under the special conditions approved by the Contract Division, Insurance Section of the **\*PRDOH**.

All insurance policies shall remain in effect for the entire contractual period, in case of any order of change and/or amendment resulting in alteration of the original project completion date or total original cost; the **successful proposer** shall take the necessary steps to request the insurer to include such changes in all related insurance policies and/or bond and to submit evidence by appropriate endorsements with effective dates. Cancellations without consent are not accepted.

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

INSURANCE REQUIREMENTS  
Request for Proposals  
COST ESTIMATING SERVICES  
Community Development Block Grant-Disaster Recovery  
Community Development Block Grant-Mitigation  
Puerto Rico Department of Housing

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

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

***\*PRDOH reserves the right to modify any Insurance Requirements at any time, in accordance with the Program's needs.***

**E. CERTIFICATE OF CONTRACT DIVISION**

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

**DESCRIPTION OF THE SERVICES:**

Professional Services

COST ESTIMATING SERVICES  
CDBG-DR/MIT-RFP-2022-03

May 26, 2022

Date

Sonia Damaris Rodriguez

Sonia Damaris Rodríguez  
Insurance Specialist  
CDBG-DR Program



## ATTACHMENT F

### HUD GENERAL PROVISIONS

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

VMRO The CONTRACTOR shall include these terms and conditions in all subcontracts or purchase orders directly servicing the Contract.

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

#### General Provisions:

##### 1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

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

##### 2. STATUTORY AND REGULATORY COMPLIANCE

CONTRACTOR shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by: the Continuing Appropriations Act, 2018, and Supplemental Appropriations for Disaster Relief Requirements, 2017 (**Pub. L. 115-56**) approved on September 8, 2017, as amended; the Bipartisan Budget Act of 2018 (**Pub. L. 115-123**) approved on February 9, 2018, as amended; the Additional Supplemental Appropriations for Disaster Relief Act, 2019, (**Pub. L. 116-20**) approved on June 6, 2019, as amended; as well as including, but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including if certain expenses are allowed.

### 3. BREACH OF CONTRACT TERMS

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

### 4. REPORTING REQUIREMENTS

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

### 5. ACCESS TO RECORDS

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

### 6. MAINTENANCE/RETENTION OF RECORDS

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

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

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

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

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- (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.

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

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

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and any implementing regulations issued by HUD.

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

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

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

The CONTRACTOR shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides

that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

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

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

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

**12. AGE DISCRIMINATION ACT OF 1975**

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

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

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

**14. CONFLICTS OF INTEREST**

The CONTRACTOR shall notify the PRDOH as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as defined at 24 C.F.R. §578.95; 24 C.F.R. §570.489(g) and (h); and 24 C.F.R. §570.611, if applicable). The CONTRACTOR shall explain the actual or potential conflict in writing in sufficient detail so that the PRDOH is able to assess such actual or potential conflict. The CONTRACTOR shall provide the PRDOH any additional information necessary to fully assess and address such actual or potential conflict of interest. The CONTRACTOR shall accept any reasonable conflict mitigation strategy employed by the PRDOH, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

## 15. SUBCONTRACTING

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

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

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

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

## 16. ASSIGNABILITY

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

## 17. INDEMNIFICATION

The CONTRACTOR shall indemnify, defend, and hold harmless the Government of Puerto Rico and PRDOH, its agents and employees, from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the CONTRACTOR in the performance of the services called for in this Contract.

## 18. COPELAND "ANTI-KICKBACK" ACT

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

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by

the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The CONTRACTOR shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

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

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

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

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

**20. DAVIS-BACON ACT**

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

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

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

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

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## **21. TERMINATION FOR CAUSE**

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

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

## **22. TERMINATION FOR CONVENIENCE**

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

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

## **23. SECTION 503 OF THE REHABILITATION ACT OF 1973**

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

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

Equal Opportunity for Workers with Disabilities:

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

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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 CONTRACTOR;
  - (vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
  - (viii) Activities sponsored by the CONTRACTOR including social or recreational programs; and
  - (ix) Any other term, condition, or privilege of employment.

