CONTRACT FOR GENERAL CONSTRUCTION SERVICES
FOR THE ENVISION PROGRAM:
HOMEOWNERS REHABILITATION AND RECONSTRUCTION
Between
THE VIRGIN ISLANDS HOUSING FINANCE AUTHORITY
and
PERSONS SERVICES CORPORATION

This Contract (hereinafter referred to as the “Contract”) is made and entered into this 10th day of January, 2022, by and between the VIRGIN ISLANDS HOUSING FINANCE AUTHORITY, (hereinafter “VIHFA” and/or “the Authority”), a body corporate and politic constituting a public corporation and autonomous governmental instrumentality of the Government of the Territory of the United States Virgin Islands, whose address is 3202 Demarara Plaza, Suite 200, St. Thomas, Virgin Islands 00802 and Persons Services Corporation (“PSC”), 4474 Halls Mills Road, Mobile, AL 36693 (“General Contractor”). VIHFA and General Contractor may sometimes hereinafter be collectively referred to as the “Parties” and individually as a “Party.”

WITNESSETH:

WHEREAS, on September 6, 2017, and on September 19, 2017, Hurricane Irma and Maria (the “2017 disasters”) had a devastating impact on the United States Virgin Islands and caused significant destruction to housing, infrastructure, and the economy; and

WHEREAS, as a result of the 2017 disasters, the Government of the Virgin Islands designated the VIHFA as the lead agency for administering the Community Development Block Grant Disaster Recovery (“CDBG-DR”), which is authorized under the Additional Supplemental Appropriations for Disaster Relief Requirements Act of No. 2017, Public Law (P.L.) 115-56, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2018, P.L. 115-123, et. al; and

WHEREAS, on July 27, 2021, the VIHFA issued a Request for Proposals, RFP 007-2021-DR-STT/STX to solicit proposals from qualified and licensed firms to provide general construction services for the purpose of making repairs to single-family residential structures damaged during the 2017 disasters; and

WHEREAS, the requirements of the RFP 007-2021-DR-STT/STX and all addendum, are hereby incorporated by referenced, unless stated otherwise; and

WHEREAS, the General Contractor submitted a proposal which VIHFA has accepted; and

WHEREAS, VIHFA selected the General Contractor to provide general construction services for the purpose of making repairs to single-family residential structures damaged during the 2017 disasters, as shown in the scope of work set forth in Section 1 of the Contract; and

WHEREAS, the General Contractor by its representation and acceptance of the terms and conditions of this Contract is willing and capable to provide the services as described in the Scope
of Work outlined in Section 1 of this Contract; and

WHEREAS, the VIHFA desires to enter into an agreement with the General Contractor to perform residential construction repair, rehabilitation and/or reconstruction services for single-family residential structures under the CDBG-DR Program;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. DESCRIPTION OF SERVICES.

A. Scope of Services Requested.

The General Contractor shall perform, or cause to be performed residential construction repair, and/or reconstruction services for single-family residential structures for the VIHFA. The General Contractor’s responsibility will include but not be limited to, planning, organizing and carrying out all phases of construction necessary to complete repairs for or reconstruction up to 200 single family homes; for which duties include, but are not limited to, items listed in Section B below. General Contractor shall adhere to the policies and procedures, to carryout repairs, as directed by the VIHFA’s Project Manager. General Contractor will mobilize and perform the above referenced services throughout St. Croix, St. Thomas, and St. John.

Each project assignment Scope of Services will be contained herein as respective amendments. Amendment B Phase 1 will contain 50 projects, as identified in Appendix B. Appendix B shall be submitted upon transmittal of the NTP. Mobilization of personnel and resources will be according to the number of assignments per location.

The remaining homes will be assigned at a minimum of 25 per month, as finalized and up to the overall budget allocated under this contract.

B. Rehabilitation and/or Reconstruction Scope of Work

The scope of work for each structure to be repaired and/or reconstructed will vary, but the work may require, and the General Contractor shall perform and or provide the following to be performed:

1. Obtain all necessary electrical, plumbing, and other specialized permits and approvals prior to the commencement of the Work for each structure (if applicable).

2. Work in conjunction with VIHFA and designated agencies regarding specialty construction elements associated with historic properties.

3. Provide professional and/or skilled labor, equipment and materials adequate to perform the Work in accordance with the scope of work issued for each eligible residential structure.
4. Perform all repairs in a manner consistent with current local building codes, standards, inspection requirements or acceptable construction industry standards and all applicable environmental planning and historic preservation (EHP) laws and regulations including at a minimum 2018 International Residential Code (IRC) and the CDBG-DR Specification Manual. Items will be repaired when feasible, but may be replaced when cost-effective to the government or when necessary for the health and safety of the occupant.

5. Provide documentation and tracking of construction progress.

6. General Contractor must be available to attend the Pre-construction meeting to meet with the individual property owners and VIHFA to review the scope of work to be performed.

7. Provide all necessary bonding and insurance requirements.

8. Provide a 12 month warranty, from the date of final acceptance of the work by Homeowner and the Authority, applicable specifically to work performed; response personnel are to be located on St. Thomas and St. Croix and have a 24-hour response time. For a non-emergency, a site visit can be scheduled within 48-72 hours.

9. Meet VIHFA work completion requirements.

10. Respond to any open records request in a timely manner from the following, but not limited to, VIHFA, HUD or HUD OIG.

11. Maintain project documentation and keep files audit ready.

12. A level II primavera schedule shall be submitted prior to construction. This schedule will need to show each home in the program and define a critical path.

13. General Contractor will be responsible for providing a list of all active construction site 48-hours prior to actual construction starting. Any changes to the schedule will be provided no later than 5:00 am of the scheduled day’s work.

14. General Contractor will be responsible for all work being completed prior to requesting a Final Site Visit (FSV). The General Contractor will provide a signed checklist with all Statement of Work (SOW) item and any change order items checked prior to the FSV inspection. This will include the completeness of work and quality of work performed. If during the FSV, any of the scoped items have not been completed and/or poor workmanship observed, a deficiency list will be generated by the inspector and provided to the General Contractor to be completed. The FSV will then be rescheduled and the deficiency list will be validated and closed out.

15. General Contractor shall provide full-time QC/CM field oversight. There shall be one assigned person to every 15 active construction projects. This person will work out on the field and not the office, and will be responsible for documenting all activities performed throughout the day in a daily report, which will be uploaded to the project portal by 10:00 am the following day. A standardized reporting format with checklist will be submitted by the General Contractor for approval by VIHFA, to be submitted within 15 days of contract execution and adopted by amendment to incorporate into the contract within 30 days after NTP.
16. Once work has commenced on a home, the General Contractor must complete the work within the timeframe provided by the General Contractors approved submitted schedule.

17. At any time, at least 25 homes of the allotted up to 200 homes should be under active construction.

18. Perform repairs using building materials of standard quality used in new construction, in accordance with the Territorial building codes.

19. Materials incorporated into the project shall be either procured direct by PSC or will be furnished by VIHFA.

20. General Contractor shall set up and operate a materials tracking system to include the complete supply chain mechanism. General Contractor shall share the supply chain information with VIHFA upon request.

