

COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY 2017 FUNDS

VIRGIN ISLANDS

SUBRECIPIENT AGREEMENT No.

SA-CDBGDR-HA-2019-ODR-2024

(PROGRAM: PUBLIC AND AFFORDABLE HOUSING DEVELOPMENT)

**VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY/OFFICE OF DISASTER RECOVERY
Program Management**

AND

VIRGIN ISLANDS HOUSING AUTHORITY

[Subrecipient]

This SUBRECIPIENT AGREEMENT (“Agreement”) for the use of the **VIRGIN ISLANDS HOUSING FINANCE AUTHORITY (“VIHFA” or “Grantee”) COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) funds** is entered into this day of [Month and Year] in the Territory of the United States Virgin Islands between the **Virgin Islands Public Finance Authority, Office of Disaster Recovery (“Programmatic Management Subrecipient”)**, hereinafter “**ODR**” a body corporate and politic constituting a public corporation and autonomous governmental instrumentality of the Government of the Virgin Islands **located at located at 8000 Nisky Center, Suite 1 St. Thomas, VI 00802**, and **Virgin Islands Housing Authority, a (“Subrecipient”) located at 9900 Oswald Harris Court, St. Thomas, VI 00802-3100** and Subrecipient are herein jointly referred to as the “Parties”; and

I. RECITALS

WHEREAS, in the aftermath of Hurricane(s) Irma and Maria, the United States Congress, through the Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017, Public Law (P.L.) 115-56, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2018, P.L. 115-123, appropriated approximately Thirty-Eight Billion Dollars (\$38,000,000,000) to the U.S. Department of Housing and Urban Development (“HUD”) to be allocated as disaster recovery community development block grants among States, Puerto Rico and the United States Virgin Islands (“USVI”) and other eligible government entities to provide crucial funding for recovery efforts involving housing, infrastructure, economic development, and the prevention of further damage to affected areas; and

WHEREAS, the USVI submitted to HUD, and on July 10, 2018, HUD approved a “Community Development Block Grant Disaster Recovery Action Plan (“Action Plan”), detailing a range of Projects to address the Virgin Island’s substantial unmet needs and recovery relief after Hurricanes Irma (FEMA-4335-DR) and Maria (FEMA-4340-DR); and

WHEREAS, based on the approved Action Plan, the USVI has received HUD Community Development Block Grant Disaster Recovery funding (“CDBG-DR”) for hurricane disaster recovery; and

WHEREAS, pursuant to 83 FR 5844 (February 9, 2018) the USVI received the first allocation of \$242,684,000; and pursuant to 83 FR 40314 (August 14, 2018) the USVI received a second allocation of \$779,217,000; and pursuant to FR-6109-N-03 (September 4, 2019) and FR- 6109-N-02 (August 30, 2019), the USVI received a third allocation of \$744,188,000, to address USVI’s substantial unmet needs and recovery relief after Hurricane(s) Irma and Maria; and

WHEREAS, on September 27, 2018, the USVI executed Grant Agreement No. 1, B-17-DM-78-0001 and on February 10, 2020, the USVI executed Grant Agreement No. 2, B-18-DP-78-0001, with HUD, to use CDBG-DR funds for the necessary expenses related to disaster relief projects, long-term recovery, restoration of housing, infrastructure, and economic revitalization in the impacted and distressed areas in the USVI; and

WHEREAS, the VIHFA, is the Administrator of the CDBG-DR funds; and

WHEREAS, VIHFA and ODR executed a Subrecipient Agreement (SRA) on November 20, 2023. ODR will manage Programs and provide Programmatic Management for the VIHFA to ensure Subrecipients are following guidelines, requirements, and deliverables as stated herein;

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions by which the VIHFA will provide the Subrecipient with CDBG-DR Project funding for the Subrecipient’s use in the implementation of the designated *Projects*, as outlined in the Action Plan, approved by HUD, as well as any ensuing Amendments to the Action Plan (approved by HUD);

WHEREAS, pursuant to the terms and conditions set forth in this Agreement, including the Appendices hereto, implementation of the specific Projects described in the approved Action Plan will be undertaken by the Subrecipient; and

WHEREAS, implementation of the Action Plan Projects shall be undertaken in compliance with the Federal, and territorial laws and regulations as well as the requirements of the CDBG-DR Project and federal cross-cutting requirements including the National Environmental Policy Act of 1969 (“NEPA”), as amended; and

WHEREAS, activities undertaken under this Agreement and benefits determined for Subrecipients shall not duplicate Projects or benefits provided to the USVI through other Federal recovery Projects, private benefits or benefits gained from non-profit entities, including those run by the Federal Emergency Management Agency (“FEMA”), and coordinated with such resources; and

WHEREAS, the Subrecipient will manage all project(s) for the ODR with an approved budget of One Hundred and Forty-Nine Million, Four Hundred and Forty-Nine Thousand Eight Hundred and Eight- Six and Zero Cents (\$149,449,886) under the Public and Affordable Housing Program;

WHEREAS, the funds for this project will be allocated from **Grant Agreements No. B-17-DP-78-001, B-18-DP-78-001 and B-19-DP-78-001**;

WHEREAS the Parties wish to set forth, in this Agreement, their mutual understanding regarding their respective roles and responsibilities in implementing the activities set forth in the Action Plan and any Action Plan Amendments that may ensue;

WHEREAS, CDBG-DR funds made available for use to the Subrecipient under this Subrecipient Agreement requires that use of funding must be in accordance with the Action Plan, and any subsequent amendments, requirements imposed by Federal statutes, regulations, and the terms and conditions of the CDBG-DR Federal Grant Award; and

NOW THEREFORE, in consideration of the principles, assurances and promises contained herein, the Public Finance Authority, Office of Disaster Recovery and the Virgin Islands Housing Authority hereby agrees on the following terms and conditions to govern implementation and oversight of CDBG-DR funded projects as outlined in the Action Plan, et. al.

II. GENERAL INFORMATION

The subaward from the Grantee to the Subrecipient, which is described below, is for the purpose of carrying out a portion of a Federal award described in section I of this agreement. This agreement must be updated to reflect any changes to the federal award and the following award information:

General Information:

Name of Grantee:	The Virgin Islands Housing Finance Authority
Name of Awarding Official:	Eugene Jones
Title:	Executive Director
Address:	3202 Demarara Plaza Suite 200
City, State, ZIP:	St. Thomas, VI 00802
Email Address:	ejones@vihfa.gov
Phone Number:	340- 777- 4432
Department (if applicable)	
Grantee Unique Identifier:	CJGNN7KKH58
Name of Subrecipient (Programmatic Management):	Virgin Islands Public Finance Authority, Office of Disaster Recovery
Name of Subrecipient Primary Contact:	Adrienne L. Williams-Octalien
Title:	Director
Address:	402 Strand Street
City, State, ZIP:	Frederiksted, VI 00840
Email Address:	awilliams@usvipfa.com
Phone Number:	(340)202-1221

Department (if applicable)	
Subrecipient Unique Identifier	GCULBBVJ3D6

Name of Subrecipient:	Virgin Islands Housing Authority
Name of Subrecipient Primary Contact:	Dwayne Alexander
Title:	Executive Director
Address:	9900 Oswald Harris Court
City, State, ZIP:	St. Thomas, VI 00802
Email Address:	dalexander@vihousing.org
Phone Number:	(340)777-8442
Department (if applicable)	
Subrecipient Unique Identifier	

Federal Award Identification Number (FAIN):	B-19-DP-78-0001
Catalog of Federal Domestic Assistance (CFDA) Number and Award:	14.228 Community Development Block Grants/ State's Program
Federal Award Date:	September 27, 2018
Grant Number:	B-17-DP-78-0001, B-18-DP-78-001 and B-19-DP-78-0001
Federal Award Project Description: <i>[Please include the name of the program (i.e., New Housing Construction Own A Lot Build A Home) describe the purpose of the project, reason for this agreement/need for Subrecipient assistance.]</i>	Public and Affordable Housing Program
Subaward Period of Performance as defined in Section VI of this agreement: <i>[Insert Start and End Date]</i>	April 25, 2019 – August 1, 2026
Amount of CDBG-DR Funds Committed to the Subrecipient by the Grantee: <i>[Spell out sum and put the numerical value in parenthesis]</i>	One Hundred and Fifty Million, Five Hundred and Ninety Nine Thousand, Nine Hundred and Fifty Eight Dollars and Zero Cents.\$150,599,958.
Amount of Federal Funds Obligated by this Agreement:	\$150,599,958.

Total Amount of Federal Funds Obligated to the Subrecipient Agreement is not to exceed:	\$150,599,958.
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III. TERMS AND CONDITIONS

A. Exhibits

The following attachments are incorporated into this Subrecipient Agreement (SRA) by reference and are hereby made part of this agreement.

Exhibit A	Scope of Work
Exhibit B	Key Activities, Timelines, and Performance Goals
Exhibit C	HUD Rider
Exhibit D	Contractor Performance
Exhibit E	Non-Conflict of Interest Certification

IV. STATEMENT OF WORK

Scope of Services

The subrecipient shall provide the services set forth below and in accordance with the budget established. Subrecipient shall also complete and submit the performance report(s) substantially in the form attached hereto as **Exhibit A (“Scope of Work”)**.

Subrecipient Management Responsibilities

The Subrecipient shall submit to the ODR the required project application forms provided by the VIHFA. The project application will be evaluated for program eligibility requirements and available budget allocations. Upon receiving project approval, the Subrecipient can begin project development. All services included in **Exhibit A (“Scope of Work”)**, shall be performed in accordance with the VIHFA guidelines, HUD guidelines and regulations, and other applicable state and federal laws and regulations.

The Subrecipient shall prepare and submit to ODR all required project documentation such as procurement documentation, construction drawings and specifications, construction permits and endorsements, cost estimates, property acquisitions, implementation plans, etc. in accordance with **Exhibit A (“Scope of Work”)**. VIHFA reserves the authority and discretion to review and require revisions before approving the use of funds for projects.

Eligible Use of Funds

As a condition of receiving CDBG-DR funds, the Subrecipient shall provide program management for all services under the Housing, Infrastructure to include Non-Federal Match, Economic Revitalization, and Public Service Public Facilities Program as stated in the action plan which includes performing all work described in this section. The Subrecipient shall complete the activities in a manner satisfactory to the ODR and consistent with the terms of conditions of this agreement and applicable Federal statutes and regulations.

Prohibited Activities

The Subrecipient may only carry out the activities described in this agreement. The Subrecipient is prohibited from charging to the CDBG-DR grant the costs of CDBG-DR ineligible activities, including those described at 24 CFR 570.207.

A. General Administration of CDBG-DR Funds

All costs are determined to be Activity Delivery Costs (ADCs). ADCs are those allowable costs incurred for implementing and carrying out eligible CDBG-DR activities. All ADCs are allocable to a CDBG-DR activity, including direct and indirect costs integral to the delivery of the final CDBG-DR assisted activity.

B. Pre-Award Costs

Pre award costs applicable to Subrecipients are strictly prohibited.

C. National Objectives

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives.

ODR and Subrecipient certify that all activities carried out under this agreement shall meet the following national objective(s) and satisfy the following criteria:

Benefiting Low-Moderate Income Individual to include the subcategories of Low-Moderate Housing (LMH).

D. Level of Accomplishments- Performance Goals and Timelines

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

E. Staffing

The Subrecipient shall supervise and direct the completion of all activities under this agreement. The Subrecipient shall identify the key personnel working on their project(s). ODR has identified Key Personnel as: As outlined in the approved project application

The Subrecipient must notify the ODR of any changes in the Key Personnel assigned or their responsibilities under these activities. All notifications shall be submitted to the grantee in writing within 30 days of the change in key personnel.

Within sixty (60) days of this executed agreement, the Subrecipient must provide the ODR with a list of all key personnel working on CDBG-DR funded projects.

The subrecipient is required to inform the ODR about any professional services procured. This involves providing the ODR with copies of the contracts, ensuring these contracts are focused on deliverables. The subrecipient must also supply a list of experts involved in each contract who will work on the CDBG-DR projects. Additionally, the contracts should clearly outline the payment structure for the professional services staff and include clauses that specify a maximum limit on the amount that can be billed ("not to exceed" clauses).

V. PERFORMANCE MONITORING & REPORTING

Monitoring

The ODR shall monitor the performance of the Subrecipient as required and in accordance with regulations on Subrecipient Monitoring and Management, 2 CFR 200.330 - 2 CFR 200.332, to ensure compliance with all the requirements of this agreement, including the timeframes and performance goals associated with the activities. Substandard performance as determined by the ODR and the Grantee will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within 10 days after being notified by the ODR, the Grantee may impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 CFR 200.207, suspend or terminate this agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 CFR 200.338.