- 2) The CONTRACTOR agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- 3) In the event of the CONTRACTOR's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- 4) The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the CONTRACTOR'S obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The CONTRACTOR must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the CONTRACTOR may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- 5) The CONTRACTOR will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONTRACTOR is bound by the terms of Section 503 of the Rehabilitation Act

of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

- 6) The CONTRACTOR will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

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**24. EQUAL EMPLOYMENT OPPORTUNITY**

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

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

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

- 1) The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 2) The CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The CONTRACTOR shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 3) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

- 4) The CONTRACTOR will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the CONTRACTOR's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) The CONTRACTOR will comply with all provisions of Exec. Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 6) The CONTRACTOR will furnish all information and reports required by Exec. Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 7) In the event of the CONTRACTOR's non-compliance with the non-discrimination clause of this Agreement or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Exec. Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- 8) CONTRACTOR shall incorporate the provisions of 1 through 7 above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such subcontractor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

**CLEAN AIR ACT**

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

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

#### **WATER POLLUTION CONTROL ACT**

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

The CONTRACTOR and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*, and the regulations of the Environmental Protection Agency with respect thereto, at 5 C.F.R. Part 919 Subpart E and 24 C.F.R. Part 58 as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

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

- 1) A stipulation by the CONTRACTOR or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. Part 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (**EPA**) pursuant to 24 C.F.R. Part 58, as amended.
- 2) Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 7414) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified

in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

- 3) A stipulation that as a condition for the award of the Agreement, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Agreement, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- 4) Agreement by the CONTRACTOR that he or she will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the CONTRACTOR will take such action as the government may direct as a means of enforcing such provisions.

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

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

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
- 3) The CONTRACTOR shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **28. BONDING REQUIREMENTS**

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

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

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

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

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



- 2) The parties to this Agreement agree to comply with HUD's regulations in 24 C.F.R. Part 75 which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
- 3) The CONTRACTOR agrees to send to each labor organization or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the CONTRACTOR's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 4) The CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 75. The CONTRACTOR will not subcontract with any subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 75.
- 5) The CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled: (1) after the CONTRACTOR is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 75 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR's obligations under 24 C.F.R. Part 75.
- 6) Noncompliance with HUD's regulations in 24 C.F.R. Part 75 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
- 7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (46 U.S.C. § 5307) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian

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organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

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

### 30. FAIR HOUSING ACT

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

### 31. ENERGY POLICY AND CONSERVATION ACT

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

### 32. HATCH ACT

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

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

The CONTRACTOR may not do the following activities: be a candidate in partisan elections; use official influence to interfere in elections; coerce political contributions from subordinates in support of political parties or candidates. The office of special counsel operates a website that provides guidance concerning hatch act issues.

### 33. HEALTH AND SAFETY STANDARDS

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All parties participating in this project agree to comply with Sections 107 and 103 of the Contract Work Hours and Safety Standards Act. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

#### **34. PERSONNEL**

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

#### **35. WITHHOLDING OF WAGES**

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

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

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

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

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

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

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

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

### **39. INTEREST OF CERTAIN FEDERAL OFFICERS**

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

### **40. INTEREST OF CONTRACTOR**

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

### **41. POLITICAL ACTIVITY**

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

#### **42. RELIGIOUS ACTIVITY**

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

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

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

#### **44. LEAD BASED PAINT**

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

#### **45. VALUE ENGINEERING**

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

The CONTRACTOR must comply with the regulations regarding systematic and organized approach to analyze functions of systems, equipment, facilities, services, and materials to ensure they achieve their essential functions at the lowest cost consistent to life cycle in execution, reliability, quality, and safety, in accordance with 24 C.F.R. § 200.318(g).

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# ATTACHMENT G

## CONTRACTOR CERTIFICATION REQUIREMENT

### ROV ENGINEERING SERVICES, PSC

#### I. Contractor (or Subrecipient) Certification Requirement:

1. The expected subcontractor(s) in connection with the contract<sup>1</sup> is (are) the following:

Not applicable.