21. General Contractor shall provide submittals for materials to be incorporated into the project for review by VIHFA.

22. VIHFA furnished material will be made available at a centrally placed location on the islands of St. Croix and St. Thomas. It is the General Contractors responsibility to retrieve the materials for these locations and transport to their holding areas and/or construction sites.

2. TERM

A. This Contract shall begin on the 10th day of January, 2022, or the date on which the last Party has signed the Contract, and shall end on the date that is two (2) years after the Effective Date, on or about 9th, January, 2024.

B. The VIHFA may elect to exercise the option for an additional two (2) year term, subject to General Contractor’s satisfactory performance. VIHFA will exercise this option by providing General Contractor written notice no less than sixty (60) days prior to the expiration of the first contract term.

3. COMPENSATION

A. VIHFA, in consideration of satisfactory performance of the services described above, shall pay the General Contractor as compensation for the services rendered under this Contract an amount not to exceed Twenty-Five Million Five Hundred Sixty-Four Thousand Five Hundred Ninety-Eight Dollars and Seventy-Three Cents ($25,564,598.73) (the “NTE”). General Contractor shall submit invoices for work performed that conform to the Project Scope of Work as outlined in Appendix B. This contract may be amended to increase NTE as agreed upon by both parties and Board approval if required.

B. It is expressly understood and agreed that in no event shall the amounts to be paid by the VIHFA to the General Contractor under this Contract exceed the rates and conditions made
a part of this Contract unless expressly agreed to in writing. Upon completion of the work, the General Contractor will be paid according to the price as outlined in Appendix B.

C. General Contractor shall be responsible for its performance and that of its Subcontractors and Vendors.

D. General Contractor’s obligations under this Contract and VIHFA’s obligation to pay the General Contractor for services performed under this Contract are contingent upon the availability of applicable disaster recovery funds. VIHFA shall be the final authority as to the availability of funds for this Contract and as to what constitutes “applicable funding” to complete this Contract. If any such funds are not made available for the Contract purpose, such event will not constitute a default by VIHFA, but shall entitle General Contractor to terminate if funds are not received and available to compensate General Contractor for any period exceeding thirty (30) days. Notwithstanding the foregoing, General Contractor shall be paid for all costs and services incurred to the date of any such notification from VIHFA to PSC within sixty (60) days from any notification from HUD regarding the non-availability of applicable disaster recovery funds. Payment for services rendered under this Contract to be paid is not eligible for reimbursement from any other funding source.

E. Pricing submitted by PSC have included credit for materials provided by VIHFA as instructed in the RFP. Any purchased materials will be reimbursed based on materials on-site and that have been allocated and identified to an assigned project (i.e. stored materials).

4. LIQUIDATED DAMAGES

It is hereby agreed by the parties that in the event the General Contractor has not completed the scope of work under the terms set forth in this Contract, liquidated damages of $200.00 per day per project for each calendar day or portion thereof shall be due to the Authority, not to exceed the 15% of that project cost. The liquidated damages shall first be deducted from any contract monies due but not yet paid, to the extent available.

5. PERFORMANCE BOND (if applicable)

The undersigned further agrees to execute and deliver to VIHFA at the time the contract documents are executed, a Performance Bond with Power of Attorney, on the forms provided, in an amount equal to the agreed upon contract value by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register, or by a U.S. Virgin Islands domiciled insurance company with at least an A- rating in the latest printing of the A.M. Best’s Key Rating Guide to write individual bonds up to ten percent of policyholders’ surplus as shown in the A.M. Best’s Key Rating Guide, or by an insurance company that is either domiciled, or licensed in the U.S. Virgin Islands or owned by U.S. Virgin Islands residents and is licensed to write surety bonds. The Performance Bond should be applicable for each project for which the cost exceeds Five Hundred Thousand ($500,000.00).
6. PAYMENT PROCESS

A. Project invoices shall be submitted on a timely basis. Invoices shall be organized so that services associated with each project and construction phase are clearly identified in separate detailed listings of charges. Payment of invoices must be approved by the Authority or its designee after inspection. The Authority will make payments within thirty (30) business days after invoice approval and acceptance of work and the inspections as denoted in Paragraph(s) 37 and 38.

B. Compensation shall be invoiced on a per project basis. Services not authorized by a Scope of Work shall not be paid. The scope of work for each project is made a part of this Contract and will remain in effect for the term of the Contract. Full payment will be made upon satisfactory completion of each project as accepted by the Project Manager. VIHFA will notify General Contractor of any disputed charges within 5 days.

C. Payment of invoices must be approved by the Senior Construction Manager of the EnVlvision Program or its designee.

D. INDEMNIFICATION: Should the General Contractor, after receipt of payment of invoices by the Authority not timely pay all persons who have fulfilled their obligations to perform labor and/or furnish materials in the prosecution of the work provided for herein, including by way of example workmen, laborers, furnishers of materials, machinery, equipment and fixtures, then General Contractor agrees to indemnify the Authority for such payment(s). Timely payments from General Contractor to its subcontractors shall mean within ten (10) business days of receiving payment from the Authority. Pursuant to Paragraph 15(b), General Contractor shall obtain an executed lien waiver upon making payments to all persons who have fulfilled their obligation to perform labor and/or furnish materials in the prosecution of the work provided herein.

E. PAYMENT SCHEDULE: Invoices may be submitted at anytime based on the following milestones being met:

(1) 25% completion of value of work-in-place
(2) 50% completion of value of work-in-place
(3) 75% completion of value of work-in-place
(4) 100% completion of value of work-in-place.

Work in Place is defined as the value of rehabilitation/reconstruction work completed on the assigned project site closely related to the submitted invoice period.
A ten percent (10%) is withheld from each draw for retainage, excluding any applicable gross receipts taxes. Five percent (5%) of the Retainage due the General Contractor for work performed shall be disbursed on the Final Disbursement Date subject to Final Inspection and acceptance of the work as outlined in Paragraph 38. The remaining five percent (5%) of the retainage will be disbursed at the end of the warranty period.

7. WORKMANSHIP/WARRANTY

The General Contractor shall supervise and direct the work of its Subcontractors. General Contractor agrees to maintain the professional standards applicable to its profession and to General Contractors doing business in the United States Virgin Islands.

The General Contractor will ensure its Subcontractors complete all work in a substantial and workmanlike manner according to standards and practices in the General Contractor’s trade for the construction work to be performed. The work shall conform to all applicable codes and regulations which apply to the work to be performed whether or not covered by the specifications and drawings for the work. The General Contractor warrants that the final product shall be fit for the purposes for which it is intended. General Contractor will warrant against defects in materials and labor for a period of One (1) year from the date of completion and upon acceptance of the work by Homeowner and the Authority.

The General Contractor will maintain order and discipline among its Subcontractors and vendors and will not assign anyone unfit for the work. The General Contractor warrants to the VIHFA that all materials and equipment incorporated are new and that all work and material will be of good quality and free of defects or faults. The General Contractor, as a cost of the work, will pay all use and other taxes related to the work and will secure and pay for building permits and/or other permits, fees, inspections, and licenses necessary for the completion of the work unless otherwise specified in the Contract.

8. DEFECTIVE WORK

The inspection of work shall not relieve the General Contractor and/or its subcontractors of any of its obligations to fulfill the terms and conditions of the Contract as herein prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by the Authority’s Project Manager and accepted or paid for. If the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, or the final payment therefor, the General Contractor shall forthwith make good such defect in a manner satisfactory to the Authority’s Project Manager and shall replace at its own expense damaged or unsuitable materials with the new material of satisfactory quality.

