



COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR)  
UNDERWRITING SERVICES – (RE-GROW; SBF; HBA)

AMENDMENT A to the  
SUBRECIPIENT AGREEMENT  
BETWEEN THE  
PUERTO RICO DEPARTMENT OF HOUSING  
AND  
PATHSTONE CORPORATION



  
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This **AMENDMENT A** TO THE SUBRECIPIENT AGREEMENT (hereinafter, the "**Amendment**") is entered into this 5 day of May, 2022, by and between the **PUERTO RICO DEPARTMENT OF HOUSING** (the "**PRDOH**"), a public agency of the Government of Puerto Rico created under Act No. 97, of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*, known as the "Department of Housing Organic Act" (the "Organic Act"), with principal offices at 606 Barbosa Ave., San Juan, Puerto Rico, represented herein by its Secretary, William O. Rodríguez Rodríguez, of legal age, attorney, single, and resident of San Juan, Puerto Rico; and the **Pathstone Corporation** (the "**Subrecipient**"), a nonprofit corporation with principal offices at 400 East Avenue Rochester, New York, represented herein by its Director of Housing Programs, María G. Rodríguez Collazo, of legal age, single, and resident of Guayama, Puerto Rico collectively the "**Parties**".

**I. RECITALS AND GENERAL AWARD INFORMATION**

**WHEREAS**, on May 17, 2021, the Parties entered into a Subrecipient Agreement for the Re-Grow PR Urban-Rural Agriculture Program (**Re-Grow**), Small Business Financing (**SBF**) Program and Homebuyer Assistance Program (**HBA**) for Underwriting Services to support and implement the objectives of the aforementioned Programs. For a period of **twelve (12) months** from the day of its execution, ending on May 16, 2022, for **designated seven hundred twenty-four thousand one hundred sixty-seven dollars and forty-nine cents (\$724,167.49)**, registered as **Contract Number 2021-DR0212** (hereinafter, "**the Agreement**").

**WHEREAS**, as per Section IX (A) of the Agreement, the Agreement may be amended in writing and signed by a duly authorized representative of each party. Nonetheless, the amendment shall not invalidate the Agreement, nor release the Parties from their obligations under the Agreement;

**WHEREAS**, this AMENDMENT A is not intended to affect, nor does it constitute an extinctive novation of the obligations of the parties under the AGREEMENT but it is rather a modification and amendment of certain terms of the AGREEMENT, in addition the **Exhibit A** (Scope of Work), **Exhibit B** (Timelines and Performance Goals), **Exhibit C** (Key Personnel), **Exhibit D** (Budget), **Exhibit E** (Funds Certification), **Exhibit F** (HUD General Provisions) and **Exhibit H** (Subrogation and Assignment Provisions) of the AGREEMENT, attached to the aforementioned Agreement;

**WHEREAS**, the PRDOH has the legal power and authority, in accordance with its enabling statute, the Organic Act, as amended, *supra*, the federal laws and regulations creating and allocating funds to the CDBG-DR program, and the current Action Plan, to issue and award the subaward, enter and perform under the executed SUBRECIPIENT AGREEMENT; and,

**WHEREAS**, the Subrecipient has duly adopted the Resolution of the Board of Directors identification No. #6 dated September 29, 2012 (certified by its secretary Rosemary Laboy Sanchez, dated April 29, 2021), authorizing the Subrecipient by its Director of Housing Programs, María G. Rodríguez Collazo to enter into this Agreement with the PRDOH, and by signing this Agreement, the Subrecipient assures PRDOH that Subrecipient shall comply with all the requirements described herein.

**NOW THEREFORE**, in consideration of the mutual promises and the terms and conditions set forth in the AGREEMENT, the PRDOH and the SUBRECIPIENT agree to execute this AMENDMENT A subject to the following:

**TERMS AND CONDITIONS**

  
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**II. SCOPE OF THE AMENDMENT**

This amendment includes an extension of the Term of the agreement for additional two (2) years, for a total term and not exceed a period of three (3) years, including this AMENDMENT A. The Budget is being increased by one million five hundred sixty thousand six hundred three dollars and fifty-one cents (\$1,560,603.51) for a modified total budget of two million two hundred eighty-four thousand seven hundred seventy-one dollars (\$2,284,771.00).