Reporting

The Subrecipient shall submit regular monthly and quarterly progress and financial reports to ODR detailing the status of deliverables with a breakdown on project progress and meeting performance goals and timelines on the reporting template. The Subrecipient shall meet the following benchmarks and report as indicated:

At a minimum, Subrecipients should submit payment for project costs accordingly:

2nd Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 5% of CDBG-DR Funds

6th Reporting Month of Notice to Proceed for Construction Subrecipient must have submitted for reimbursement 20% of CDBG-DR Funds

12th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 45% of CDBG-DR Funds

18th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 65% of CDBG-DR Funds

24th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted 85% of CDBG-DR Funds for reimbursement

30th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 95% of CDBG-DR Funds

Non-Performance

If at the end of **six (6)** months from the Effective Date, as defined in Section VI of this Agreement, Period of Performance, the Program/project activity for 50% of the projects has not begun or any time during the term the Program activity has not accomplished the performance goals set forth by **Exhibit B** (“Key Activities, Timelines, and Performance Goals”) or have missed two performance benchmarks as outlined in Section B: Reporting of this section within two reporting quarters, the ODR may, at its sole discretion, terminate this Agreement, the Grantee shall de-obligate funds made available under this agreement and/or recapture funds previously expended by the Subrecipient under this agreement from non- federal funds. No contract extensions shall be granted unless the Subrecipient can document circumstances beyond its control that prevented the start of the activity.

VI. BUDGET

The Subrecipient shall complete all activities in this agreement in accordance with the appropriate project budget. Each project must receive a preliminary review and approval from ODR and approval from VIHFA prior to moving to an environmental review. VIHFA may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by ODR and approved by the Grantee. Any amendments to the budget(s) must be approved in writing by both ODR and VIHFA. However, in no case shall any such amendments, revisions or reallocations exceed the total allocation of CDBG-DR Funds without prior written consent of VIHFA. All budget costs must be reasonable, eligible, and allowable.

A. Budget Table

Project Name	Project Type	Cost (Direct)
Donoe Redevelopment	Demolition/Reconstruction	\$ 80,729,958
Walter IM Hodge Revitalization Project	Rehabilitation	\$ 22,650,000
D. Hamilton Jackson Terrace	Rehabilitation	\$ 47,220,000
	Total	\$ 150,599,958

B. Program Income

Subrecipient shall report to Grantee all Program income, as defined in 24 CFR 570.500(a), generated by Program activities carried out with CDBG-DR funds. Subrecipient and Grantee must follow program income guidelines in accordance with 24 CFR 570.504. The subrecipient shall return to the Grantee any program income received monthly and must alert the Grantee within 30 days if program income was generated. All provisions of this Agreement shall apply to activities for which Subrecipient uses Program income.

C. Indirect Costs

All work performed will be activity delivery costs, indirect costs may **not** be charged to this subaward.

VII. PERIOD OF PERFORMANCE AND TERM

The period of performance for the Subrecipient, meaning the time during which the Subrecipient may incur new obligations to carry out activities under this agreement, start on the **25th day of April 2019** and end on the **1st day of August 2026** or upon the completion of all projects funded pursuant to this Agreement, whichever occurs first.

Extensions

ODR may extend this agreement's terms, and an extended period of performance may be granted, once Subrecipient has notified VIHFA of the request to extend performance and reasoning as to why the extension is needed. The term of this agreement shall not exceed the lifetime of the Initial Grant Agreements between VIHFA and HUD, unless the term of the Initial Grant Agreement is extended by HUD, in which case the term of this SRA cannot exceed the extension.

A. Implementation of Agreement and Assurances

1. The Subrecipient is responsible for complying with said CDBG-DR and federal regulations and for implementing the Project in a manner satisfactory to the ODR, VIHFA and HUD and consistent with any applicable guidelines and standards that may be required as a condition of the VIHFA's providing the Grant Funds, including but not limited to all applicable CDBG-DR Project Administration and Compliance requirements set forth by this Agreement. VIHFA's providing of CDBG- DR Grant Funds under this Agreement is specifically conditioned on the Subrecipient's compliance with this provision and all applicable CDBG-DR regulations, guidelines, and standards, including compliance with 24 CFR 570.900 et seq., governing performance reviews and remedial action.

2. The Subrecipient shall be responsible for requiring its contractors/vendors (and all subcontractor tiers) to adhere to all applicable Territory and Federal laws and regulations, and to conduct all necessary monitoring for such compliance. As to laws and regulations applicable to the use of CDBG-DR funds and to any other laws and regulations that may apply to construction projects, the Subrecipient is responsible for determining the applicable laws and regulations and ensuring compliance therewith.

3. Notwithstanding the foregoing, the Subrecipient is responsible for coordination of the environmental review, decision-making, and other action that would otherwise apply to HUD under the National Environmental Policy Act of 1969 and other related provisions of law. the Subrecipient agrees, however, that it will not commit any Grant Funds to a project or start any work associated with a project until it has approval from the Grantee's CDBG-DR Environmental Department, which is charged by HUD with evaluating all CDBG-DR funded projects, and until such time in which HUD approves a certification of compliance with environmental laws and request for release of funds.

4. The Subrecipient agrees to comply with all applicable Federal CDBG-DR, and cross-cutting statutes and regulations subject to waivers cited in the applicable Federal Register notices, Department of Housing and Urban Development, Allocations, Common Application, Waivers, and Alternative Requirements for the Grantee receiving CDBG-DR Funds in Response to the 2017 storms.

B. Performance and Timeline Requirements

The Subrecipient shall complete the required activities under Exhibit A and in **Exhibit B**, including 100% expenditure of allocated funds, within the timeframes outlined in **Exhibit B**.

The Subrecipient agrees to comply with the projects' draw-down request terms and agrees to use best efforts to comply with benchmarks as outlined in the Reporting section of this agreement. Grant Funds not anticipated to be expended by the outlined deadline, or extended, are subject to recapture and reallocation to other eligible CDBG-DR Projects areas and/or Territorial agencies.

This agreement and its terms and conditions shall remain in effect during any period that the Subrecipient has control over CDBG-DR funds provided through this agreement, including program income as defined in 24 CFR 570.489(e), 83 FR 5844, and 83 FR 40314.

VIII. PAYMENT

Subrecipient shall only seek a total payment amount **not to exceed \$150,599,958.** from the Virgin Islands Housing Finance Authority Community Development Block Grant- Disaster Recovery Fund for Program services provided under this Agreement and for reimbursement of costs and expenses that Subrecipient necessarily incurs for the Program and that are eligible for reimbursement under applicable regulations.

The Subrecipient shall submit to ODR for review and approval requests for payments of activities under this agreement and consistent with the approved budget (the "Request for Payment") within ten (10) days from the last date of each month of the agreement and as needed. Each Request for Payment shall be broken into requested draws against the budget line items specified in Section VI.

Payment will be made upon submission by the Subrecipient of a properly executed Request for Payment Package, together with deliverables necessary to justify payment. The Request for Payment form must also be accompanied by documentation from the ODR on behalf of the Subrecipient demonstrating that all activities for which payment is requested have been made in accordance with this agreement to the VIHFA.

The ODR will review the Request for Payment and any associated documentation and submit to the VIHFA to allocate/transfer funds within 30 days of approval of the invoice. VIHFA may request additional information or invoice details from the Subrecipient at its discretion.

The VIHFA shall authorize to the Subrecipient the payment through allocation of CDBG-DR funds available under this agreement based upon information submitted by the Subrecipient for allowable costs permitted under this agreement and consistent with the approved budget. Except for advances, payments/allocations will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments/Allocations will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. The Grantee shall not pay any advance or reimburse any costs not consistent with this agreement or costs not consistent with federal statutes, regulations (including Cost Principles in 2 CFR Part 200, subpart E), the terms and conditions of the CDBG-DR award, or any costs that would otherwise result in the Grantee charging improper, unauthorized, or otherwise unallowable costs to the award. Additional services beyond this agreement but determined to be necessary to execute CDBG- DR objectives (as determined by reviewing the VIHFA's Action Plan and reviewing the project scope, intended outcomes, and impact to the LMI national objective), must be presented a minimum of 30 days in advance of execution and may necessitate an amendment to the Agreement.

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

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

IX. AMENDMENTS

This Agreement may only be amended in writing and executed by duly authorized representatives of both Parties. Amendments shall not invalidate this Agreement, nor relieve or release either Party except as may otherwise be provided.

The VIHFA may, in its discretion, require that this Agreement be amended to conform to federal, or Territorial governmental laws, regulations, guidelines, policies and available funding amounts. If any such amendment would result in a change in the funding, the activities, or schedule of the activities to be performed under this Agreement or the Grant Funding Sub-Agreement, such changes shall be incorporated by written amendment signed by the ODR and the Subrecipient.

X. SUSPENSION or TERMINATION

A. Suspension or Termination for Cause

The ODR may terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, which shall include, but not be limited, to the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may be applicable at any time;
2. Failure, for any reason, of the Subrecipient fulfill in a timely and proper manner the material obligations under this Agreement;
3. Submission of incorrect or incomplete reports to the ODR in any material respect as determined by ODR, VIHFA, HUD or their auditors;
4. Ineffective or improper use of CDBG-DR Funds as provided for under this Agreement.
5. Failure of the SUBRECIPIENT to approve and provide an approved budget to the ODR for approval by VIHFA for fulfillment of this Agreement.

The ODR shall promptly notify the VIHFA, in writing, of its determination and the reasons for the suspension or termination of a Subrecipient together with the date on which the suspension or termination shall take effect and any other notifications required under 2 CFR part 200, subpart D. The ODR agrees that it shall not exercise its right to suspend or terminate this Agreement until it has given written notice to the Subrecipient of the alleged non-compliance and has given the Subrecipient thirty (30) days after the Subrecipient Department's receipt of such notice, to correct and/or cure, the alleged non-compliance. The Subrecipient may request additional time in writing to correct the alleged non-compliance which may or may not be granted by the ODR and approved by the VIHFA. If the non-compliance cannot be corrected and/or cured, the Subrecipient shall, unless the termination or suspension notice directs otherwise, immediately discontinue all activities relating to this Agreement, except as may otherwise be legally required pursuant to a binding commitment to perform.

Upon termination, the VIHFA retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient must return to the VIHFA any improper expenditures no later than thirty (30) business days after the date of termination. The VIHFA may, at its sole discretion, allow the Subrecipient to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this Agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations, or requirements.

B. Suspension or Termination for Convenience

This Agreement may also be terminated in whole or in part by either the ODR with approval by the VIHFA or based upon agreement by both the ODR, VIHFA and the Subrecipient and in accordance with the requirements in 2 CFR part 200, subpart D. The VIHFA may at any time give written notice to the Subrecipient terminating this Agreement within thirty (30) business days or suspending the Agreement, in whole or in part, for the VIHFA's convenience and without cause. If the VIHFA terminates this Agreement or suspends the Project, the Subrecipient shall promptly reduce staff, services and/or outstanding commitments to minimize the cost of termination or suspension. In case of termination for the VIHFA's convenience, the Subrecipient shall be entitled to receive payment for Services executed prior to termination, together with reimbursable expenses, if applicable, then due through the date of termination and reasonable costs incurred by reason of such termination for which the Subrecipient is not otherwise compensated.

C. Termination Due to Unavailable Funding

This Agreement is contingent upon the appropriation and release of CDBG-DR funds to the VIHFA to fulfill the requirements of this Agreement. If the funds anticipated for the budget/funds in this agreement are, at any time, not forthcoming or sufficient, either through the failure of the Federal government to provide funds or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to VIHFA, the ODR in consultation with and approval by VIHFA has the right upon ten (10) business days written notice to the Subrecipient, to terminate this agreement without damage, penalty, cost or expenses to VIHFA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

D. Obligations Governing Use of CDBG-DR Funds Survive Termination

Termination of this Agreement under any of the foregoing provisions shall not alter or diminish the SUBRECIPIENT's obligations governing the use of CDBG-DR funds under applicable statutes, federal notices, and regulations or under this Agreement and/or shall not terminate any of the SUBRECIPIENT's obligations that survive the termination of this Agreement. Such obligations and/or duties may include but are not limited to the following:

- (1) the duty to maintain and provide access to records;
- (2) the duty to monitor and report on the use of any CDBG-DR funds expended or awarded in compliance with all terms, conditions, and regulations herein;
- (3) duty to enforce compliance with the terms of CDBG- DR grants; and
- (4) duty to monitor, collect and manage Program Income, if applicable.

E. Payment upon Suspension or Termination

1. *Payment upon Suspension or Termination for Cause:* Upon termination, VIHFA retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient must return to the VIHFA any improper expenditures no later than thirty (30) business days after the date of termination. The VIHFA may, at its sole discretion, allow the Subrecipient to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this Agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations, or requirements.

2. *Payment upon Suspension or Termination For Convenience:* In the matter of suspension or termination for convenience, the Subrecipient shall be entitled to payment/allocations on approved invoices submitted and approved by ODR, reviewed and processed by VIHFA CDBG-DR Finance Department no later than thirty (30) days from the date of termination contained within the notice, to the extent payment requests represent Eligible Activities satisfactorily completed during the term of this Agreement and otherwise reimbursable under the terms of this Agreement.