9. PROJECT TIME

General Contractor will endeavor to complete the repairs within the period prescribed in the construction timetable set forth for each project. With respect to the scheduled completion of the work, if the General Contractor is delayed at any time in the progress of the work by fire, labor
disputes, acts of God, unreasonable permitting delays or other causes beyond the General Contractor's control, the completion schedule for the work or affected parts of the work shall be extended by VIHFA or Program Management General Contractor.

10. COMPLETION & EXTENSION OF CONTRACT WORK

If the satisfactory execution of the Contract shall require work or materials in substantially greater amounts or quantities than those set forth in the plans or scope of work, then the General Contractor shall submit a Change Order and other supporting documentation which substantiate the additional work, and any associated increase in cost and time, if applicable. Additional work may result from differing site conditions, omitted tasks or initial inspection reports, conditions requiring unanticipated materials, repairs, delays, or other changes in the extent or character of the scope of services in each Work Order. All Change Orders shall be in writing and shall be submitted to the Authority for approval prior to undertaking the additional work. No allowance shall be made for unauthorized delays or suspension of the work.

11. CONDITION OF PREMISES

The General Contractor agrees to keep each project premises orderly, and to remove daily all debris as needed during the project in order to maintain safe working conditions and leave the area in a neat and clean condition. The General Contractor agrees to maintain the work area free from major obstructions/hazards to the greatest extent possible and to ensure safe access at all times.

12. ADDITIONAL WORK

The Authority and General Contractor understand that funds are solely for the work authorized by the Program and described in each project’s respective scope of work and shall not be used for other purposes or improvements on the Property that are not part of each project’s scope of work. Additional work agreed upon by the Homeowner and General Contractor shall not be initiated until after all work identified in the Scope of Work has been completed and passed final inspection. Any additional work completed and not approved by VIHFA shall be paid for by the General Contractor.

13. MOLD ASSESSMENT AND REMEDIATION

Mold assessment must be performed by the General Contractor and his subcontractors. A visual inspection is the most important initial step in identifying a possible mold problem and in determining remedial strategies. Visual inspections should also include observations of hidden areas where damages may be present, such as crawl spaces, attics, and behind wallboard to the extent feasible without destructive testing or removal of apparently undamaged building materials. The extent of any water damage and mold growth should be visually assessed and the affected building materials identified.

Areas where mold was, or is, identified as part of the initial site inspection (ISI), the Walk Through or during construction will be required to be remediated by the General Contractors. If a visual
inspection by the General Contractor reveals the presence of mold, photographs should be provided to substantiate the claim and then remediated. Items identified in ISI requiring remediation will be submitted as part of the first change order for review and approval by VIHFA.

(b) REMEDIATION: Currently there are no governmental standards pertaining to acceptable levels of indoor airborne mold spores and structures. Mold is present everywhere in the environment. For all projects, identified moisture sources should be eliminated prior to further remediation. Post remediation dehumidification may be necessary to dry the remaining structural framing materials prior to any rehabilitation. In cases where this occurs the General Contractors will incorporate the cost into the bid proposal. Materials harboring mold are expected to be cleaned or replaced by the General Contractor.

14. REPRESENTATIONS, WARRANTIES, AND COVENANTS BY GENERAL CONTRACTOR

The General Contractor represents, warrants, and covenants as follows:

(a) General Contractor is duly organized and existing and authorized, qualified and licensed to do business in the United States Virgin Islands.

(b) General Contractor will, during the construction period of the project, remain a General Contractor, engaged in the business of construction, will remain in good standing and qualified to do business under the laws of the Territory, including maintenance at all times of a valid V.I. business license, and will not cease doing business, dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it.

(c) General Contractor has the power to execute, deliver and perform, and enter into the transactions contemplated by this Agreement, and has duly authorized the execution, delivery, and performance of this Agreement.

(d) The execution and delivery of this Agreement, the consummation of the transaction contemplated hereby and the fulfillment or compliance with the terms and conditions of this Agreement do not and will not conflict with or result in a breach of any of the terms, conditions, or provisions of any legal restrictions or any agreement or instrument to which the General Contractor is now a party or by which it is bound or constitute a default under any of the foregoing.

(e) No information, statement, or report furnished in writing by the General Contractor in connection with the negotiation of, or performance under, this Agreement and the consummation of the transactions contemplated hereby contains any material misstatement of fact or omits to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.
(f) That it has obtained all the applicable licenses or permits, temporary or otherwise, as required by Title 27 of the Virgin Islands Code; and familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

15. GENERAL CONTRACTOR, CONTRACTOR, MATERIALMEN OR MECHANICS' LIENS

Neither Homeowner nor the Authority will suffer or permit any mechanics' or materialmen's liens to be filed or otherwise asserted against each Property or against any funds due to General Contractor and/or his subcontractors and will promptly seek discharge of any such lien filed. General Contractor, subcontractors, suppliers, vendors, trades and any other persons or entities performing work on the Property are strictly prohibited from placing liens on said Property. General Contractor shall inform all persons or entities of such strict prohibition and should include this provisions in all of its subcontracts.

General Contractor is responsible for the removal, and any associated expense involved therewith, of any lien placed on the subject Property by the General Contractor, or any subcontractor, supplier, vendor, trade or other person or entity performing work for the General Contractor, irrespective of the fault or cause of such attachment.

Additionally, pursuant to V.I. Code Title 28, Chapter 12, Section 254 "a construction lien does not exist ... for work, services, materials, or equipment, in connection with the improvement of a residential dwelling under an emergency home repair program or other home-repair or construction program administered by the Government of the Virgin Islands or any instrumentality of the Government of the Virgin Islands.

(b) LIEN WAIVERS: The General Contractor agrees to protect, defend and indemnify the Authority from any claims for unpaid work, labor or materials with respect to the General Contractor's performance under this Contract and shall execute a Lien Waiver, from both the General Contractor and all subcontractors, upon receipt of each payment. Contractor hereby agrees to include similar waiver provisions in each and every subcontract by which each subcontractor, to the extent permitted by law, waives any and all mechanics' liens and right to lien in connection with the work.

(1) Each project application for periodic payment(s) shall be accompanied by written lien waivers of the right to file a mechanic's lien and all other claims for all General Contractor, Subcontractors and material suppliers at all tiers who have supplied labor or material or both for which payment is requested, subject only to the receipt of payment(s).

(2) Final payment for each project shall not be due until the General Contractor has delivered to the Authority a complete release of final lien waivers for work completed arising out of each and every General Contractor's and Subcontractor' Performance or a receipt in full covering all labor and materials paid in full for such goods or services provided and indemnifying both the Authority and the Homeowner against any and all liens.
16. INDEPENDENT GENERAL CONTRACTOR

The General Contractor shall perform this Contract as an Independent General Contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status. The General Contractor shall be responsible for the supervision of General Contractor's employees, subcontractors, and authorized representatives. All workers must be competent and skilled in their work.

17. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Authority to persons, firms, associations, or corporations engaged by General Contractor as servants, agents, or independent General Contractors, or in any other capacity whatsoever, or make the Authority liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations (including payments) and taxes of General Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for General Contractor its servants, agents, or independent General Contractors.