In addition, the PRDOH and the SUBRECIPIENT have agreed to enter into this AMENDMENT A with the purpose of modifying certain sections of the existing AGREEMENT, in summary, a modification in the Performance Goals section increasing the Objectives and Targets for Re-Grow and HBA Programs in the Exhibit B (**See Attachment II**). As well, modify **Exhibit D** Staffing section by increasing the number of estimated hours per month to show the correct amount of \$1,819,398.00, also Indirect Cost amount increased to \$331,494.00 and Office Equipment item increased to \$8,000.00 along with a new item for Rent was added. Moreover, the Staff Position section in the aforementioned Exhibit was changed to increase the number of Business Development Officer resources to seven (7), the Homebuyer Program Specialist resources increased to five (5) and a new Assistant position was added (**see Attachment IV**). The aforementioned amendments along with others are part of this **Amendment A**. All other provisions of the AGREEMENT and Exhibits shall continue to be in full force and effect.

**III. AMENDMENTS<sup>1</sup>**

A. The Parties intend to amend Section **I. RECITALS AND GENERAL AWARD INFORMATION** of the Agreement as follow:

*WHEREAS, the PRDOH designated **two million two hundred eighty-four thousand seven hundred seventy-one dollars (\$2,284,771.00)** to the Subrecipient who will serve as administrator and servicer for the services included in the Scope of Work under this Agreement;*

B. The Parties intend to amend Section **I. RECITALS AND GENERAL AWARD INFORMATION, GENERAL AWARD INFORMATION** of the Agreement as follow:

Subrecipient Unique Identifier:	Unique Entity ID: HNEZN8HPK785
Subaward Period of Performance:	Start Date: Effective Date, as defined in <b>Section V</b> of this Agreement. End Date: <b>Three (3) years from Start Date.</b>

<sup>1</sup> The amendments will appear in Italic font throughout the document for the purpose of better identification.

- C. The Parties intend to amend Section **V. EFFECTIVE DATE AND TERM** of the Agreement as follow:

*This Agreement shall be in effect and enforceable between the parties from the date of its execution. The performance period of this Agreement is **three (3)** year from the date of its execution, ending in **May 16, 2024**.*

*The End of Term shall be the later of: (i) **May 16, 2024**. (ii) the date as of which the Parties agree in writing that all Close-Out Requirements<sup>2</sup> have been satisfied or, where no Close-Out Requirements are applicable to this Agreement, the date as of which the Parties agree in writing that no Close-Out Requirements are applicable hereto; or (iii) such later date as the Parties may agree to in a signed amendment to this Agreement.*

  
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- D. The Parties intend to amend **V. EFFECTIVE DATE AND TERM, A. Contract Extensions** of the Subrecipient Agreement will be modify as follow:

*PRDOH may, at its sole discretion, extend the Agreement's term, upon mutual written agreement of the parties. The term of the extension along with this Agreement shall not exceed the lifetime of the initial Grant Agreement between PRDOH and HUD, unless the term of the initial Grant Agreement is extended by HUD, in which case the term of this Agreement cannot exceed the extension.*

- E. The parties intend to replace the **Exhibit A (Scope of Work)** of the AGREEMENT. In general, parties have agreed to increase the maximum financial support for homebuyers within the HBA Program and modify the performance goals for the Re-Grow, SBF and HBA Programs among other amendments (See **Attachment I** of this **Amendment A**).
- F. The parties intend to replace the **Exhibit B (Timelines and Performance Goals)** of the AGREEMENT. In general, parties have agreed to increase objective and targets of the RE-Grow Program to 300 cases submitted per quarter, among other amendments (See **Attachment II** of this **Amendment A**).
- G. The parties intend to replace the **Exhibit C (Key Personnel)** of the AGREEMENT. In general, parties have agreed to add a new staff position, among other amendments (See **Attachment III** of this **Amendment A**).
- H. The parties intend to replace the **Exhibits D (Budget)** of the AGREEMENT. In general, parties have agreed to modify the number of estimated hours per month. This correction increases the Staffing budget from \$600,144.00 to \$1,819,398.00, in addition the Other Operating section include a new line item for Rent and Indirect Cost section amount increases from \$113,114.49 to \$331,494.00 due to the Staffing correction among other amendments (See **Attachment IV** of this **Amendment A**).
- I. The parties intend to amend and incorporate an additional **Exhibit E – I (Funds Certification)** of the AGREEMENT. (See **Attachment V** of this **AMENDMENT A**).