F. Period of Transition

Upon termination of this agreement, and for sixty (60) consecutive days thereafter (the “Transition Period”), Subrecipient agrees to be available to assist ODR with the transition of services assigned to the Subrecipient by ODR. The Subrecipient shall provide ODR with assistance as requested to facilitate the transfer of responsibility for the performance of the Services to ODR or a third party designated by the ODR. ODR reserves the right to provide for the execution of a Transition Services Agreements for the Transition Period. In such an instance, the Subrecipient will be paid at a reasonable, agreed upon, rate for any work performed for ODR and approved by VIHFA during the Transition Period. During this period, all records, files, documentation, etc. will be turned over to ODR. VIHFA reserves the right to request any additional documentation pertaining to this matter at least four years after termination.

XI. OTHER REQUIREMENTS TO COMPLY WITH FEDERAL STATUTES, REGULATIONS AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD

The CDBG-DR funds available to the Subrecipient through this agreement constitute a subaward of the Grantee’s Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes the terms and conditions of the Grantee’s award that are imposed on the Subrecipient, and the Subrecipient agrees to carry out its obligations in compliance with all the obligations described in this agreement.

A. General Compliance

The Subrecipient shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this Agreement. These Federal Register notices include, but are not limited to, 83 FR 5844 (February 9, 2018), 83 FR 40314 (August 14, 2018), FR-6109-N-03 (September 4, 2019) and FR-6109-N-02 (August 30, 2019). Notwithstanding the foregoing, (1) the Subrecipient does not assume any of VIHFA’s CDBG-DR Environmental Department’s responsibilities for environmental review, decision-making, and action, described in 24 CFR part 58 and (2) the Subrecipient does not assume any of the Grantee Department’s responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state, and local laws, regulations, and policies that govern the use of the CDBG-DR funds regardless of whether CDBG-DR funds are made available to the Subrecipient on an advance or reimbursement basis.

B. Section 312 of the Stafford Act- Duplication of Benefits

The Subrecipient must not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and the Emergency Assistance Act (42 USC 5155) and as described in the Appropriations Act. Funds will be allocated back to the VIHFA if the Subrecipient has received other disaster assistance funding for the same purposes as under this Agreement.

The Subrecipient agrees to reimburse/reallocate the funding it receives pursuant to this Agreement back to the VIHFA if the Subrecipient later receives other disaster assistance funding for the same purposes as under this Agreement. Additionally, funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity, if there is no duplication of benefits of federal funds. This includes programs or activities administered by, but not limited to, FEMA, the United States Environmental Protection Agency ("EPA"), the United States Department of Transportation ("DOT"), or the U.S. Army Corps of Engineers ("USACE").

C. Drug-Free Workplace

The Subrecipient hereby certifies that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988, as amended, and with 24 CFR 21. Further, the Subrecipient will endeavor to ensure that Contractors/Subcontractors and any third parties providing Project services are in compliance with the Drug-Free Workplace Act of 1988, as amended, and with 24 CFR Part 21.

D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

The Subrecipient must comply with the applicable provisions in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. These provisions include:

1. Financial & Program Management

The Subrecipient shall expend and account for all CDBG-DR funds received under this agreement in accordance with 2 CFR part 200, including 2 CFR part 200, subpart D, which covers Standards for Financial and Program Management.

2. Cost Principles

Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 CFR part 200, subpart E. All items of cost listed in 2CFR part 200, subpart E, that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this agreement, except for the following:

- i. Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.
- ii. Fines, penalties, damages, and other settlements are unallowable costs to the CDBG program.
- iii. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445);
- iv. Organization costs (2 CFR 200.455); and
- v. Pre-Award Costs, as limited by this agreement.

E. Financial Management System

1. The ODR may review the adequacy of the financial management system of the Subrecipient under this Agreement at any time after the signing of the Agreement. If ODR determines that the Subrecipient's accounting system under the Agreement does not meet the standards described in this section, additional information to monitor the Agreement may be required by the ODR upon written notice to the Subrecipient, until such time as the system meets with the VIHFA's approval. The Subrecipient will notify ODR as soon as practicable if the Subrecipient cannot comply with the requirements established in this section of the Agreement.
2. The Subrecipient's financial management system shall be consistent with the standards set forth 24 CFR 85.1 et seq. and 24 CFR 85.20 et seq., and 2 CFR Part 200, Subpart D, Post Federal Award Requirements and Standards for Financial and Program Management, and the requirements for Payment Request in Appendix E, and the requirements for Records and Records Retention in Section XI (F- Documentation and Recordkeeping).
3. The Subrecipient shall maintain accurate, current, and complete reports for disclosure of financial results in a format which conforms with generally accepted principles of accounting and reporting:
 - i. Accounting Records: Maintain records that adequately identify the source and application of the CDBG-DR Funds.
 - ii. Internal Control: Maintain effective internal and accounting controls over CDBG- DR Funds provided to the Subrecipient under this Agreement. The Subrecipient shall adequately safeguard all such funds and assure that they are used solely for authorized purposes. The Subrecipient Department's records shall distinguish Grant Funds for its Activities from those to be reimbursed to any Subrecipient.
 - iii. Budget Control: Provide for the comparison of the actual expenditure or outlays with budgeted amounts.
 - iv. Allowable Costs: Implement procedures to determine the reasonableness and acceptability of costs consistent with this Agreement.
 - v. Source Documentation: Maintain accounting records that are supported by source documentation (such as purchase orders, invoices, timesheets, and canceled checks).
 - vi. Disbursement Management: Establish procedures to minimize the time elapsed between the receipt of funds from the Grantee and disbursement by the Subrecipient Department.
4. Reversion of Assets: The use and disposition of immovable property, equipment and remaining CDBG-DR Funds under this Agreement shall be in compliance with all CDBG-DR regulations, which include but are not limited to the following:
 - a. The Subrecipient shall return to the Grantee any Grant Funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination of this Agreement.

- b. In all cases in which equipment acquired, in whole or in part, with CDBG- DR Funds is sold, the proceeds shall be reviewed to determine if they are Program Income, as defined in 2 CFR Part 200.80, and prorated to reflect the extent to which CDBG-DR Funds received under this Agreement were used to acquire the equipment. Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred back to the Grantee for the CDBG-DR program or (b) retained by the Subrecipient after compensating the Grantee an amount equal to the current fair market value of the equipment less the percentage of any non-CDBG-DR funds used to acquire the equipment.
- c. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG-DR National Objectives pursuant to 24 CFR 570.208. Under §570.503(b)(7), property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 that is within the subrecipient's control, the property must either:
 1. Be used by the subrecipient to continue to meet one of the program's national objectives for at least 5 years after the expiration of the subrecipient agreement; or,
 2. If a national objective is not met during this period, the VIHFA must be reimbursed for the current fair market value, less any portion of the value attributable to non-CDBG funds. This payment is considered program income to the VIHFA. No payment is required after the period specified in paragraph 1. above.

The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

- d. Change of Use of Real Property- Subrecipient may not change the use or planned use of any real property acquired or improved with CDBG funds in excess of the threshold for small purchase procurement (2 CFR 200.88) without first providing affected citizens with notice of, and opportunity to comment on, any proposed change, and determining either:
 1. The new use meets one of the national objectives and is not a building for the general conduct of government; or
 2. The new use is deemed appropriate (after consultation with affected citizens) but will not meet a national objective.

If it is determined the new use falls under 2., the Subrecipient must reimburse the Grantee's CDBG-DR program, at the discretion of the VIHFA, in the amount of the current fair market value of the property, less the value attributable to the non-CDBG portion for the acquisition and improvements to the property. The requirements at §570.489(j) assume the property met a national objective before any change in its use. If the CDBG-assisted property never met a national objective, the Subrecipient must reimburse Grantee from non-federal funds. The reimbursed amount is treated as program income and must be spent in accordance with CDBG program income requirements.

These requirements apply from the date CDBG-DR funds are first expended for the property until five years after close-out of the Subrecipient's agreement. If the change in use occurs after grant closeout but within 5 years of such closeout, the Subrecipient must reimburse the Grantee.

F. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall establish and maintain sufficient records to enable the VIHFA to (1) determine whether the Subrecipient has complied with this Agreement, applicable Federal statutes and regulations, and the terms and conditions of the VIHFA's Federal award and (2) satisfy recordkeeping requirements applicable to the VIHFA. These records include the records described in Section III. of this agreement, Scope of Service.

At a minimum, the Subrecipient shall maintain records required by 24 CFR 570.506, which includes: Records providing a full description of each activity undertaken; Records required to determine the eligibility of activities; Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG-DR assistance; Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG program regulations; Financial records as required by 24 CFR 570.502, and 2 CFR part 200, including records necessary to demonstrate compliance with all applicable procurement requirements; and other records necessary to document compliance with this Agreement, any other applicable Federal statutes and regulations, and the terms and conditions of VIHFA's award.

2. Access to Records

As required by 2 CFR 200.331(a)(5), the Subrecipient shall permit the ODR and auditors to have access to the Subrecipient Department's records and financial statements as necessary for VIHFA to meet its audit requirements under the Federal award.

The Subrecipient shall comply with the retention and access requirements set forth in 24 CFR 570.506. The VIHFA, HUD, the Comptroller General of the United States, and any of their duly authorized representatives or agents, shall have access to, and the right to examine, all records, books, documents, and papers of the VIHFA created under this Agreement for the purpose of audits, examinations, and making excerpts and transcriptions.

The VIHFA shall provide reasonable access to records regarding the past use of CDBG funds in compliance with applicable Territorial and Federal laws and regulations regarding privacy and obligations of confidentiality.

All records, reports, documents, or other material or data, including electronic data, related to this Agreement and/or obtained or prepared by the Subrecipient and all repositories and databases compiled or used, regardless of the source of information included therein, in connection with performance of the services contracted for herein is the property of VIHFA.

3. Record Retention and Transmission of Records to the Grantee

Prior to close out of this Agreement, the Subrecipient must transmit to the ODR records sufficient for the Grantee to demonstrate that all costs under this Agreement met the requirements of the Federal award. The Subrecipient shall maintain, and require all sub-Subrecipient s, borrowers, contractors, and all tiers of subcontractors to maintain:

A. All Program records required by 24 CFR 570.506 for five (5) years following close-out of the Agreement or the Grant Fund Agreement, as applicable. These records shall include the following as applicable:

- a. The executed Agreement;
- b. Description, geographic location, and budget of each funded Activity;
- c. Eligibility and national objective determinations for each Activity;
- d. Personnel files;
- e. Property management files;
- f. HUD monitoring correspondence;
- g. Citizen participation compliance documentation;
- h. Fair Housing and Equal Opportunity records;
- i. Environmental review and regulatory compliance documents;
- j. Documentation of compliance with other federal requirements (e.g., Davis-Bacon, Uniform Relocation Act, and Lead-Based Paint, etc.); and

B. All Financial records to include:

- a. Chart of accounts;
- b. Manual on accounting procedures;
- c. Accounting journals and ledgers;
- d. Source documentation (such as purchase orders, invoices, canceled checks);
- e. Procurement files (from solicitation to contract);
- f. Status of reimbursements;
- g. Real property inventory, if applicable;
- h. Bank account records (including revolving loan fund records, if applicable);
- i. Draw down requests;
- j. Payroll records and reports including timesheets or timecards as applicable;
- k. Financial reports;
- l. Audit files; and
- m. Relevant financial correspondence.

C. Project/Activity records to include the following documentation:

- A. Eligibility of the Activity for Grant Funding;
- B. Evidence of having met a national objective (See 24 CFR 570.482);
- C. All State and Federal environmental regulatory review(s) and approval(s)
- D. Procurement policy
- E. Any cost analysis, RFP(s), evaluation criteria, evaluations, award letters, notification letters, bids, or contracts;
- F. Characteristics and locations of the Programs and each Program Activity;
- G. Compliance with special program requirements, such as coordination and cooperation with any other departments;
- H. Budget and expenditure information (including draw requests); and
- I. The status of the Program and each Activity / monthly progress reports

4. Client Data and Other Sensitive Information

The Subrecipient is required to maintain data demonstrating client eligibility for activities provided under this agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided. The Subrecipient must comply with 2 CFR §200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR 200.82, and other information HUD or the Grantee designates as sensitive or the Subrecipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

G. Closeout

The Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.344. Activities during this close-out period may include, but are not limited to making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the Subrecipient shall transfer any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds, further, any real property under the Subrecipient Department's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

H. Nondiscrimination

The Subrecipient will comply with the following mandatory provisions and will include these provisions where applicable, in every contract, specifically or by reference, so that such provisions will be binding upon each of its contractors/vendors and ensure the inclusion in all subcontracts.

1. 24 CFR Part 6

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

The Subrecipient will adhere to the prohibitions against discrimination based on age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded as a whole or in part with CDBG DR funds. Thus, the Subrecipient shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

2. Architectural Barriers Act (ABA) of 1968, 42 U.S.C. 4151 et seq.

The ABA requires access to buildings designed, built, altered, or leased by or on behalf of the federal government or with loans or grants, in whole or in part, from the federal government. As used in the ABA, the term "building" does not include privately owned residential structures not leased by the government for subsidized housing programs.

3. Title 9 of the Education Amendments Act of 1972, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in any federally funded education program or activity.