18. FORCE MAJEURE

Neither Party shall be liable for any delay or failure in performance beyond its control resulting from Acts of God or force majeure (extraordinary weather conditions or other natural catastrophes, war, terrorist attacks, sabotage, computer viruses, riots, strikes, lockouts or other industrial disturbances, acts of governmental agencies or authorities, discovery of hazardous materials or differing and unforeseeable site conditions, or other events beyond the reasonable control of the claiming Party). The Parties shall use reasonable efforts to eliminate or minimize the effect of such events on their respective duties under the Contract. General Contractor shall be entitled to an equitable adjustment in Work Order schedules and prices in the foregoing circumstances.

19. INDEMNITY AND LIMITATION OF LIABILITY

General Contractor shall be fully liable for the actions of its agents, employees, partners or sub-General Contractors and shall fully indemnify and hold harmless the Authority, its Board of Directors, agents and employees, from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the General Contractor, its agents, employees, partners or sub-General Contractors, without limitation; provided, however, that the General Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Authority.

General Contractor shall agree to defend, indemnify and hold the Authority harmless from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges, and expense (including attorneys’ fees) and causes of action of whatsoever character which the Authority may incur, sustain, or be subjected to, arising out of or in any way connected to the services to be performed by General Contractor under this Contract and arising from any cause, except the sole
negligence of the Authority. General Contractor shall provide the Authority a copy of General Contractor's insurance binder evidencing coverage for liability and personal injury.

General Contractor will indemnify, defend and hold the Authority, its Board of Directors, agents and employees, harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs for infringement of a United States Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the Authority shall give the General Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at General Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of General Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the Authority or its Board of Directors, agents and employees may require General Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Authority shall require.

Unless otherwise specifically enumerated herein or in the Work Order mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the General Contractor is required to back-up the data or records as part of the work plan), even if the Party has been advised of the possibility of such damages. Neither Party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The Authority may, in addition to other remedies available at law or equity and upon notice to the General Contractor, retain such monies from amounts due General Contractor, or may proceed against the payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, or costs asserted by or against them.

20. WORKMEN'S COMPENSATION

The General Contractor shall provide Workmen's Compensation Insurance coverage for all employees involved in the performance of this Contract.

21. INSURANCE AND BONDING

The General Contractor shall maintain liability insurance in the amount of Five Hundred Thousand Dollars ($500,000.00) for protection against claims for damages because of bodily injury or death, claims for damages to property which may arise out of or result from the General Contractor operation under the contract whether such operations be by the General Contractor or by any Subcontractor or anyone directly or indirectly employed by any of them.

(b) VERIFICATION OF COVERAGE: General Contractor shall furnish The Authority with certificates of insurance reflecting proof of required coverage, the certificates for each insurance
policy are to be signed by a person authorized by that insurer to bind coverage on its behalf, the certificates are to be received and approved by the Authority before work commences.

Upon failure of the General Contractor to furnish, deliver and maintain such insurance as above provided, this contract, at the election of the Authority may be suspended, discontinued or terminated. Failure of the General Contractor to purchase and/or maintain any required insurance shall not relieve the General Contractor from any liability or indemnification under the contract.

General Contractor shall include all subcontractors as insureds under its policies or shall be responsible for verifying and maintaining the certificates provided by each Subcontractor. Subcontractors shall be subject to all of the requirements the Authority herein. The Authority reserves the right to request copies of subcontractor’s certificates at any time.

22. **SUB-CONTRACTOR**

A. The General Contractor shall present to the Authority or its designee all subcontractors intended to be used on the project. No subcontractors will be allowed to join the project without the expressed written approval by the Authority, which approval must be provided within 5 days. If rejected, VHFA to provide reason for rejection.

B. General Contractor will not be allowed no more than two levels of subcontracting with the second level of subcontractors reserved for the performance of any part of specialized General Contractor’s duties and obligations (i.e. electrical, plumbing, etc.).

C. In no event shall the existence of a subcontract operate to release or reduce the liability of General Contractor to the Authority for any breach in the performance of General Contractor’s duties. Sub-Contractor’s Contracts must meet all contracting, indemnity, insurance and regulatory compliance requirements. The Parties hereby agree that any non-compete Contract or similar Contract with any Sub-Contractor(s) seeking to restrain the ability of the Sub-Contractor to perform any services for the Authority shall be deemed unenforceable, null and void, to the extent of such non-compete provision, but without invalidating the remaining provisions of the contract with the Sub-Contractor.

23. **BUILDER’S RISK INSURANCE (if applicable)**

The General Contractor shall purchase and maintain, through a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, with AM Best rating of A- or higher, Builder’s Risk insurance written on a non-reporting form and insured at 100% of the replacement cost of the Completed Project, as determined by the construction contract value, with no coinsurance clause. The Builders Risk insurance shall include the interests of the General Contractor, and Sub-Contractors of all tiers and shall provide full waivers of subrogation in favor of General Contractor, Subcontractors of all tiers and all other parties where required written contract. The Builder’s Risk policy will include the following as named insureds: Contractors, Sub-Contractors of all tiers and all other parties where required by written contract.
Builders Risk shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, named storm, equipment breakdown, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, property stored off-site, property in transit and shall cover reasonable compensation for General Contractor’s services and expenses required as a result of such insured loss. Coverage for terrorism should also be included.

Builder’s Risk insurance provided by the General Contractor shall not cover any tools, equipment, machinery, cranes, hoists, and other similar items commonly referred to as Subcontractors or construction equipment, which may be on the projects site and will not form a permanent part of the building. Contractors and subcontractors shall be responsible for their own tools and equipment. Builder’s Risk Insurance is limited to reconstruction projects, which are defined as projects entailing the demolition and rebuilding of a residential structure and which costs can be added to an assigned project.

24. ASSIGNMENT OF THE PROJECT

The General Contractor shall not subcontract or assign this contract without the prior written consent of the Authority.

25. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity, the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, condition or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

26. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, the Authority will have the right to withhold, out of any project payment due to General Contractor in relation to the particular project, such sums as the Authority may deem ample to protect it against loss or to assure payment of claims arising therefrom, and at its option, the Authority may apply such sums in such manner as the Authority may deem proper to secure itself or to satisfy such claims. The Authority will immediately notify the General Contractor in writing in the event that it elects to exercise its right to withhold.
27. TERMINATION

Either party will have the right to terminate this Contract with or without cause on thirty (60) days written notice to the other party specifying the date of termination.

(a) TERMINATION FOR CAUSE: Except as hereafter provided, the Authority shall have the immediate and automatic right to terminate this Agreement upon the occurrence by General Contractor of a material breach of any term, condition, representation, warranty or covenant of this Agreement, or the Proposal. A material breach shall include, but not be limited to, the following, if applicable: (i) submission to the Authority of reports which are fraudulent or intentionally misleading in any material respect; (2) debarment, or the threat thereof, by any federal or local government agency or department; (3) failure to pay creditors and subcontractors which may cause the placement of liens on the Authority's property; (4) failure to maintain any bonds and insurance if required under this Agreement; (5) offering of bribes, threatening or abuse of program participants or failure to comply with applicable federal or local requirements; (6) abandonment of the Project by General Contractor for a period of seven (7) days; (7) failure to diligently obtain skill specific permits and approvals for the Project; (8) if the General Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of creditors, or if a trustee or receiver is appointed on account of its insolvency; (9) if the General Contractor persistently or repeatedly refuses or fails, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials; (10) failure to correct work which is not in accordance with the final construction drawings and specifications; or (11) persistent disregard of the laws, rules, regulations or orders of any public authority having jurisdiction; (12) failure to utilize industry standards in a method or installation; (13) failure to comply with the approved Scope of Work by adding items without approval or by failing to provide materials and/or workmanship in accordance with the Plan; and (14) failure to adhere to standards and practices of phases within the Project.