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<sup>2</sup> "Close-Out Requirements" means all requirements to be satisfied by each party in order to close-out this Agreement and the CDBG-DR funds provided herein in accordance with applicable Requirements of Law, including the execution and delivery by one or more of the Parties of all close-out agreements or other legal instruments and the taking of any actions by one or more of the Parties in connection with such closeout, in any case as required under applicable Requirements of Law.

- J. The parties intend to replace the **Exhibits F (HUD General Provisions)** of the AGREEMENT. **(See Attachment VI of this Amendment A).**
- K. The parties intend to replace the **Exhibit H (Subrogation and Assignment Provisions)** of the AGREEMENT. **(See Attachment VII of this Amendment A).**

#### IV. SEVERABILITY

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

#### V. SECTION HEADINGS AND SUBHEADINGS

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

#### VI. COMPTROLLER REGISTRY

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

#### VII. ENTIRE AGREEMENT

The AGREEMENT, as amended, constitutes the entire agreement among the PARTIES for the use of funds received under the AGREEMENT, as amended, and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written among the PARTIES with respect to the AGREEMENT, as amended.

#### VIII. FEDERAL FUNDING

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

#### IX. COMPLIANCE WITH LAW

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

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IN WITNESS THEREOF, the PARTIES hereto execute this AMENDMENT A in the place and on the date first above written.

PUERTO RICO DEPARTMENT OF HOUSING

By: William O. Rodríguez Rodríguez  
William O. Rodríguez Rodríguez (May 5, 2022 16:05 EDT)  
Name: William O. Rodríguez Rodríguez, Esq.  
Title: Secretary

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SUBRECIPIENT

By: Maria G Rodríguez-Collazo  
Maria G Rodríguez-Collazo (May 4, 2022 18:21 EDT)  
Name: María G. Rodríguez Collazo  
Title: Director of Housing Programs



GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING

## EXHIBIT A

### SCOPE OF WORK

#### RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM

#### SMALL BUSINESS FINANCING PROGRAM

#### HOMEBUYER ASSISTANCE PROGRAM

#### PATHSTONE CORP.

  
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The Puerto Rico Department of Housing (**PRDOH**) is issuing this Scope of Work to seek Underwriting Services to support PRDOH and Program Partners<sup>1</sup>, with efforts on various Community Development Block Grant - Disaster Recovery (**CDBG-DR**) Programs. The underwriting processes shall consist of a detailed and systematic analysis of a potential Applicant's creditworthiness, including employment history, salary, financial statements and performance, publicly available information, and independent credit reports. Upon completion of a formal underwriting process and a summary, the grants, shall be feasible for either approval or rejection by the Program Partners. The extent of the Scope of Work is to support the Re-Grow PR Urban Rural Agriculture Program (**Re-Grow Program**), Small Business Financing Program (**SBF Program**) and Homebuyer Assistance Program (**HBA Program**), also collectively the "Programs with Underwriting Services".

#### 1. Programs Overview/Background

##### A. Re-Grow Program

The goal of the Re-Grow Program is to increase food security on the island and expand local agricultural production. The Re-Grow Program is a response to the devastation Hurricanes Irma and María inflicted on Puerto Rico's agriculture economy that will reduce vulnerability to future events and simultaneously revitalize an important sector of Puerto Rico's economy.

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<sup>1</sup> Program Partners are subrecipients as defined in 2 C.F.R. § 200.93 who perform grant management duties under PRDOH involving turnkey administration of programs under the PRDOH CDBG-DR portfolio.

## B. SBF Program

SBF Program funding supports small business and microenterprise recovery through the initial funding of Recover/ Grants up to a maximum of one hundred fifty thousand dollars (\$150,000) to cover working capital and moveable equipment to support the rehabilitation or new construction of small business facilities.

## C. HBA Program

The goal of the HBA Program is to assist eligible households in the purchase of their first home, thereby increasing the level of homeownership in impacted communities and contributing to long-term sustainability and viability of communities across the Island.

  
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## 2. National Objective

All activities of a CDBG-DR Program must meet one (1) of the three (3) National Objectives defined in the authorizing statute of the CDBG program at 104(b)(3) of the Housing and Community Development Act of 1974 (**HCDA**), as amended, 42 U.S.C. § 5305. The PRDOH anticipates that each Program's eligible activities will meet one of the below listed national objectives. PRDOH will work with entities who are funded through these Programs to determine the national objective for each project according to 24 C.F.R. § 570.483 and listed here below:

- Benefit to low- and moderate-income persons (**LMI**) (24 C.F.R. § 570.483(a))
  - Job Creation/Retention
  - Area Benefit
  - Limited Clientele
- Urgent Need (**UN**) activities (24 C.F.R. § 570.483(c))
- Aid in prevention or elimination of Slums or Blight (**SB**) (24 C.F.R. § 570.483(b))

PRDOH has set a programmatic goal to expend seventy percent (**70%**) of **Re-Grow Program** funds on projects that result in a benefit to LMI individuals or that demonstrably serve LMI areas.