4. Title 11 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 et seq., which prohibits discrimination against people with disabilities by public entities, which includes any state or local government and any of its departments, agencies, or other instrumentalities.

5. Housing for Older Persons Act of 1995 ("110PA") (see 42 U.S.C. 3607), which governs housing developments that qualify as housing for persons aged 55 or older.

6. It shall require that every newly constructed or altered building or facility (other than a privately-owned residential structure, and certain other limited exceptions) complies with any accessibility requirements required by Title III of the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12181 et sec.) and shall be responsible for conducting inspections to ensure compliance with these specifications by any contractor or subcontractor.

7. Other statutory requirements as outlined in the HUD Rider, attached hereto as Appendix B will be required to attach all contracts executed pursuant to this Agreement.

8. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with 2 CFR Part 200, subpart F.

9. Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

(ii) General Compliance:

The Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended [if the Grantee is subject to 24 CFR part 570, subpart K, insert: “and 24 CFR 570.601 and 570.602”. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The Subrecipient shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(ii) Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1. If the Federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient’s assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application.

This assurance gives the Grantee and the United States a right to seek judicial enforcement of the assurance and the requirements on real property. In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to the Subrecipient Under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

10. Affirmative Action

(i) Approved Plan the Subrecipient agrees that it shall carry out pursuant to the VIHFA’s specifications an Affirmative Action Program in compliance with the President’s Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR

chapter 60. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program.

The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

(ii) Women- and Minority-Owned Businesses (W/MBE) [If the Grantee is subject to 2 CFR part 200, subpart D, and more specifically 2 CFR 200.321, insert: “ The Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible when the Subrecipient procures property or services under this agreement.

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

(iv) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement the Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer

I. Insurance & Bonding

The Subrecipient shall comply with the bonding and insurance requirements of 24 CFR §200.326 and §200.310. The Subrecipient (non-Federal entity) must, at a minimum, provide equivalent insurance coverage for real property and equipment acquired or improved with CDBG-DR funds as provided to property owned by the Subrecipient (non-Federal entity) from loss due to theft, fraud and/or undue physical damage, and acquire a blanket 11 of 24 fidelity bond covering all employees in an amount equal to CDBG-DR funds provided by the Grantee.

J. Audits, Inspections, and Monitoring

1. Single Audit

The Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements, currently set at \$750,000. Annually, the Subrecipient must provide the Grantee with its Single Audit for the fiscal year.

2. Inspections and Monitoring

The Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statements as necessary for the Grantee to meet the requirements of 2 CFR part200. The Subrecipient must submit to monitoring of its activities by the Grantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement. This review must include: (1) reviewing financial and performance reports required by the Grantee; (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a 14 of 24 management decision for audit findings pertaining to this Federal award provided to the Subrecipient from the Grantee as required by 2 CFR§200.521.

3. Corrective Actions

ODR may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. ODR may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, the Grantee may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

The Subrecipient shall be subject to reviews and audits by the VIHFA, including onsite reviews of the Subrecipient as may be necessary or appropriate to meet the requirements of 4 CFR 570.910.

K. Property Standards

Real property acquired by the Subrecipient under this agreement shall comply with the Property Standards in 2 CFR 200.310 through 2 CFR 200.316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), and except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

L. Federal Funding Accountability and Transparency Act (FFATA)

The Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The grantee must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and must have a Unique Entity Identifier (UEI). Both parties must also comply with the provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

M. Relocation, Real Property Acquisition, and One-for-one Housing Replacement

The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606. In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [URA] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act".

N. Procurement Standards

1. The Subrecipient must have and use documented procurement procedures, consistent with VI laws and other regulations for the acquisition of property or services required under a federal award or subaward. The Subrecipient's documented procurement procedures must conform to the

procurement standards identified in ODR's Procurement Policies and Procedures or utilize their own policy and adopt 2 CFR 200.318 through 2 CFR 200.327 requirements.

2. The Subrecipient shall conduct all procurement transactions in a manner providing for full and open competition and comply with its procurement regulations as certified compliant by ODR's procurement department, including the need for cost analysis in advance of procurements and documentation of free and open competition. Additionally, the Subrecipient is required to comply with all applicable Territory laws that may apply to its procurement transactions.
3. Upon request, the Subrecipient shall provide the ODR and VIHFA with copies of its documentation concerning the selection process for contractors/sub-Subrecipients, contracts, subcontracts, and job descriptions, prior to selection and/or execution.
4. Utilization of Small, Minority and Women's Owned Enterprises.

The Subrecipient and its contractors must use their best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632) and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient shall also ensure similar requirements are provided in its contracts utilizing CDBG-DR Funds, etc.

5. Sole Source Procurement.

The Subrecipient shall make all reasonable efforts to avoid sole source contracts but when no reasonable, feasible, or cost-effective alternative exists, the Subrecipient shall specifically identify all awards of sole source contracts and the rationale or justification for making the award on a sole source basis in reports to the Grantee Department.

6. The Subrecipient is prohibited from entering cost-plus a percentage of cost and percentage of construction costs contracts.
7. Procurement and Contractor Oversight

The Subrecipient shall impose the Subrecipient Department's obligations under this Agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors. The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities at 24 CFR 570.489(l). CDBG funds may not be provided to excluded or disqualified persons. The Subrecipient shall maintain oversight of all activities under this Agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Agreement.

O. Labor and Employment

1. Labor Standards

The Subrecipient shall comply with the in-labor standards in Section 110 of the Housing and

Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis- Bacon Act, as amended (40 U.S.C. 3141, et seq.), and 29 CFR part 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Subrecipient agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The Subrecipient shall maintain documentation that demonstrates compliance with the applicable hour and wage requirements. Such documentation shall be made available to the Grantee for review upon request.

The Subrecipient shall also comply with all labor laws (as referenced under 24 CFR 570.603) and make efforts to hire, procure, when possible, minority- or women-owned business enterprises in accordance with Section 8 of the Small Business Act, 15 U.S.C. § 637, as amended.

P. Section 3 of the Housing and Urban Development Act of 1968

The Subrecipient shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, and its implementing regulations at 24 CFR part 135. The Subrecipient shall include the “Section 3 clause” at 24 CFR 135.38 in every “Section 3 covered contract” (as defined in 24 CFR 135.5).

All Contracts executed pursuant to this Agreement shall be 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.

Q. Conduct

1. Hatch Act

The Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

2. Conflict of Interest

The Subrecipient’s designees, agents, members, officers, employees, consultants, and other public official who exercises or who has exercised any functions or responsibilities with respect to the Program/Project during his or her tenure, or who is in a position to participate in a decision-making process or gain inside information with regard to the Project, are barred from any interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work performed in connection with the Program/Project or in any activity, or benefit there from, which is part of this Agreement at any time during or after such person's tenure.

In the procurement of supplies, equipment, construction, and services pursuant to this agreement, the

The Subrecipient shall comply with the conflict-of-interest provisions in the Grantee's procurement policies and procedures. In all cases not governed by the conflict-of-interest provisions in the Grantee's procurement policies and procedures, the Subrecipient shall comply with the conflict-of-interest provisions in 24 CFR 570.489(h).

3. Lobbying Certification

The Subrecipient hereby certifies that:

- (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 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;
- (ii) 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (iii) It shall require that the language of paragraph (a) through (d) 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, and
- (iv) 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 required by section 1352, title 31, U.S.C. 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.

R. Religious Activities

Faith-based organizations are eligible for HUD funding on an equal footing with any other organization and retain its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HUD funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. However, an organization that is awarded direct HUD funds may still engage in inherently religious activities providing they are voluntary for participants in HUD-funded activities and occur separately in time or location from the HUD funded activities. Faith-based organizations, like all organizations implementing HUD-funded programs, must serve all eligible beneficiaries without regard to religion.

Faith-based organizations, like other organizations, may receive HUD funds to acquire, construct, or rehabilitate buildings and other real property as long as the funds only pay the costs attributable to HUD eligible activities.

S. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 CFR 58.22 even though the Subrecipient is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision making, and action (see 24 CFR part 58) and is not delegated the Grantee's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR 58.22 imposes limitations on activities pending clearance, and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity.

2. Air and Water

The Subrecipient shall comply with the following requirements insofar as they apply to the performance of this agreement:

- a. Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93).
- b. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

3. Flood Disaster Protection

The Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements.

4. Lead-Based Paint

The Grantee and Subrecipient shall follow the Grantee's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title. These provisions are attached to this agreement in Appendix D.

5. Historic Preservation

The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation

and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XII. OTHER REQUIREMENTS IMPOSED BY THE VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

A. Specific Conditions

1. General

VIHFA has determined specific risks associated with this grant and therefore has set forth additional grant terms and conditions for this subrecipient. These Specific Conditions are attached to, and incorporated into, this Agreement. The Special Conditions may add, delete, or modify the overall Agreement. By signing the Agreement, the VIHA agrees to these special conditions for the receipt of CDBG-DR funds, which may be amended from time to time. In the event of an inconsistency, these Special Conditions shall take precedence over the terms and conditions of this Agreement to the extent of that inconsistency.

2. Authority to Use Grant Funds (Release of Funds)

i. No costs shall be incurred/disbursed until after VIHA has received a written Notice to Proceed from ODR that VIHA has satisfied the specific requirements listed herein for the release of CDBG-DR funds. VIHA may submit a request for Authority to Use CDBG-DR Funds for architectural and engineering activity prior to the release of other funded activities.

ii. The VIHA shall meet the required Specific Conditions within forty-five (45) days, unless otherwise stated herein, after the execution of the Subrecipient Agreement.

iii. The VIHA shall submit to VIHFA a "Request for Authority to Use CDBG-DR Funds (Release of Funds)" and will be required to submit the following supporting documentation as follows:

- Environmental Review: The Subrecipient shall not commit funds or begin work on any project with the intention of seeking disbursement/ reimbursement through VIHFA prior to the completion of environmental review requirements.

This Agreement does not constitute a commitment of funds or site approval, and the commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the Virgin Islands Housing Finance Authority of an approval of the request for release of funds. The provision of any funds to the project is conditioned on the VIHFA's reasonable determination to proceed with, modify or cancel the project based on the results of the environmental review.

3. Other Special conditions in accordance with CDBG-DR are as follows:

i. Under the CDBG-DR regulations, VIHFA is responsible for ensuring that CDBG-DR funds are used in accordance with all Program requirements and projects are eligible for CDBG-DR funding. To meet eligibility, each project must meet the following: (1) Be a CDBG-eligible activity (or be eligible under a waiver or alternative requirement under 83FR 5844 or 83 FR 40314); (2) meet a national objective; and (3) address a direct or indirect impact from the major disaster in a Presidentially declared county. Each project will have to undergo an eligibility determination and receive confirmation of eligibility prior to the receipt of funds.

ii. If the VIHFA or HUD determines that any funds were extended by the subrecipient for unauthorized or ineligible purposes or the expenditures constitute disallowed cost in any way, VIHFA or HUD may, after giving the Subrecipient thirty (30) days to respond, order the repayment of same. The Subrecipient shall remit the disallowed amount to VIHFA within thirty (30) days of written notice of disallowance.

iii. Within sixty (60) days the Subrecipient shall provide an updated organizational chart reflecting names for all positions as well as titles for any vacant positions to VIHFA prior to any funding disbursement/reimbursement being paid to the Subrecipient. The Subrecipient shall also provide a timeline for filling those positions, particularly those relating to the management of federal grants.

v. Prior to any funding disbursement/reimbursement of funds being paid to the Subrecipient, the Subrecipient shall provide a letter to ODR and VIHFA explaining any plans to augment existing staff to assist in the administration of CDBG-DR grants.

vi. Within sixty (60) days the Subrecipient shall conduct an internal assessment and analysis of administrative policies and procedures for the agency. It must develop a system to track outdated policies and procedures. This tracker must identify the frequency of review of policies/procedures. Provide an action plan to prioritize and address policy and procedure gaps and create new policies where needed.

vii. The Subrecipient shall not receive funding without the completion of detailed project scope, Budget forms and supporting documentation to ODR. This shall include all standalone CDBG-DR funded projects, as well as projects seeking non-Federal share match funding. The Subrecipient shall complete an Amended Application, if there is a change to a project that requires reallocation of budgeted funds or an addition of funds.

viii. The Subrecipient shall provide a copy of its procurement policy.

a. The Subrecipient must notify ODR of all procurement events and share all procurement documents (including draft contract) for review to ensure compliance with CDBG-DR funded requirements prior to the start of its procurement process.

b. All procurement issued, and contracts executed shall include the federal cross-cutting measures that are applicable to CDBG-DR program.

xi. Submit annual Audit Certification form to VIHFA. The form will be provided by VIHFA.

Supporting documentation for each line item should be a part of the reimbursement or payment request.

A. Disbursement of Payment: The Grantee shall apply the funds under this Project Agreement in accordance with the Project Budget Summary and as reflected in the draw request voucher(s) submitted by VIHA. Payment shall be made to VIHA directly within forty-five calendar days.