(b) PARTIAL TERMINATION: The performance of work under this Contract may be terminated by the Authority in part, whenever the Authority shall deem such termination advisable. This partial termination shall be affected by delivering to the General Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties of this Contract are terminated and the date upon which such termination becomes effective. The General Contractor shall be entitled to receive payment for services provided to the date of termination. Payment for services provided to date of termination is defined as work completed to date on any project.

28. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, religion, sexual orientation, or national origin.
29. **FALSE CLAIMS**

(a) The General Contractor warrants that it shall not, with respect to this Contract, make or present any false claim upon or against the Authority. The General Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

(b) The General Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. The General Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. The General Contractor acknowledges that making such false, fictitious, or fraudulent claim is a federal offense.

30. **SECTION 3**

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., 17010. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

31. **EXECUTIVE ORDER 11246 NON-DISCRIMINATION**

This Contract is subject to the requirements of Executive Order 11246; hence the General Contractor shall not discriminate against any employee or applicant because of race, color, religion, sex, or national origin. Such actions will include but shall not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff, or termination; rates of pay or other forms of compensation. The General Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

32. **AFFIRMATIVE ACTION PLAN**

In order to comply with Section 3 and Executive Order 11246, the U.S. Department of Housing and Urban Development requires that all General Contractors develop and implement an Affirmative Action Plan. This plan is a series of forms and statements, which shows specific steps taken by the General Contractor to promote Equal Opportunity and the utilization of area residents and business in the implementation of this Contract. This plan must be submitted to the Authority at the following address: Virgin Islands Housing Finance Authority, 3202 Demarara Plaza, Suite 200, St. Thomas 00802.

33. **FEDERAL LABOR STANDARDS PROVISIONS** (if applicable)

All laborers and mechanics employed upon the work covered by this Contract shall be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act, as amended (40 U. S. 276a-276a-5) and shall receive overtime compensation in accordance with and subject to the provisions of the Contract.
Work Hours and Safety Standards Act 940 U. S. C. 327332). The General Contractors and all its sub-contractors shall comply with regulations issued pursuant to the labor standards provisions.

For the duration of this Contract, the General Contractor and sub-contractors shall submit copies of weekly payroll forms and cancelled checks to the Authority.

34. **SECTION 106 COMPLIANCE**

The General Contractor shall ensure that areas of archaeological sensitivity will not be disturbed during construction. No heavy equipment shall be used in any area which has been determined to be an area of archaeological sensitivity. The General Contractor agrees that, if there is any question relative to the archaeological value or historic designation of the site in general or any specific features on the site, it shall seek guidance from the Division of Historic Preservation of the Department of Planning and Natural Resources before undertaking any work.

35. **CONFLICT OF INTEREST**

General Contractor covenants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to perform under this Contract.

36. **WARRANTY OF NON-SOLICITATION**

The General Contractor expressly warrants that it has not employed any person to solicit or obtain this Contract on its behalf, or cause or procure the same to be obtained upon compensation in any way, contingent, in whole or in part, upon such procurement, and that it has not paid, or promised or agreed to pay to any person, in consideration of such procurement, or in compensation for services in connection therewith, any brokerage, commission, or percentage upon the amount receivable by General Contractor hereunder; and that it has not, in estimating the Contract price demand included any sum by reason of such brokerage, commission or percentage, and that all monies payable to it hereunder are free from obligation to any other person for services rendered, supposed to have been rendered, in the procurement of this Contract. Breach of this warranty shall give the Authority the right to terminate this Contract, or in its discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage or contingent fees.

37. **PRELIMINARY INSPECTION(S)**

All work will be subject to periodic inspections by the Authority or the Authority’s designee. Prior to request for final inspection, the General Contractor shall notify the Authority’s Project Manager of the anticipated date of completion so that any major defects or deficiencies may be pointed out to the General Contractor for correction prior to the final inspection.

38. **FINAL INSPECTION**

The Scope of Work shall be considered complete upon acceptance by the Authority after a final
inspection conducted with the Homeowner and the Authority.

39. **RECORDS**

The General Contractor shall maintain documented, precise records of time and/or money expended under this Contract.

40. **OWNERSHIP**

All records, reports, documents and other material delivered or transmitted to Contractor by VIHFA shall remain the property of VIHFA, and shall be returned by Contractor to VIHFA, at Contractor’s expense, at termination or expiration of this Contract. All records, reports, documents, or other material related to this Contract and/or obtained or prepared by Contractor in connection with the performance of the services contracted for herein shall become the property of VIHFA, at Contractor’s expense, at termination or expiration of this Contract.

41. **AMENDMENTS**

(a) No amendment(s), modifications, or changes shall be made to this Contract unless General Contractor delivers such proposed amendment(s) to the the Authority for approval prior to the execution of the Amendment to the Contract.

(b) Amendments must make specific reference to this Contract, must be in writing, and signed by a duly authorized representative of the parties of this Contract. Such amendments shall not invalidate this Contract, nor relieve or release General Contractor from its obligations under the Agreement or the General Contractor from its obligations under this Contract.

(c) General Contractor, upon recommendation of the Authority, may amend this Contract to conform with federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the Scope of Work to be undertaken as part of this Contract, Schedule of Values, or the project schedules, such modifications will be incorporated only by written amendment approved by the Authority and signed by both the Authority and General Contractor.

42. **NOTICE**

Any notices required or permits to be given under this Contract shall be deemed sufficiently given or served if sent by certified mail, return receipt requested to the parties at the following addresses:

**Authority:**
Virgin Islands Housing Finance Authority  
3202 Demarara Plaza, Suite 200,  
St. Thomas U.S. Virgin Islands 00802  
Attention: Daryl Griffith, Executive Director
Either party may, by like notice, at any time and from time to time, designate different addresses to which notices shall be sent. Notices given in accordance with these provisions shall be deemed received when mailed.

43. TAXES

General Contractor is responsible for payment of all applicable federal and local Territorial taxes, including any taxes of any out-of-state employees who are currently assigned to this project and are working within the Territory.

(a) GROSS RECEIPT TAXES: Title 33 V.I.C. Ch.3, §44, as amended⁴, requires the Authority, when making a payment under this Contract, to deduct and withhold from such payments, gross receipts taxes as required by law at 33 VIC Section 43(a) for each payment for Work performed in the Virgin Islands. It is agreed between the Parties that for the purposes of complying with Title 33, Ch. 3, Section 44 of the Virgin Islands Code, the Authority shall withhold and forward to the Virgin Islands Bureau of Internal Revenue ("VIBIR") such amount as required by the law at 33 VIC Section 43(a) or any amendments thereto.