2. Neither the contractor (or subrecipient) nor any of its owners<sup>2</sup>, partners, directors, officials, or employees, has agreed to share or give a percentage of the contractor's (or subrecipient's) compensation under the contract<sup>3</sup> to, or otherwise compensate, any third party, whether directly or indirectly, in connection with the procurement, negotiation, execution or performance of the contract.
3. To the best knowledge of the signatory (after due investigation), no person has unduly intervened in the procurement, negotiation, or execution of the contract, for its own benefit or that of a third person, in contravention of applicable law.
4. To the best knowledge of the signatory (after due investigation), no person has: (i) offered, paid, or promised to pay money to; (ii) offered, given, or promised to give anything of value to; or (iii) otherwise influenced any public official or employee with the purpose of securing any advantages, privileges or favors for the benefit of such person in connection with the contract (such as the execution of a subcontract with the contractor, beneficial treatment under the contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).
5. Neither the contractor (or subrecipient), nor any of its owners, partners, directors, officials, or employees or, to the best of its knowledge (after due investigation), its representatives or sub-contractors, has required, directly or indirectly, from third persons to take any action with the purpose of influencing any public

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

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

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

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official or employee in connection with the procurement, negotiation or execution of the contract, in contravention of applicable law.

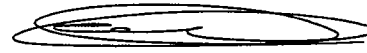
6. Any incorrect, incomplete or false statement made by the contractor's (or subrecipient's) representative as part of this certification shall cause the nullity of the proposed contract and the contractor (or subrecipient) must reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed contract.

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

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

By: Víctor M. Rodríguez Ortiz

Signature: \_\_\_\_\_



Position: President

Date: 16-nov-2022

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GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING

## ATTACHMENT H

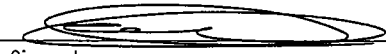
### NON-CONFLICT OF INTEREST CERTIFICATION

### ROV ENGINEERING SERVICES, PSC

The CONTRACTOR certifies that:

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

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

  
Signature

16-nov-2022  
Date

Víctor M. Rodríguez Ortiz  
Printed Name

President  
Position













# ROV Engineering Services PSC Agreement

Final Audit Report

2022-12-12

Created:	2022-12-08
By:	Radames Comas Segarra (rcomas@vivienda.pr.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAK1pf8qkONabBjamDchIX3NeR8rjL9AT

## "ROV Engineering Services PSC Agreement" History

-  Document created by Radames Comas Segarra (rcomas@vivienda.pr.gov)  
2022-12-08 - 8:40:29 PM GMT
-  Document emailed to Victor Rodriguez (vrodriguez@rovengineering.com) for signature  
2022-12-08 - 8:45:36 PM GMT
-  Email sent to dramos@vivienda.pr.com bounced and could not be delivered  
2022-12-08 - 8:46:02 PM GMT
-  Email viewed by Victor Rodriguez (vrodriguez@rovengineering.com)  
2022-12-09 - 1:12:46 AM GMT
-  Document e-signed by Victor Rodriguez (vrodriguez@rovengineering.com)  
Signature Date: 2022-12-09 - 1:32:23 AM GMT - Time Source: server
-  Document emailed to w.rodriguez@vivienda.pr.gov for signature  
2022-12-09 - 1:32:26 AM GMT
-  Email viewed by w.rodriguez@vivienda.pr.gov  
2022-12-12 - 7:18:45 PM GMT
-  Signer w.rodriguez@vivienda.pr.gov entered name at signing as William O. Rodríguez Rodríguez  
2022-12-12 - 7:21:24 PM GMT
-  Document e-signed by William O. Rodríguez Rodríguez (w.rodriguez@vivienda.pr.gov)  
Signature Date: 2022-12-12 - 7:21:26 PM GMT - Time Source: server
-  Agreement completed.  
2022-12-12 - 7:21:26 PM GMT