B. CDBG-DR Regulatory Agreement: As a condition to disbursement of proceeds, VIHA will be required to execute and deliver to VIHFA the CDBG-DR Regulatory Agreement which shall be recorded in the Lt. Governor's Office and shall be subordinate only to those liens and encumbrances agreed to by VIHFA, in its sole discretion. The CDBG-DR Regulatory Agreement shall have a stated fifteen (15) year duration, subject to termination in the event of foreclosure as provided under the CDBG-DR Regulatory Agreement.

Conditions to be met prior to closing.

The following must be received at least 3 days prior to closing for projects:

Final Investor Tax Credit Operating Agreement for all Low-Income Housing tax credit projects
Final Executed Rental Assistance Demonstration Conversion Commitment for all RAD projects
Current project disbursement schedule for all projects.

Conditions to be Met Prior to the Disbursement of the Initial Draw. Prior to the disbursement of any draws, the following conditions must be satisfied in the sole and absolute discretion of VIHFA:

- a. VIHFA shall be in receipt of Authorization to Use Grant Funds, which is the HUD approval of the environmental review. No funds can be disbursed prior to receiving this approval.
- b. ODR shall have received executed originals of all this Agreement and all Loan Documents (including a disbursement statement), in form and substance acceptable to ODR.
- c. ODR shall be in receipt of a construction schedule that is in line with disbursement of funds. ODR shall have received the financial statements of all Guarantors.
- d. ODR shall have received from the VIHA a copy of the construction budget and line- item breakdown of Total Development Costs, including hard and soft costs, approved by the Investor, as evidenced in the final tax credit operating agreement, along with the Final Proforma of the sources and uses of funds in the amount of the Total Development Costs, a draw schedule and estimated development timing assumptions.
- e. ODR shall have received a copy of the certificates of insurance as to Builder's Risk or comparable policy and Hazard Insurance in completed value form with extended coverage in the amount of the full value of the Project, as completed, unless any of such requirement is waived by ODR. The policy shall also provide that such policy will not be canceled without thirty (30) days' notice to VIHA.
- f. ODR shall have received a copy of the payment and performance bonds from a U.S. Treasury approved surety in the full amount of the general contractor's contract price which lists VIHA as a dual obligee.
- g. ODR shall have received a copy of the general contractor's contract, the architect's contract, the development agreement, the management agreement and management plan, the plans and specifications, the site plan and floor plans, an appraisal and market study, utility availability letters, and such other documentation as ODR may require.
- h. ODR shall have received (1) a copy of the building permit(s) or (2) written confirmation from the relevant government authorities that the building permits are ready to be obtained subject only to payment of fees authorizing construction of the Project [together with a certificate from the public official issuing the building permit(s) that the Project will conform to existing zoning laws and specified variances, if any]; and all other authorizations, permits or approvals, if any, required by any governmental authorities for the construction and operation of the Project, which are presently procurable.
- i. ODR shall have received a copy of the ground lease between VIHA and the Project Owner

and a copy of VIHA's mortgagee's policy of title insurance, insuring VIHA's mortgage lien on the Project.

- j. ODR shall have received an ALTA Survey of the current condition of the Land, certified to VIHFA, showing any buildings or other improvements located thereon and platting building setback lines, servitudes, roads, encroachments, any plottable exceptions that are acceptable to ODR in its sole discretion and any other locatable or visible survey or title-related issues affecting the Land together with a statement as to the flood elevation and zoning for the Land and such other requirements and certification as VIHFA may reasonably require.
- k. ODR shall have received Project Owner's tax identification number, evidence that the Project Owner has been awarded Tax Credits for the Project from the ODR in the amount stated in the reservation, and confirmation that the Project Owner has received a commitment from an investor to purchase the tax credits pursuant to the Project Owner's Organizational Documents.
- l. ODR shall have received and reviewed federal System of Awards Management (SAMs) verification of good standing on the general contractor.
- m. Evidence that all funds awarded to the Project are available and committed to the Project Owner for the Project and evidence of such.

1.1 Conditions to be Met for All Draws. The following are conditions for all draws, and they must be satisfied in the sole and reasonable discretion of ODR (it being understood and agreed that subject to the provisions contained in Section 5 of this Agreement, ODR may withhold from disbursement any amounts required to fund any reserve required by the terms of the Loan Documents):

- (a) VIHA shall supply ODR with a copy of the Draw Request from VIHA (the "Draw Request") in the form provided by ODR requesting disbursement of funds for reimbursement of Eligible Expenses. Each Draw Request shall set forth the amount requested and shall be accompanied by partial releases of liens from the general contractor and all major subcontractors to the effect that such amount has been paid for labor and materials supplied to the Project for the immediately preceding draw period and that general contractor and the major subcontractors claim no lien on the Project, and such other evidence as may be required by this Agreement or by ODR. ODR shall have received for its approval the Draw Request for such disbursement and any other certifications provided for herein or as requested by ODR in its reasonable discretion.
- (b) All conditions precedent to the funding of any Construction Loan shall have been satisfied to the construction lender's satisfaction and there shall be no defaults or events with which could serve as the basis for a default under the Construction Loan.
- (c) There shall always be undisbursed Grant funds which, when combined with the proceeds from other loans (including those listed as part of the Financing Plan) and any equity amounts to be funded by an Investor, are sufficient to complete the construction of the Project. Each Draw Request shall be deemed to be a certification by VIHA to the ODR that, taking into account any retainage, there will be sufficient funds to complete the Project.

ODR shall have received from the Inspector (as “Inspector” is defined in the Loan Documents) or from VIHA a copy of the Inspector’s report prior to the date of such Draw Request and such report shall be satisfactory to ODR in its sole discretion.

- (d) VIHA shall have received an endorsement to the title insurance policy, using standard construction loan disbursement endorsements, updating the status of title to the date of the current Draw Request, and increasing the insurance coverage to an amount equal to the sum of all prior Draw Requests and the current Draw Request, without additional exceptions or objections, except those specifically approved in writing by VIHA.
- (e) ODR shall have received evidence that all certificates of insurance as to Builder's Risk and Hazard Insurance remain in effect.

ODR shall have received a certificate of VIHA included with each Draw Request stating that VIHA has satisfied and is in compliance with all of the terms, covenants and conditions of this Agreement, the Program, and all laws, rules, regulations, ordinances, and codes applicable to the Project, including without limitation CDBG regulations, to the extent not waived in writing. Such certificate shall state that all of VIHA’s representations, warranties and covenants contained in the Application and the Grant Documents are true and correct in all material respects as of the Disbursement Date, and VIHA has performed all of its obligations under the Grant Documents, and no Default, or circumstance or event which with notice or the passage of time, or both would constitute a Default under the Grant Documents shall exist as of the Disbursement Date. and no Default, or circumstance or event which with notice or the passage of time, or both would constitute a Default under the Grant Documents shall exist as of the Disbursement Date.

- (f) If requested by ODR, VIHA shall furnish copies, certified by VIHA to be true and correct, of all subcontracts and purchase orders for the provision of labor and materials for the construction of the Improvements and statements from each subcontractor and supplier, which (1) state the amount of its contract and the amount paid to date and (2) acknowledge full payment (less retainage) of all sums due and payable for all work done and materials supplied.
- (g) If requested by ODR, VIHA shall furnish ODR evidence satisfactory to ODR that Project Owner and general contractor have obtained or can obtain all necessary materials as and when required for the completion of the Project in accordance with the Plans and Specifications. materials as and when required for the completion of the Project in accordance with the Plans and Specification.

1.2 Required Deliverables during construction

- a. VIHA will provide Davis Bacon Weekly Payroll for review and certification.
- b. VIHA will provide Section 3 Reports for contractors and Subcontractors for review on a Monthly basis
- c. VIHA will complete the CDBG-DR Monthly Status Report that will provide details on the progress of the project.
- d. VIHA will provide Monthly Status Report on resident relocation with supporting documentation

- e. VIHA will provide electronic Files documenting tenant income/ demographics to support compliance with meeting the national objective
- f. VIHA will provide a monthly 3rd party inspection report on the status of site activities.
- g. VIHA will provide copies of all project draw requests with supporting documentation monthly
- h. VIHA will provide Monthly Status of Lead and Asbestos/ Remediation/Abatement with supporting documentation as applicable
- i. As funds are disbursed, VIHA will provide disposition and reconciliation of funds awarded prior to each draw request.
- j. VIHA will provide documentation on the disposition of any program income received
- k. VIHA will be guided by the disbursement schedule as provided at closing.
- l. Construction completion will be based on the final construction schedule shared at closing, any deviation from this date will be documented by VIHA and shared with VIHFA.

Conditions to be Met Prior to the Disbursement of the Final Draw.

When the Project has been completed, VIHA shall: (1) supply ODR with the following documents: (2) satisfy the following terms and conditions; and (3) satisfy all the conditions and supply all the information required under the Grant Documents, prior to final disbursement of the Grant proceeds. It is understood and agreed that one percent (1%) of the CDBG-DR loan amount shall be withheld until the below referenced documents have been provided to ODR, and the respective provisions have been met to the satisfaction of ODR.

- (a) Certificates of occupancy for each building and unit in the Project or its equivalent from the applicable governmental authorities for the Territory. Certificate from the Project Owner's architect or engineering firm that the Project has been completed in substantial compliance with the Plans and Specifications for the Project, and [, the Lead-Based Paint Poisoning Protection Act (42 U.S.C. §4831(b)) and the Residential Lead based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856) and implementing regulations at 24 CFR Part 35; and Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR part 8, including but not limited to accessibility standards, with regard to any "substantial alterations" or other "alterations," each as defined in such regulations, as applicable.
- (b) Certificate from the Inspector that the Project has been completed in accordance with the Plans and Specifications in a good and workmanlike manner (the "Certificate of Completion").
- (c) A copy of the ALTA "As Built" Survey, certified to VIHA, showing the buildings and improvements comprising the Project to be within lot lines and building setback lines, all easements, roads, rights of way and matters affecting title, and any other information required by ODR
- (d) A copy of the endorsement to the title insurance policy updating VIHA's title insurance policy to the completion date, increasing the insurance coverage to the full amount of the Loan, containing no additional exceptions not previously approved by VIHA, and evidencing the subordination of any Senior mortgage or lien to the terms and conditions of the CDBG Regulatory Agreement.

- (e) A complete set of "as built" Plans and Specifications.
- (f) Satisfaction and compliance with all of the terms, covenants and conditions contained in the Application, the Program Description, this Agreement, and the other Loan Documents.
- (g) Compliance with all laws, rules, regulations, ordinances, and codes applicable to the Project, including without limitation CDBG regulations, to the extent not waived in writing, applicable to the Project.
- (h) ODR shall have approved the Cost Certification Audit (as defined in the Note) from VIHA and shall have completed the final subsidy layering review of the Project costs.
- (i) ODR shall have received copies of (a) current certificates of insurance as required by this Agreement; (b) reserved; (c) an estoppel certificate from any other lenders providing financing for the Project stating that no defaults have occurred and that its loan terms are being complied with; (d) updated financial information from Project Owner and each Guarantor, including copies of the most recent year's tax returns and audited financial statement, and such other information as ODR deems necessary; (e) a certificate of General Contractor evidencing compliance with all Davis-Bacon requirements; (f) a certificate of Project Owner summarizing all actions taken to comply with the Housing and Urban Project Act of 1969 (Section 3); and (g) a warranty from the construction contractor, acceptable to ODR in its sole discretion, providing a full guarantee for all workmanship and materials, without regard to whether such work or materials was paid by ODR or other funding sources, for a period of not less than twelve (12) months from the date of the Certificate of Completion of each building.
- (j) Copies of current good standing certificates and certified copies of the Organizational Documents for the Project Owner, its general partner(s)/managing member(s), Guarantor(s), and such other parties as required by ODR.
- (k) Evidence that the Low-Income Housing Tax Credits initially awarded to Project Owner is still available and committed to Project Owner for the Project and evidence of an initial contribution from Investor showing an intent to purchase the tax credits.
- (l) Lien-free completion of the Project, as evidenced by final lien waivers in form and substance satisfactory to ODR and its counsel, from the general contractor and all major subcontractors, which may be conditioned on receipt of payments from the final disbursement of Grant proceeds hereunder) and expiration of the lien periods provided by applicable Virgin Islands law, with no liens being filed against the Project. applicable Virgin Islands law, with no liens being filed against the Project.
- (m) Any approval required by any governmental authority to the extent that such approval is a condition to the lawful use and occupancy of the Project.
- (n) A complete list of any contractor(s) or subcontractor(s) who have performed work on, or furnished materials for, the Project.

The following is a list of items/activities that will be required and will occur prior to project close-out:

- a. Final Walk Through with Program staff.
- b. Evidence of green building certification and HUD broadband compliance

- c. Final copies of all insurance certificates- Hazard and Title with applicable update
- d. Final As-Built Survey
- e. Evidence of Compliance with Section 504
- f. Provide copy of the Construction Warranty(s)
- g. Provide Issuance of Certificate of Occupancies from DPNR
- h. Receipt of Low-Income Housing Tax Credit- Cost Certification as applicable.