(b) The General Contractor agrees that the calculation and payment of gross receipts taxes shall be its sole responsibility. The Authority shall not be responsible in any way for any miscalculation, or additional assessments by the VIBIR resulting from Work performed under this Contract. In the unlikely event any overpayment or underpayment is made to the VIBIR, the General Contractor shall resolve such matter with VIBIR and inform the Authority of the resolution thereof.

44. GOVERNING LAW AND VENUE

This Contract shall be governed by and construed in accordance with the laws of the Territory of the United States Virgin Islands and venue shall be in the United States Virgin Islands. Venue for any action between the Authority and General Contractor which relates to this Contract shall be in the United States Virgin Islands. Nevertheless, the parties will use their best efforts to resolve disputes.

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⁴(a) The Government of the Virgin Islands, including its instrumentalities, agencies and public corporations, when making a payment as defined under subsection (b) of this section, to any person, partnership, firm, corporation, or other business association that is subject to the payment of gross receipts tax under the provisions of this title, shall deduct and withhold from such payment gross receipts tax equal to four percent of such payment. Such tax shall be paid to the Virgin Islands Bureau of Internal Revenue within ten days of the last day of the calendar month during which such tax was withheld on forms to be provided by the Virgin Islands Bureau of Internal Revenue.

(b) For purposes of withholding under this section, "payment" is defined as the following:
(1) any single payment of at least $30,000; and
(2) any payment pursuant to a contract providing for a total expenditure of $225,000 or more.
informally at the lowest possible levels of decision making, and consensual alternative dispute resolution process may be used by mutual agreement of the Parties.

45. **NO AUTHORSHIP PRESUMPTIONS**

Each of the Parties has had an opportunity to negotiate the language of this Contract in consultation with legal counsel prior to its execution. No presumption shall arise, or adverse inference be drawn by virtue of authorship, and each Party hereby waives the benefit of any rule of law that might otherwise be applicable in connection with the interpretation of this Contract, including but not limited to any rule of law to the effect that any provision of this Contract shall be interpreted or construed against the Party that (or whose counsel) drafted that provision. The rule of no authorship presumption set forth in this paragraph is equally applicable to any Person that becomes a Party by reason of assignment and/or assumption of this Contract and any successor to a signatory Party.

46. **SEVERABILITY**

If any provision(s) of this Contract shall be held to be invalid, illegal, unenforceable or in conflict with the law of the United States Virgin Islands, it shall be regarded as stricken and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

47. **PUBLIC COMMUNICATIONS**

The General Contractor shall not issue any public communications regarding the Program and Contractor’s activities under this Contract without the prior consent of the VIHFA.

48. **SAFETY**

General Contractor shall exercise and ensure all Subcontractors exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages or property, either on or off the worksite, which occur as a result of its performance of the work.

49. **ENTIRE CONTRACT**

This Contract constitutes the entire Contract between the parties hereto, and all prior understandings or communications, written or oral, with respect to the work to be done under this contract, are merged herein.

50. **COUNTERPARTS**

This Contract may be signed in counterparts, each of which will be deemed an original.

51. **FEDERAL CROSS CUTTING MEASURES**

All contracts to be funded under the CDBG-DR program requires the inclusion of federal cross-cutting requirements as part of the conditions of the contract. These federal cross-cutting requirements are attached hereto as Appendix “A”.

IN WITNESS WHEREOF, the parties intending to be legally bound hereby, caused these presents to be executed as of the day and date first above written.

WITNESSES:

[Signature]
Kimberly Burnett
Print Name

GENERAL CONTRACTOR:
PERSONS SERVICES CORPORATION

[Signature]
PAUL STEVENS
DATE: 1/7/2022

WITNESSES:

[Signature]
Jerry Boudreau
Print Name

ACKNOWLEDGMENT

TERRITORY OF THE U.S. VIRGIN ISLANDS

DISTRICT OF

On this 07 day of January, 2022, before me, the undersigned officer, personally appeared [Signature], who acknowledged himself to be the person whose name is subscribed to this agreement, being authorized to so do, executed the foregoing instrument for the purposes therein contained by signing the name of PERSONS SERVICES CORPORATION.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

ELIANA HURTADO
MY COMMISSION # HH 092794
EXPIRES: May 4, 2025
Bonded thru Notary Public Underwriters

Notary Public

Commission Expires:
Reviewed for Legal Sufficiency:

Denise Rhymer
Denise Rhymer, Esq. 2022
Dated: 7th day of January, 2024

WITNESSES:

Signature

Print Name

WITNESSES:

Signature

Print Name

VIRGIN ISLANDS HOUSING
FINANCE AUTHORITY

Daryl Griffith, Executive Director
DATE: 1/10/2022

ACKNOWLEDGMENT

TERRITORY OF THE VIRGIN ISLANDS )

) ss:

DIVISION OF ST. CROIX

On this 10th day of January, 2022, before me, the undersigned officer, personally appeared DARYL GRIFFITH, who acknowledged himself to be the Executive Director of the Virgin Islands Housing Finance Authority, being authorized to so do, executed the foregoing agreement for the purposes therein contained by signing the name of the Authority as Executive Director.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

Commission Expires:
Claudia Y. Parson
Government Notary
St. Croix, U.S. Virgin Islands
GNP-13-20
Commission Expires At the Pleasure of the Lieutenant Governor
Attachments:

Appendix A: HUD Federal Cross Cutting Methods

Appendix B: Phase I - Property Address and Scope of Work
APPENDIX A: HUD FEDERAL CROSS CUTTING METHODS

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development ("HUD"). In addition, General Contractor/Subcontractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf.

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

General Contractor/Subcontractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2017 (Pub. L. 115-56) and the Bipartisan Budget Act of 2018 ("BBA"), (Pub. L. 115-123), 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 the allowability of certain expenses.

3. BREACH OF CONTRACT TERMS

The Authority 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 General Contractor or any of its subcontractors violate or breach any contract term. If the General 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 General Contractor/Subcontractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Authority. The General Contractor/Subcontractor shall cooperate with all the Authority 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.
5. **ACCESS TO RECORDS**

The State, the U.S. Department of Housing and Urban Development, 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 Subcontractor 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 connected with this contract will be maintained in a central location and will be maintained for a period of at least 3 years following the date of final payment and close-out of all pending matters related to this contract.

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

The General Contractor/Subcontractor 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:

i. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

ii. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises;

iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises; and

v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

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

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by HUD.
9. ENERGY EFFICIENCY
The General Contractor/Subcontractor shall comply with mandatory standards and policies relating to energy efficiency issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

10. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
The General Contractor/Subcontractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
The General Contractor/Subcontractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

12. SECTION 504 OF THE REHABILITATION ACT OF 1973

The General Contractor/Subcontractor 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.

13. AGE DISCRIMINATION ACT OF 1975
The General Contractor/Subcontractor 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.

14. DEBARMENT, SUSPENSION, AND INELIGIBILITY
The General Contractor/Subcontractor 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.

15. CONFLICTS OF INTEREST

The General Contractor/Subcontractor shall notify the Authority 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 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 (or 84.42, if applicable)). The General Contractor/Subcontractor shall explain the actual or potential conflict in writing in sufficient detail so that the State is able to assess such actual or potential conflict. The General Contractor/Subcontractor shall provide the Authority any additional information necessary for the Authority to fully assess and address such actual or potential conflict of interest. The General Contractor/Subcontractor shall accept any reasonable conflict mitigation strategy employed by the Authority, 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.

16. SUBCONTRACTING

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

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

The General Contractor/Subcontractor represents to the Authority 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 General 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.

17. ASSIGNABILITY

The General Contractor/Subcontractor shall not assign any interest in this contract and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Authority.

18. INDEMNIFICATION

The General Contractor/Subcontractor shall indemnify, defend, and hold harmless the Authority and 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 General Contractor/Subcontractor in the performance of the services called for in this contract.

19. COPELAND "ANTI-KICKBACK" ACT

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 General Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract 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.

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

All laborers and mechanics employed by General 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 General 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.
21. **DAVIS-BACON ACT**

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

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

All laborers and mechanics employed by General 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.

22. **TERMINATION FOR CAUSE**

If, through any cause, the General Contractor/Subcontractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the General Contractor/Subcontractor shall violate any of the covenants, agreements, or stipulations of this contract, the Authority shall thereupon have the right to terminate this contract by giving written notice to the General Contractor/Subcontractor 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 General Contractor/Subcontractor under this contract shall, at the option of the Authority, become the Authority's property and the General Contractor/Subcontractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the General Contractor/Subcontractor shall not be relieved of liability to the Authority for damages sustained by The Authority by virtue of any breach of the contract by the General Contractor/Subcontractor, and the Authority may withhold any payments to the General Contractor/Subcontractor for the purpose of set-off until such time as the exact amount of damages due to the Authority from the Subcontractor is determined.

23. **TERMINATION FOR CONVENIENCE**

The Authority may terminate this contract at any time by giving at least 30 days’ notice in writing to the General Contractor/Subcontractor. If the contract is terminated by the Authority as provided herein, the General Contractor/Subcontractor will be paid for the time provided and expenses incurred up to the termination date.

22. **SECTION 503 OF THE REHABILITATION ACT OF 1973**

Equal Opportunity for Workers with Disabilities

a. The General Contractor/Subcontractor 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 General Contractor/Subcontractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

i. Recruitment, advertising, and job application procedures;

ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

iii. Rates of pay or any other form of compensation and changes in compensation;

iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

v. Leaves of absence, sick leave, or any other leave;

vi. Fringe benefits available by virtue of employment, whether or not administered by the Subcontractor;

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 General Contractor including social or recreational programs; and

ix. Any other term, condition, or privilege of employment.

b. The General Contractor/Subcontractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

c. In the event of the General Contractor/Subcontractor’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.
d. The General Contractor/Subcontractor 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 General Contractor’s/Subcontractor’s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The General Contractor/Subcontractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the General Contractor/Subcontractor 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).

e. The General Contractor/Subcontractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the General Contractor/Subcontractor 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.

f. The General Contractor/Subcontractor 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 General Contractor/Subcontractor will take such action with respect to any subcontract purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

24. EXECUTIVE ORDER 11246


During the performance of this contract, the General Contractor/Subcontractor agrees as follows:

A. The General Contractor/Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The General Contractor/Subcontractor 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.

B. The General Contractor/Subcontractor 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 General Contractor/Subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

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

D. The General Contractor/Subcontractor 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 by the agency contracting officer, advising the labor union or workers representative of the General 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.

E. The General Contractor/Subcontractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

F. The General Contractor/Subcontractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

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

H. General Contractor/Subcontractor shall incorporate the provisions of A through G 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 General Contractor/subcontractor. The General Contractor/Subcontractor 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 General 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 General Contractor/Subcontractor may request the United States to enter into such litigation to protect the interests of the United States.

26. CERTIFICATION OF NONSEGREGATED FACILITIES

The General Contractor/Subcontractor 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 General Contractor/Subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

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 General 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).
27. **CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS**

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

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

A. A stipulation by the General 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. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.

B. Agreement by the Subcontractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

C. A stipulation that as a condition for the award of the contract, 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 contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.

D. Agreement by the General Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the General Contractor will take such action as the government may direct as a means of enforcing such provisions.

28. **LOBBYING**

The General Contractor/Subcontractor 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
General Contractor/Subcontractor, 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 General Contractor/Subcontractor shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The General 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.

29. BONDING REQUIREMENTS

The General Contractor/Subcontractor shall comply with the Authority bonding requirements, unless they have not been approved by HUD, in which case the General Contractor/Subcontractor shall comply with the following minimum bonding requirements:

(1) A bid guarantee from each bidder equivalent to five percent 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 assures that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the General Contractor/Subcontractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the General Contractor's/Subcontractor's obligations under such contract.
(3) A payment bond on the part of the General Contractor/Subcontractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

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

A. The work to be performed under this contract is subject to the requirements of 24 CFR Part 75. This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

(1) Section 3 projects. (i) Section 3 projects mean housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. The threshold is $100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

(2) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

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 impediment that would prevent them from complying with the part 75 regulations.

C. The General Contractor/Subcontractor agrees to identify all those individuals that will be working on the construction jobs by name, address, job title and wage rate. Thereafter, weekly payroll records will be submitted for those working on all sites. Upon adding
any new worker to the payroll, the above information must be submitted.

D. The General Contractor/Subcontractor agrees to send to each labor organization or representative of workers with which the General Contractor/Subcontractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the General 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.

E. The General Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The General Contractor will not subcontract with any subcontractor where the subcontractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.

F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

31. FAIR HOUSING ACT

The General Contractor/Subcontractor 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.

32. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended, was signed with the intent of reducing wasteful government spending and providing citizens with
the ability to hold the government accountable for spending decisions. 2 C.F.R. § Part 170 outlines the requirements of recipients in reporting information on subawards and executive total compensation under FFATA legislation. Any non-Federal entity that receives or administers Federal financial assistance in the form of grants, loans, loan guarantees, subsidies, insurance, food commodities, direct appropriations, assessed and voluntary contributions; and/or other financial assistance transactions that authorize the non-Federal entities' expenditure of Federal fund, is subject to these requirements.

Prime contract awardees and prime grant awardees are required to report against subcontracts and subgrants awarded in the FFATA Subaward Reporting System (FSRS), the reporting tool for Federal prime awardees. This information reported will then be displayed on a public and searchable website: www.USASpending.gov.

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

34. CHANGE ORDERS TO CONTRACTS
Change orders are issued when the initial agreed upon pricing or work to be completed requires modification. First, the General Contractor must complete a Change Order Request Form. This form and supporting documentation must be delivered to the Project Manager for review. Each change order must have a cost analysis. Once the Project Manager approves the change order, it is returned to the General Contractor for execution. Change orders can only be invoiced once approved by the Executive Director. The amount listed on the invoice must match the previously approved amount and must be cost reasonable. The Project Manager is responsible for verifying cost reasonableness. Verification documentation for cost reasonableness becomes an attachment to the change order.

35. ENVIRONMENTAL REVIEW
Every project undertaken with Federal funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 C.F.R. § Part 58- ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any Federal funds can be accessed for program-eligible activities.
The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The HUD environmental review is designed to produce program specific environmental review procedures in a program that can vary greatly in terms of scope of work.