Payment of Draw Requests. If all conditions precedent to ODR's obligations hereunder and to the Draw Request have been performed to the reasonable satisfaction of Electronic Files documenting tenant income/ demographics. ODR will make the Draw Request, in accordance with this Agreement, payable to VIHA. ODR shall make each Draw Request in the amount justified by the applications, affidavits, and certificates. The proceeds of each Draw Request hereunder shall be applied solely and exclusively to payment or to reimbursement of VIHA for payment of the Total Development Costs and soft costs approved by ODR. Upon request of ODR, VIHA agrees to provide to ODR, at any time and from time to time, receipts, vouchers, statements, bills of sale or other evidence satisfactory to ODR of actual payment(s) of such Total Development Costs approved by ODR. Amounts so applied shall be part of the Loan and secured by the lien of the Mortgage. All disbursements from any "contingency" categories funded by CDBG-DR shall be made at ODR's sole and absolute discretion.

B. Professional Standards

The Subrecipient shall ensure its Contractor/Subcontractor will complete all work in a substantial and workmanlike manner according to standards and practices in the Contractor's/Subcontractor's trade and the work shall conform to all applicable building codes or other codes and regulations which apply to the work to be performed whether covered by the specifications and drawings for the work, including any Contractor/Subcontractor registration requirements. Contractor/Subcontractor shall warrant that the final product of contractor's/subcontractor's work shall be fit for the purposes for which it is intended. Contractor/Subcontractor shall 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 the Subrecipient Department.

C. Defective Work

The inspection of work shall not relieve the Contractor/Subcontractor 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 shall be rejected, notwithstanding that such work and materials have been previously overlooked by the Subrecipient 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 therefore, the Subrecipient shall ensure that the Contractor shall forthwith make good such defect in a manner satisfactory to the Subrecipient and the Grantee Department. The Contractor/Subcontractor shall replace, at its own expense, damaged or unsuitable materials with new material of satisfactory quality.

D. Right to Withhold

If the Work under any Contract, funded through this Agreement, is not performed in accordance with the terms hereof, the ODR reserves the right to withhold out of any payment due to the Contractor/Subcontractor, such amount as may be deemed ample to protect the VIHFA against loss or to assure payment of claims arising there from, and, at their option, the Subrecipient, and the ODR may apply such sum(s) in such a manner as may be deemed proper to secure their interest or to satisfy such claims. The Contractor/Subcontractor shall be immediately notified in writing if the Subrecipient and ODR elect to exercise their right to withhold any amount due to unsatisfactory performance. No such withholding or

application shall be made if and while the Contractor gives satisfactory assurance to the Parties that such claims will be paid by the Contractor's insurance carrier, if applicable, if such a claim is not successful.

E. Insurance

As part of ODR, the Subrecipient carries sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage. If this was to change and/or cease, the Subrecipient at a minimum shall purchase a blanket fidelity bond, or equivalent insurance acceptable to the ODR and VIHFA.

F. Liquidated Damages

The Subrecipient is expected to assess Liquidated Damages against the Contractor/Subcontractor for scope of work not completed under the terms set forth in any Contract, liquidated damages shall be assessed pursuant to its procurement policies. Liquidated damages shall first be deducted from any contract monies due but not yet paid, to the extent available.

G. Federal Labor Standards Provision (DAVIS BACON ACT)

All laborers and mechanics employed on the Project 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 Contractors and all its sub-contractors shall comply with regulations issued pursuant to the labor standards provisions.

For the duration of this Contract, the Subrecipient shall ensure its Contractor and Subcontractors submit copies of weekly payroll forms and cancelled checks to both the Subrecipient, or a designated Labor Standards Coordinator/Compliance Specialist.

H. No Personal Liability of Individual Representatives

No covenant or representation contained in this Agreement shall be deemed to be the covenant or agreement of any official, trustee, officer, agent, or employee of either Party in his or her individual capacity, and neither the officers of either Party nor any official executing this Agreement shall be personally liable with respect to this Agreement or be subject to any personal liability or accountability under this Agreement by reason of the execution and delivery of this Agreement. This clause does not apply to unlawful actions (i.e., fraud) outside of the scope of his/her/they employment/reasonableness.

I. Prohibited Activity / Fund Use

The Subrecipient is prohibited from using, and shall require that its Contractors and Subcontractors, if any, are prohibited from using, the CDBG-DR Funds to be provided herein or personnel employed in the administration of the project for political activities, inherently religious activities, lobbying, political patronage, nepotism activities, and supporting either directly or indirectly the enactment, repeal, modification or adoption of any law, regulation or policy at any level of government. The Subrecipient will comply with the provision of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of certain employees.

The Subrecipient must ensure that its Contractors and Subcontractors seeking reimbursement have complied with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and that they will not and have not used federal

appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. The Subrecipient's Contractors and Subcontractors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.

J. Contractors / Subcontractors/Consultants

The Subrecipient may enter into contracts with third parties for the performance of any part of its duties and obligations in implementing the Projects described in this Agreement. In no event shall the existence of such a contract be operated to release or reduce the liability of the Subrecipient for any breach in its performance or any Contractor's/Subcontractor's duties. Additionally, all contracts that the Subrecipient enters into with Contractors/Subcontractors/Consultants shall be deliverable based contracts.

K. Applicability of Provisions Included/Excluded From the Agreement

Failure to expressly reference any applicable federal or State regulation, statute, public law, Executive Order, agency directive or OMB Circular will not exempt either Party from compliance with such applicable law or regulation, and all applicable provisions not included will be deemed as inserted herein.

Likewise, execution of this Agreement will not obligate either Party to comply with any regulation, statute, public law, Executive Order, agency directive or OMB Circular, if not otherwise applicable to the use of the CDBG-DR funds provided herein or to the projects performed under this Agreement, even though it may be referenced in this Agreement or in the Appendices.

L. Subrogation & Assignment

If the Subrecipient receives funds from the CDBG-DR Program and whether, before, during or after Project initiation, funds from other sources are provided to the Subrecipient for all activities of the projects under this Agreement resulting in a potential duplication of benefits regarding the Project funds, the Subrecipient agrees to notify the Grantee regarding such potential duplication. As provided in this Agreement in Section X (B) (Section 312 of the Stafford Act), the Subrecipient agrees to reimburse the Grantee if it later receives other disaster assistance for the same purposes as under this Agreement.

M. No Third-Party Beneficiary

Nothing herein is intended, and nothing herein may be deemed to create or confer any right, action, or benefit in, to, or on the part of any person not a party to this Agreement. This provision shall not limit any obligation which either Party has to HUD in connection with the use of CDBG-DR funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

N. No Assignment

Neither Party may transfer or assign this Agreement or transfer or assign any of its rights or assign any of its duties under the Agreement without the express prior written consent of the other Party. However, if the Parties mutually agree to an assignment, all rights and obligations set forth herein shall endure to the benefit of the Parties and to their respective successors and assigns.

O. Copyright

No materials, including but not limited to reports, maps, documents, or plans produced as a result of this Agreement, in whole or in part, shall be available for copyright purposes to any other person. Any such material produced as a result of this Agreement that might be subject to copyright is the property of and all rights shall belong to the Parties unless the Parties agree otherwise in writing.

Software and other materials owned by the Subrecipient or a third party prior to the date of this Agreement and not related to this Agreement shall be and remain the property of the Subrecipient or third party.

The Parties will, where either Party believes necessary, provide information to undertake their responsibilities described herein. All records, reports, documents, and other materials delivered or transmitted shall remain the property of the transmitting Party and shall be returned, upon request, at termination, expiration or suspension of this Agreement.

P. Delay or Omission

No delay or omission in the exercise or enforcement of any right or remedy accruing to either Party under this Agreement shall impair such right or remedy or be construed as a waiver of any breach theretofore or thereafter occurring. The waiver of any condition or the breach of any term, covenant, or condition herein or therein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or any other term, covenant or condition herein or therein contained.

Q. Severability

The terms and provisions of this Agreement are severable. Unless the primary purpose of this Agreement would be frustrated, the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other term or provision of this Agreement. The Parties intend and request that any judicial or administrative authority that may deem any provision invalid, reform the provision, if possible, consistent with the intent and purposes of this Agreement, and if such a provision cannot be reformed, enforce this Agreement as set forth herein in the absence of such provision.

R. Guidance

1. Notices

Any notice required to be given under, or in connection with this Agreement, shall be in writing and shall be hand-delivered, mailed, emailed or facsimiled. All such communications shall be transmitted to the addresses or numbers set forth below, or such other address or numbers as may be hereafter designated by either Party in written notice to the other Party compliant with this Section.

To the ODR:

Attn: Adrienne L. Williams Octalien, Director
Mailing Address: 402 Strand Street, Frederiksted, VI 00840
E-mail: awilliams@usvipfa.com

To the GRANTEE (VIHFA):

Attn: Ann Hanley, CDBG-DR Program Administrator

Mailing Address: 56 & 56A King Street, Christiansted, VI 00820

E-mail : ahanley@vihfa.gov

Phone : (340)772-4432 Ext. 3260

To the SUBRECIPIENT:

Attn: Dwayne Alexander, Executive Director

Mailing Address: 9900 Oswald Harris Court, St.

Thomas VI 00802

Email: dalexander@vihousing.org

Phone: (340) 777-8442

With Copy To:

Eugene Jones, Jr., Executive Director

Virgin Islands Housing Finance Authority 3202

Demarara Plaza, Suite 200, St. Thomas, VI 00802

E-mail :

<mailto:ejones@vihfa.gov>

Phone : (340)777-4432

2. Governing Law and Venue

This Agreement shall be governed by and construed in accordance with all applicable Federal and Territorial laws. Any legal action resulting from the implementation of this Agreement shall be brought and adjudicated in the U.S. Virgin Islands.

This Agreement and any amendments, exhibits or other formally incorporated documents constitutes the entire understanding and reflects the entirety of the undertakings between the Parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. There is no representation or warranty of any kind made in connection with the transactions contemplated hereby that is not expressly contained in this Agreement.

3. Entire Agreement



This Agreement and any amendments, exhibits or other formally incorporated documents constitutes the entire understanding and reflects the entirety of the undertakings between the Parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. There is no representation or warranty of any kind made in connection with the transactions contemplated hereby that is not expressly contained in this Agreement.

4. Binding Effect

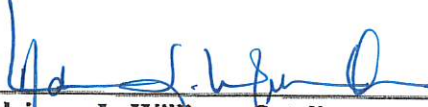
All the terms, conditions, and covenants to be observed and performed by the Parties shall be applicable to, and binding upon, their successors and/or assigns.

IN WITNESS WHEREOF: the parties hereto have hereunto set their hands and seals on the day and year first above written.

WITNESSES:


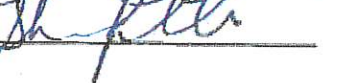
(1) 
(2) 


VIRGIN ISLANDS PUBLIC FINANCE,
OFFICE OF DISASTER RECOVERY

BY: 
Adrienne L. Williams-Octalien
Director, USVI Office of Disaster Recovery

DATE: 12/19/24

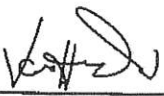
WITNESSES:

(1) 
(2) 

Virgin Islands Housing Authority
BY: 
Dwayne Alexander, Executive Director

DATE: 12/19/24

REVIEWED AND APPROVED FOR LEGAL SUFFICIENCY


Name and Title

Special Counsel CBDG

12/18/2024

Date

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EXHIBIT A SCOPE OF SERVICES

The Subrecipient will prepare and submit all necessary documentation related to the program operations for ODR review and approval by VIHFA CDBG-DR except necessary overall grant oversight documentation. The Project documentation shall demonstrate compliance with all eligibility requirements established in the VIHFA CDBG-DR Subrecipient Management Manual, Financial Management Policy and Procedures, Procurement Policy and Procedures, Compliance and Monitoring Policy and Procedures, and program specific policy and procedures.

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

Task 1. Demolition and Reconstruction

Activity: Donoe Redevelopment

The proposed project entails New Construction through excavation and new earthwork for redeveloping the vacant and former Estate Donoe Apartments public housing site, new roads, foundations, utility systems, 1, 2- & 3-bedroom apartments with connection to photovoltaic panels with battery back-up and micro-turbine generators.

Additionally, part of the site work will include the partial removal of thousands of cubic yards of crushed concrete and rebars that have remained on this vacant property since its demolition in 2002. The buildings will be constructed as hardened and resilient buildings with reinforced concrete walls at the exterior with impact-resistance glass windows and sliding glass doors. The roof will also be constructed to withstand Category 5 hurricane winds, using engineered truss systems and elastomeric coated roofs. The project is also designed on a property with a sloped grade, and it is located outside of the tsunami zone. Vehicular and pedestrian access to the site will be designed along the existing roadways which remained from the development that previously existed at the same location.

The Estate Donoe Redevelopment Project (Estate Tutu Phase I) is a proposed 84-unit new affordable rental community in St. Thomas, USVI (“the “Project”). The Project provides new construction of 84 walk-up apartments, including 44 one-bedroom units at 681 sq ft, 24 two-bedroom units at 1013 sq ft, 16 three-bedroom units at 1187 sq ft, and an onsite community building. The Virgin Islands Housing Authority (VIHA) is proposing 14 buildings, with 5 apartments per building that vary from three to five stories. The units of replacement rental housing for the residents of the Estate Tutu Hi Rise Apartments public housing development. 100% of the Project’ units will be affordable to low or very low-income individuals and families. There will be a separate non-residential community building with a multi-purpose community room and exercise facilities including management/leasing offices.