36. **LEAD BASED PAINT**

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

37. **ENVIRONMENTAL REVIEW RECORD**

The Environmental Officer is responsible for maintaining a written record of the environmental review process. The ERR for all programs contains all the governmental review documents, public notices and written determinations or environmental findings required by 24 C.F.R. § Part 58- ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES as evidence of review, decision making and actions pertaining to a project of a recipient.

38. **FLOOD INSURANCE REQUIREMENTS**

Grantees and subrecipients of Federal funding must 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- NATIONAL FLOOD INSURANCE PROGRAM and 24 C.F.R. § 570.202- ELIGIBLEREHABILITATION AND PRESERVATION ACTIVITIES.

39. **DUPLICATION OF BENEFITS**

CDBG-DR funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance and FEMA funds. To avoid duplicative assistance and potential de-obligation of funding, Subrecipient must utilize all possible funding sources before applying CDBG-DR dollars to a project. CDBG-DR programs are typically implemented after temporary disaster assistance programs, such as FEMA Individual Assistance which are not intended to make someone whole. The Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. §5121 et seq., established the requirements for Duplication of Benefits (DOB) analysis.

40. **ANTI-FRAUD, WASTE AND ABUSE CHECKS**

The Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and
risk-relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse.

41. AFFIRMATIVELY FURTHERING FAIR HOUSING

The Fair Housing Act of 1968, as amended, 42 U.S.C. §3601, et seq., dictates that grantees are required to administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Per the regulations of 24 C.F.R. § 570.601 and in accordance with Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5301 et seq., for each community receiving a grant under Subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's assessment of Fair Housing (AFH) plan, conducted in accordance with the requirements of 24 C.F.R. §§5.150-5.180 (Affirmatively Furthering Fair Housing) and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

42. DRUG FREE WORKPLACE

The Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. §81, as implemented by 24 C.F.R. § Part 24 Subpart F, §§983.251-983.262, requires that any grantee other than an individual must certify that it will provide a drug-free workplace. Any grantee found in violation of the requirements of this act may be subject to suspension of payments under the grant, suspension or termination of the grant or suspension or debarment of the grantee.

43. TIMELY DISTRIBUTION OF FUNDS

The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 8, 2017 (Appropriations Act), as amended, requires that funds provided under the Act be expended within two (2) years of the date that HUD obligates funds to a grantee unless otherwise authorized via waiver of this requirement by the Office of Management and Budget (OMB). The OMB waived the two (2) year expenditure requirement under 83 FR 40314; however, the provision to expend one hundred percent (100%) of the total allocation of CDBG-DR funds on eligible activities within six (6) years of HUD’s initial obligation of funds remains in effect. The six (6) year expenditure period commences with the initial obligation of funds provided under 83 FR 5844. Additionally, per 83 FR 5844, the provisions at 24 C.F.R. § 570.494 and 24 C.F.R. § 570.902, regarding timely distribution and expenditure of funds, are waived and an alternative requirement was established. Furthermore, consistent with 31 U.S.C §1555 and OMB Circular No. A-11 (2017), if the Secretary of HUD or the President of the United States determines that the purposes for which the appropriation was made have been carried out and no disbursement has been made against the appropriation for two (2) consecutive fiscal years, any remaining unobligated balance shall be canceled and will be made unavailable for obligation or expenditure for any purpose.
44. **PROPERTY MANAGEMENT AND DISTRIBUTION**

Regulations governing property management and distribution of real property, equipment, financial obligations and return of un-obligated cash post program closeout can be found in 24 C.F.R. § 570.506, 2 C.F.R. § 200.310, 2 C.F.R. § 200.343 and 2 C.F.R. § 200.344(b). The standards of 24 C.F.R. § 570.506 apply to any real property under a CDBG award recipient’s control acquired in whole or in part with CDBG funds in excess of $25,000.00. The recipient may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it either meets one of the national objectives as defined in 24 C.F.R. § 570.208 or if not, the recipient may either retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property. Following such reimbursement, the property will no longer be subject to any CDBG requirements.

45. **LIMITED ENGLISH PROFICIENCY**

Executive Order No. 13166, signed on August 11, 2000, requires programs, subrecipients, General Contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Fair access is ensured through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Vital documents are defined as depending on the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

46. **PERSONALLY IDENTIFIABLE INFORMATION**

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

47. **UNIFORM RELOCATION ACT**

CDBG-DR funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA or Uniform Act), as amended. 49 C.F.R. § Part 24 requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses.
48. RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN. Per Section 104(d) of the Housing and Community Development Act of 1974 § 42.325

(a) Certification.
1. As part of its consolidated plan under 24 CFR part 91, the recipient must certify that it has in effect and is following a residential anti-displacement and relocation assistance plan.
2. A unit of general local government receiving funds from the State must certify to the State that it has in effect and is following a residential anti-displacement and relocation assistance plan, and that it will minimize displacement of persons as a result of assisted activities. The State may require the unit of general local government to follow the State’s plan or permit it to develop its own plan. A unit of general local government that develops its own plan must adopt the plan and make it public.

(b) Plan contents.
1. The plan shall indicate the steps that will be taken consistent with other goals and objectives of the program, as provided in parts 92 and 570 of this title, to minimize the displacement of families and individuals from their homes and neighborhoods as a result of any assisted activities.
2. The plan shall provide for relocation assistance in accordance with § 42.350.
3. The plan shall provide one-for-one replacement units to the extent required by § 42.375.

49. COMPLAINTS AND APPEALS

Citizen comments on the Authority’s published Action Plan, any substantial amendments to the Action Plan, performance reports and/or other issues related to the general administration of CDBG-DR funds are welcomed throughout the duration of the grant. The Citizen Participation Plan is posted as a stand-alone document at www.cdbg-dr.vihi.gov. Complaints regarding fraud, waste, or abuse of government funds shall be addressed to the HUD Office of Inspector General Fraud Hotline by phone: 1-800-347-3735 or email: hotline@hudoig.gov.

50. MONITORING

As per CDBG regulation, 24 C.F.R. § 570.501 (b), grantees of CDBG-DR funds are responsible for carrying out their programs to meet compliance with CDBG Program, statutory and regulatory requirements, including monitoring their project administrators, General Contractors and subcontractors. As such, throughout the application, planning, design, and implementation phase of the program, the Authority will conduct internal monitoring of processes, procedures, policy, applications, planning, design, construction, and other applicable phases.

51. PROCUREMENT OF RECOVERED MATERIALS

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

Phase I: This phase should consist of 50 single family assigned homes (project) as identified and attached hereto as Phase 1 Assigned Projects.

A. Total contract price shall be an amount not to exceed Twenty-Five Million Five Hundred Sixty-Four Thousand Five Hundred Ninety-Eight Dollars and Seventy-Three Cents Dollars ($25,564,598.73). (the “NTE”).

B. Any change orders will be governed by the process outlined in Paragraph 10 of agreement.

C. 10% is withheld from each draw for retainage, excluding any applicable gross receipts taxes.

D. Five percent (5%) of the Retainage due the General Contractor for work performed shall be disbursed on the Final Disbursement Date subject to Final Inspection and acceptance of the work as outlined in Paragraph 38. The remaining five percent (5%) of the retainage will be disbursed at the end of the warranty period.