<u>Deliverable:</u>	<u>Compliance Period</u>	
1. 14 Buildings in active construction:	12/1/2024	6/30/2026
a. 7 buildings in active construction by April 2025		
b. 7 buildings in active construction by July 2026		
2. Complete construction of 84 rental units by 2026	1/15/2025	7/31/2026
Completion of 4 buildings every quarter until June 2026	9/1/2025	6/30/2026
3. 84 LMI Beneficiaries occupy newly constructed units	10/1/2025	8/1/2026

Task 2. Rehabilitation

Activity: Walter IM Hodge Pavilion

The Walter I.M. Hodge Pavilion, built in 1970, revitalization project, herein referred to “Project” shall rehabilitate 20 buildings that contain 248 dwelling units and conversion of two dwelling units into an on-site senior center. The 248 units, consisting of 36 one-bedroom, 38 two-bedroom, 37 three-bedroom and 66 four-bedroom units. This project will also include the rehabilitation of the community center/management offices, the exterior of the twenty residential buildings, new recreational amenities, a senior center, site beautification and resiliency measures.

The Walter IM Hodge community includes interior and exterior work rehabilitation and renovation. Within the apartments the scope addresses interior rehabilitation, non-hazardous abatement, new plumbing and electrical wiring, new energy-efficient kitchen and bathroom fixtures, new floor tiles and painting, new kitchen cabinets, and smoke detector upgrades. Some units will have asbestos and lead-based paint remediation, as well as mold abatement completed as identified in the apartments from environmental assessments.

The exterior of the building will be replaced with new metal, beautified with a new façade, strengthened with hurricane resistant doors and windows, and install new roof elements. The building rehabilitation will include selective demolition of some building elements, including interior walls, kitchens, bathrooms, electrical and plumbing connections. Including the remodeling of housing unit floorplans, and rehabilitating the interior with new kitchens, flooring, bathrooms, doors, electrical, and plumbing.

Site work includes site beautification and improvements including parking areas, replacing all access walkways, new residential amenities (play gyms, seating areas), new site lighting, installing dumpster enclosures, new chain link fencing, repaving parking lot and curbs, replacing underground utility lines (sewer and water), rehabilitating cistern, new drainage at foundation, new guardrails, and repairing LPG tank enclosures.

Applicants also plan to install security cameras throughout the community, install a solar panel array and multiple backup generators. The proposed mitigation for this project is to upgrade gutters, vinyl flooring, concrete sealer, door weatherstripping, high wind rated doors, and high impact jalousie windows.

<u>Deliverable:</u>	<u>Compliance Period</u>	
1. 20 buildings in active construction by 4 th quarter of 2023	09/01/2022	10/31/2024
2. Complete rehabilitation of rental units:	9/01/2022	10/30/2023
a. 4 buildings completed at the end of quarter November 2023		
b. 4 buildings completed by end of 4 th quarter 2023		
3. 4 buildings completed by the end of 1st quarter 2024		
4. 3 buildings completed by the end of 2 nd quarter 2024		
5. 5 buildings and 1 community center completed by end of 4 th quarter 2024		
6. LMI Beneficiaries occupy rehabbed units	10/1/2023	12/31/2024

Task 3. Rehabilitation

Activity: **D. Hamilton Jackson Terrace Revitalization**

D. Hamilton Jackson Terrace, originally constructed in 1954, is located at Parcel No. 13-D, Rem Parcel 13 Consolidated Estate Richmond, Company Quarter, St. Croix, and sits on approximately 6.889 acres. The Project 8/1/2026, owned by VIHA will encompass the rehab of one hundred and six units along with the community center. The scope of work within the apartments will include interior rehabilitation and non-hazardous abatement work, to include new plumbing and electrical wiring, new energy-efficient kitchen and bathroom fixtures, new floor tiles and painting, new kitchen cabinets, and smoke detector upgrades; also, some units will have asbestos and lead-based paint remediation, as well as mold abatement completed as identified in the apartments from environmental assessments. There will be exterior rehabilitation of all buildings and site improvements throughout the Project. Along with new roofs on each building and planned solar photo-voltaic (PV) arrays, there will also be additional resilience features incorporated into the Project. New hurricane-wind-resistant windows and entry doors will be installed. There will also be new site beautification measures, which will include landscaping (incorporating improved drainage to include some flood mitigation), seating areas and recreational facilities, new parking lots, as well as better defined parking throughout.

The Project includes site mitigation measures for future floods/hurricanes, including hurricane-impact windows, doors, roofs will be redesigned to withstand hurricane-impact winds, as well as facade upgrades to help strengthen the building envelope, provide better connection of gutters and downspouts, and landscaping incorporated into storm mitigation/drainage measures. The existing buildings will be transformed to become hardened and resilient buildings for future hurricanes.

The overall revitalization includes sitework to create new parking areas, relocating walkways and recreational spaces, including utility lines. There is selective demolition work to remove existing concrete sidewalks/stairs, curbing, fencing, benches, bollards, and sanitary/water lines/fire hydrants. New site utility work will include storm and sanitary piping, and fire hydrants. New sidewalks, parking lots, curbs, stairs, signage, fencing, landscaping including seating areas and mailboxes are included.

In addition, the replacement of existing utility lines with new/higher capacity systems will be included in the Project. Water supply and waste lines/stacks will be replaced. A new cistern / rain capture system will be installed to accommodate the community/management office building. There is no negative impact to existing main potable water, sewer or electrical utility systems, they will be improved for higher capacity and to ensure proper functioning for the future.

<u>Deliverable:</u>	<u>Compliance Period</u>	
14 buildings in active construction by 4 th quarter 2025	01/15/2025	6/30/2026
Complete rehabilitation of rental units:	1/20/2025	6/30/2026
4 buildings completed every quarter until September 2026		
106 LMI Beneficiaries occupy rehabbed units	10/1/2025	8/1/2026

EXHIBIT B
Project Deliverables: Key Activities, Timeliness, Performance Goals, and Budget

1. **Project Name:**

Donoe Redevelopment Demolition and Reconstruction

2. **Project Award Amount:** **\$80,729,958.00**

3. **Period of Performance:** 1/15/2025- 8/1/2026

4. **National Objectives**

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives.

Both Parties certifies that all activities carried out under this agreement shall meet the following national objective(s) and satisfy the following criteria:

Benefiting Low-Moderate Income Individual to include the subcategories of Low-Moderate Housing (LMH), 70% of funds must be used on LMI.

5. **Key Activities, Timeliness & Performance**

The Subrecipient shall complete the activities required under this agreement in accordance with the following timeframes and performance goals associated with each of the activities as outlined in the table below.

1. **Project Name:**

Walter IM Hodge Pavilion

2. **Project Award Amount:**

\$22,650,000.00

3. **Period of Performance:** 9/1/2022- 12/31/2024

4. **National Objective:**

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives.

Both Parties certifies that all activities carried out under this agreement shall meet the following national objective(s) and satisfy the following criteria:

Benefiting Low-Moderate Income Individual to include the subcategories of Low-Moderate Housing (LMH), 70% of funds must be used on LMI.

5. **Key Activities, Timeliness & Performance**

The Subrecipient shall complete the activities required under this agreement in accordance with the following timeframes and performance goals associated with each of the activities as outlined in the table below.

1. **Project Name:**

D Hamilton Jackson Terrace Revitalization

2. **Project Award Amount:** **\$47,220,000.00**

3. **Period of Performance:** 1/15/2025 - 8/1/2026

4. **National Objectives**

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives.

Both Parties certifies that all activities carried out under this agreement shall meet the following national objective(s) and satisfy the following criteria:

Benefiting Low-Moderate Income Individual to include the subcategories of Low-Moderate Housing (LMH); 70% of funds must be used on LMI.

5. **Key Activities, Timeliness & Performance**

The Subrecipient shall complete the activities required under this agreement in accordance with the following timeframes and performance goals associated with each of the activities outlined in the table below.

TABLE 1: Subrecipient’s Established Performance Goals and Indicators

ACTIVITY	Performance Goal	Key Performance Indicators	Source Verification	Estimated Start	Estimated Completion
Walter IM Hodge					
	20 Buildings in Active Construction by 4 th quarter 2023	20 buildings in construction by 12/31/2023	Monthly Status Reports, CDBG-DR Monthly Report, Inspection Reports	9/1/2022	10/31/2024
Complete Rehabilitation of Rental Bldgs./Units 248 units/20 Bldgs.	Completion of 20 buildings by November 2024	Phase 1: 4 buildings end of quarter November 2023	Monthly Status Reports, Inspection Reports; Certificate of Occupancy, CDBG-DR Monthly Reports	9/1/2022	10/30/2023
		Phase 2: 4 buildings completed each quarter by 4 th quarter 2023		9/1/2022	1/31/2023
		Phase 3: 4 buildings completed at end of 1 st quarter 2024		1/1/2023	3/1/2024
		Phase 4: 3 buildings completed at end of 2 nd quarter 2024		7/1/2023	11/1/2024
		Phase 5: 5 buildings and 1 Community Center completed be end of 4 th quarter 2024		12/1/2023	11/1/2024
LMI Beneficiaries Occupying Rehabbed Units.	248 LMI Households Occupying Units	100% occupancy of units by project completion	Rent Rolls, Relocation Reports, Monthly Status Reports & LMI Files	10/1/2023	12/31/2024
Donoe Redevelopment					
Active Construction	14 Buildings in Active Construction by December 2024	7 buildings in active construction by April 2025 and remaining 7 buildings in active construction by July 2025	Monthly Status Reports, CDBG-DR Monthly Report, Inspection Reports	12/1/2024	6/30/2026
Complete new construction of Rental Units	Completion of 84 new construction affordable housing units by 2026	Completion of 4 buildings every quarter until June 2026	Monthly Status Reports, Inspection Reports, Certificate of Occupancy, CDBG-DR Monthly Reports	9/1/2025	6/30/2026
LMI Beneficiaries Occupying Units.	84 LMI households Occupying the units by March 2027	Occupancy of 22 units every seven months until September 2026	Monthly Status Reports & LMI Files	10/1/2025	8/1/2026
D. Hamilton Jackson 9% and 4%					
Active Construction	14 Buildings in Active Construction by 4 th quarter 2025	14 buildings in construction by 1/20/2025	Monthly Status Reports, CDBG-DR Monthly Report, Inspection Reports	1/15/2025	8/1/2026

Complete Rehabilitation of 14 Buildings/106 Units	Completion of 14 buildings by September 2026	4 buildings completed every quarter until September 2026	Monthly Status Reports, Inspection Reports; Certificate of Occupancy, CDBG-DR Monthly Reports	9/1/2025	6/30/2026
LMI Beneficiaries Occupying Rehabbed Units.	106 LMI Households Occupying Units	100% occupancy of units by project completion	Rent Rolls, Relocation Reports, Monthly Status Reports & LMI Files	10/1/2025	8/1/2026

Reporting Benchmarks

The Subrecipient shall submit regular monthly and quarterly progress and financial reports to the Grantee detailing the status of deliverables with a breakdown on project progress and meeting performance goals and timelines. Monthly reports are due by the 30th of each month for the preceding month. The subrecipient shall meet the following benchmarks and report as indicated:

At a minimum, Subrecipients should submit payment for project costs accordingly:

2nd Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 5% of CDBG-DR Funds

6th Reporting Month of Notice to Proceed for Construction Subrecipient must have submitted for reimbursement 20% of CDBG-DR Funds

12th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 45% of CDBG-DR Funds

18th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 65% of CDBG-DR Funds

24th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted 85% of CDBG-DR Funds for reimbursement

30th Reporting Month of Notice to Proceed for Construction: Subrecipient must have submitted for reimbursement 95% of CDBG-DR Funds

6. Budget

The Subrecipient shall complete all activities in this agreement in accordance with the appropriate project budget below. Each project must receive a preliminary review and approval from ODR and final approval from VIHFA prior to moving to an environmental review. Any amendments to the budget(s) must be approved in writing by both the Grantee and the Subrecipient. However, in no case shall any such amendments, revisions or reallocations exceed the total allocation of CDBG-DR Funds without prior written consent of the Grantee. All budget costs must be reasonable, eligible, and allowable.

TABLE 2: Project Budget

7. Performance and Timeline Requirements

The Subrecipient shall complete the required activities under the Program Delivery/Deliverables, including 100% expenditure of allocated funds, within the timeframes outlined in this Appendix.

The Subrecipient agrees to comply with the projects’ draw-down request terms and agrees to use best efforts to comply with benchmarks as outlined in the Reporting section of this agreement. Grant Funds not anticipated to be expended by the outlined deadline, or extended, are subject to recapture and reallocation to other eligible CDBG-DR Projects areas and/or Territorial agencies.

This agreement and its terms and conditions shall remain in effect during any period that the Subrecipient has control over CDBG-DR funds provided through this agreement, including program income as defined in 24 CFR 570.489(e), 83 FR 5844, and 83 FR 40314.

Project Name	Project Type	Cost (Direct)
Donoe Redevelopment	Demolition/Reconstruction	\$ 80,729,958
Walter IM Hodge Revitalization Project	Rehabilitation	\$ 22,650,000
D. Hamilton Jackson Terrace	Rehabilitation	\$ 47,220,000.
	Total	\$ 150,599,958

EXHIBIT C

HUD GENERAL PROVISIONS (“HUD RIDER”)

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, 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 Agreement shall be deemed to be inserted herein and the Agreement 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 Agreement shall forthwith be amended in writing to make such insertion or correction.

2. STATUTORY AND REGULATORY COMPLIANCE

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

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

4. REPORTING REQUIREMENTS

The Contractor/Subcontractor shall complete and submit all reports, in such form and according to such schedule, as may be required by ODR. The Contractor/Subcontractor shall cooperate with all VIHFA 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 three (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 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:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e. 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 Subrecipient in any resulting invention in accordance with 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

9. ENERGY EFFICIENCY

The 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 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 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 Contractor/Subcontractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 94), as amended, and any applicable regulations.

The 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 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 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 Contractor/Subcontractor shall notify ODR as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 24 C.F.R. § 570.489 (g) and (h); 24 C.F.R. 570.611. The 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 Contractor/Subcontractor shall provide ODR with any additional information necessary for ODR to fully assess and address such actual or potential conflict of interest. The Contractor/Subcontractor shall accept any reasonable conflict mitigation strategy employed by ODR and approved by VIHFA, 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 Contractor/Subcontractor shall solicit for and contract with such 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:

- a. Placing unreasonable requirements on firms in order for them to qualify to do business,
- b. Requiring unnecessary experience and excessive bonding,
- c. Noncompetitive pricing practices between firms or between affiliated companies,
- d. Noncompetitive awards to consultants that are on retainer contracts,
- e. Organizational conflicts of interest,
- f. 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
- g. Any arbitrary action in the procurement process.

The Contractor/Subcontractor represents to ODR that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

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

17. ASSIGNABILITY

The 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 ODR.

18. INDEMNIFICATION

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

19. COPELAND "ANTI-KICKBACK" ACT (Applicable to all construction or repair contracts)

Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts

covering work under this 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 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 contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable Federal laws and regulations pertaining to labor standards.

21. DAVIS-BACON ACT

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

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

23. TERMINATION FOR CONVENIENCE

ODR may terminate this contract at any time by giving at least thirty (30) days' notice in writing to the Contractor/Subcontractor. If the contract is terminated by ODR as provided herein, the Contractor/Subcontractor will be paid for the time provided and expenses incurred up to the termination date subject to approval by VIHFA.

24. SECTION 503 OF THE REHABILITATION ACT OF 1973

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

Equal Opportunity for Workers With Disabilities

A. The 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 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:

1. Recruitment, advertising, and job application procedures.
2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.
3. Rates of pay or any other form of compensation and changes in compensation.
4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
5. Leaves of absence, sick leave, or any other leave.
6. Fringe benefits available by virtue of employment, whether or not administered by the Subcontractor.
7. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.
8. Activities sponsored by the contractor including social or recreational programs; and
9. Any other term, condition, or privilege of employment.

B. The 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 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 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 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 Contractor/Subcontractor must ensure that applicants and

employees with disabilities are informed of the contents of the notice (e.g., the 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 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 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 Contractor/Subcontractor will include the provisions of this clause in every subcontract or purchase order, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor/Subcontractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may enforce such provisions, including action for noncompliance.

25. EXECUTIVE ORDER 11246

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

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

A. The Contractor/Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The 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 Contractor/Subcontractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The 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 Contractor/Subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

D. The 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 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 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 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 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 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. 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 contractor/subcontractor. The 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 contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor/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 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 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 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 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 (EPA) 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 contractors and subcontractors shall furnish to the owner, the following:

A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40

C.F.R. 32 or on the List of Violating Facilities issued by the 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 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 Contractor will take such action as the government may direct as a means of enforcing such provisions.

28. LOBBYING

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

(3) The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering 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 Contractor/Subcontractor shall comply with VIHFA bonding requirements, unless they have not been approved by HUD, in which case the Contractor/Subcontractor shall comply with the following minimum bonding requirements:

(1) *A bid guarantee from each bidder is 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 as assurance 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 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 Contractor's/Subcontractor's obligations under such contract.

(3) *A payment bond on the part of the 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

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

B. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which implements section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or any other impediment that would prevent them from complying with the part 135 regulations.

C. The Contractor/Subcontractor agrees to send to each labor organization or representative of workers with which the Contractor/Subcontractor has a collective bargaining agreement or other

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

D. The *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 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.

E. The *Contractor/Subcontractor* will certify that any vacant employment positions, including training positions, that are filled: (1) after the *contractor/subcontractor* is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the *Contractor/Subcontractor's* obligations under 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.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section

7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

31. FAIR HOUSING ACT

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 based on race, color, religion, sex, national origin, handicap, or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals based on 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. Please visit http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11868.pdf for more information.

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 Subrecipient s' 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, 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. Standards for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services are outlined in Title 31, Chapter 23, Sections 231-251 of the Virgin Islands Code and Title 31, Chapter 23, of the Virgin Islands Regulations.

34. CHANGE ORDERS TO CONTRACTS

Change orders are issued when the initial agreed upon pricing or work to be completed requires modification. First, the contractor must complete a Change Order Request Form. This form and supporting documentation must be delivered to the 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 contractor for execution. Change orders are only invoiced on the final draw and categorized as "change order." 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 Subrecipient.

38. FLOOD INSURANCE REQUIREMENTS

Grantees and Subrecipient s 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- ELIGIBLE REHABILITATION 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. 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 Fed. Reg. 40314 (Aug. 14, 2018); 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 Fed. Reg. 5844 (Feb. 14, 2018). Additionally, per 83 Fed. Reg. 5844, the provisions at 24 C.F.R. §§ 570.494 and 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 Subrecipient's control acquired in whole or in part with CDBG funds in excess of \$25,000.00. The Subrecipient 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 Subrecipient may either retain or dispose of the property for the changed use if the Subrecipient'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, Subrecipient s, 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 the release of private information. If a contractor or employee should experience any loss or potential loss of PII, the program shall be notified immediately of the breach or potential breach.

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 Subrecipient 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 consistently 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 relocation assistance in accordance with § 42.350.

49. COMPLAINTS AND APPEALS

Citizen comments on VIHFA'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.vihfa.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, contractors, and subcontractors. As such, throughout the application, planning, design, and implementation phase of the program, VIHFA 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 contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 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.

Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil and criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

EXHIBIT D GENERAL CONTRACT CONDITIONS

In addition to applying to this Agreement, Subrecipient shall include the provisions of this Section in each Third-Party contract as applicable.

A. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating, or establishing the relationship of employer/employee between the Parties. In the event that Agency contracts with third parties, including any Subrecipient or Contractor, to perform any of the services to be performed hereunder, such third parties shall at all times remain an "independent contractor" with respect to the provision of such services. The VIHFA shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, with respect to such third-party contracts as or Grant Fund Sub-Agreements.

B. HOLD/HARMLESS/INDEMNITY CONTRACTORS/SUBCONTRACTORS

To the extent that Agency is authorized to and utilizes the services of any third parties in performance of its duties and obligations in implementing the Projects described in this Agreement, any contract entered into shall contain a provision that the Contractor and/or Subcontractor shall hold Agency and the VIHFA harmless and defend and indemnify the Agency and the VIHFA against any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Contractor and/or Subcontractor's performance or nonperformance of the services.

C. MECHANIC'S LIEN

Contractor agrees to protect, defend, and indemnify Agency and VIHFA from any claims for unpaid work, labor, or materials with respect to Contractor's Performance. Final payment shall not be due until the Contractor has delivered to the Agency a complete release of all liens for work completed arising out of Contractor's Performance or a receipt in full covering all labor and materials for which a lien could be filed or a bond satisfactory to Agency indemnifying Agency against any and all liens.

D. WORKER'S COMPENSATION

Agency shall require its Contractors/Vendors to provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of any projects undertaken thereto under this Agreement.

E. PRELIMINARY INSPECTION

Prior to request for final inspection, the Contractor shall notify both VIHFA and SUBRECIPIENT of the anticipated completion date so that any major defects or deficiencies may be pointed out to the Contractor for correction prior to the final inspection.

F. FINAL INSPECTION

The Scope of Work shall be considered complete upon acceptance by Agency after a final inspection

conducted by Subrecipient and/or ODR (including VIHFA's request to also conduct a final inspection).

G. MAINTENANCE OF AREA/FINAL CLEAN-UP & REMOVAL OF DEBRIS

Contractor agrees to maintain the work area free from major obstructions/hazards to the greatest extent possible, and to ensure safe access to the project site at all times. The contractor agrees to remove all construction debris and surplus material from the property. The Contractor shall remove all construction related debris material from the construction site.

H. INSURANCE & BONDING

Agency shall require a Contractor to maintain liability insurance 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 Contractor's operation under a contract whether such operations be by the Contractor or by any Subcontractor or anyone directly or indirectly employed by any of them. This specific coverage amount for each project shall be identified in the ensuing contract for each specific project and the Contractor shall, upon request, present the Agency with a certificate of such insurance.

I. AFFIRMATIVE ACTION PLAN

To comply with Section 3 and Executive Order 11246, the U.S. Department of Housing and Urban Development requires that all contractors develop and implement an Affirmative Action Plan. This plan is a series of forms and statements, which shows specific steps taken by the 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 Agency, ODR and VIHFA.

J. SAFETY

Agency shall always exercise proper precautions 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. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by 29 CFR 1926, shall be observed and the Agency shall take or cause to be taken such additional safety and health measures as the Agency may determine to be reasonably necessary.

The Agency shall provide safety insurance for its employees and shall require all Contractors and Subcontractors to provide safety insurance for their employees.

K. SECTION 106 COMPLIANCE

The 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 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 State of Historic Preservation Office of the Department of Planning and Natural Resources before undertaking any work.

L. CONTRACTOR’S REPRESENTATIONS

The Contractor shall warrant that it is fully informed regarding all the conditions affecting the work to be done and labor and materials to be furnished for the completion of the Contract. Contractor shall further represent that it is fully equipped, competent, and capable of performing the work and is available to perform such work.

The Contractor will warrant that it, and any subcontractors, is eligible to receive contract awards using federally appropriated funds and that it is not suspended or debarred from entering contracts with any federal agency.

In the event the Contractor, or sub-contractor, misrepresents its eligibility to receive contract awards using federal funds, Agency agrees that said contractor or sub-contractor shall not be entitled to any payment for any work performed under this Contract and that it shall require the contractor or sub-contractor to promptly reimburse any progress payments heretofore made.

Nevertheless, this provision does not discharge Agency, ODR or VIHFA from their respective due diligence and undertaking its own independent search under “SAMS” to determine a Contractor’s or sub-contractor’s eligibility to receive contract awards using federal funds.

M. FALSE CLAIMS

The Contractor/vendor will warrant that it shall not, with respect to this Contract, make or present any false claim upon or against the Agency. The Contractor will acknowledge that making such a false, fictitious, or fraudulent claim is an offense under the Virgin Islands law.

The Contractor will acknowledge that its Contract is funded, in whole or in part, by federal funds. The Contractor will warrant that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. The Contractor will acknowledge that making such false, fictitious, or fraudulent claim is a federal offense.

EXHIBIT E
NON- CONFLICT OF INTEREST: SUBRECIPIENT


Subrecipient Non-Conflict of Interest Certification

By signing this form, the Subrecipient certifies that:

1. To the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to an organizational or personal conflict of interest, for the organization or any of its staff, and that the Subrecipient has and will disclose all such relevant information if such a conflict of interest appears to exist. Further:
 - No staff of the Virgin Islands Housing Authority has any financial interest, whether implicit or explicit, in this agreement or potential contracts, purchases, or any other commercial transactions that may derive from this agreement.
 - No staff member have requested of the authorized representative/organization or accepted from the authorized representative/organization, implicit or explicit, for any of their family unit or persons: gifts, bonuses, favors, services, donations, loans, or any item of monetary value in exchange for activities and actions of this agreement.
 - No staff member have accepted anything of economic value based on this agreement from any person or entity as payment for favorable decision to that person or entity for any activity that may derive from this agreement.
 - No staff member has requested of the authorized representative or organization, implicit or explicit, for themselves, any member of their family unit, any other person, business, or entity, something of monetary value including gifts, loans, promises, favors, or services in exchange for performance of the staff member in my favor or of my organization.
2. The Subrecipient has and will continue to exercise due diligence in identifying and removing or mitigating, to the ODR and VIHFA's satisfaction, potential or apparent conflict of interest.

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

Name and Title of Authorized Representative


Signature

12/19/24
Date

Dwayne Alexander, CPM
Print Name

Executive Director
Title