PRDOH has set a minimum goal to expend thirty percent (**30%**) of **SBF Program** funds on projects that result in a benefit to LMI individuals or that demonstrably serve LMI areas.

The **HBA Program** currently serves both LMI households as well as those with Urgent Need. PRDOH has set a goal to spend at least thirty percent (**30%**) of its Program budget on LMI households.

### 3. Program Description

- **Re-Grow Program**

The Re-Grow Program will provide grants to existing, restarting, or start-up small farms, farmers, and agricultural businesses. These grants are intended to strengthen the agricultural sector of the Puerto Rican economy. Eligible applicants can apply for up to one hundred fifty thousand dollars (**\$150,000**) in direct grant assistance for eligible program costs as outlined in the Re-Grow Program Guidelines. The amount of the grant award will be determined through eligibility review, underwriting, and a duplication of benefits calculation performed based on information from an online application for assistance.

In addition to providing grants, the Re-Grow Program will also provide a wide range of technical assistance activities across the agriculture sector, giving farms and farmers access to essential services and resources. The technical assistance is intended to build capacity in organizations and agencies that bolster the agricultural sector of the economy.

- **SBF Program**

The SBF Program will assist eligible Puerto Rico owned and operated microenterprises and small businesses to help restart operations and/or recover in the wake of Hurricanes Irma and/or María by providing Recover/ Grants up to \$150,000 for working capital and movable equipment. The amount of the grant and timing of draws will be based on the determination of unmet need and eligible expenses as assessed in a business's Application to the Program.

- **HBA Program**

Program funding will support homebuyers with the purchase of an existing property by providing for closing cost and/or down payment up to a maximum of forty-five thousand dollars (**\$45,000**) per eligible LMI and Urgent Need

  
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households; and a maximum of fifty-five thousand dollars (**\$55,000**) per eligible Low and Moderate-Income and Urgent Need households for households with Critical Recovery Workforce members. The Program will provide an additional redevelopment incentive of up to five thousand dollars (**\$5,000**) to eligible households who elect to purchase a home in a designated urban center, as defined by the PRDOH.

The primary objectives of the Homebuyer Assistance Program are:

- Benefit Low-to-Moderate Income Persons Objective: To benefit LMI households as defined by the United States Department of Housing and Urban Development (**HUD**) Modified Income Limits for Puerto Rico under the CDBG-DR Program.
- Urgent Need Objective: To meet the urgent need of reducing outmigration caused by the Hurricanes in order to maintain the sustainability and economic viability of communities across Puerto Rico by improving homeownership opportunities for households below one-hundred and twenty percent (**120%**) AMFI.

  
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#### 4. Key Activities

To implement the Programs objectives as described above, key activities to be carried out by Subrecipient performing Underwriting Services include, but are not limited to:

1. Evaluate program applicant documentation according to underwriting criteria as set in Program Guidelines, standard operating procedures (**SOPs**), and pertinent standard financial practice to determine if cases demonstrate compliance with underwriting requirements.
2. When necessary, gather additional financial supporting documentation from program applicant to verify compliance with underwriting requirements. This documentation should only be gathered on a case-by-case basis when eligibility documentation is insufficient to determine financial characteristics and conditions of a program applicant.
3. Assist program applicants with prompt assistance to help them through the process in a timely manner and increase applicant engagement.

- 4. Continuously improve underwriting efficiency and ensure staffing capacity to successfully execute the Re-Grow, SBF and/or HBA Programs underwriting performance targets.
- 5. Respond to Program Partner or PRDOH requests for information related to Programs Based Reconsideration Requests and Complaints Resolution.

For all Programs under Underwriting Services, grant amounts will be calculated based on demonstrated unmet needs. Application criteria, National Objectives, and program guidelines are published on the disaster recovery website subsequent PRDOH approval ([www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov)).

If additional CDBG-DR funds are allocated to Puerto Rico during the life of the SRA, Subrecipient staff may be assigned to work on those future federal grants awarded and potentially expand those services to accommodate other CDBG-DR programs yet to be defined in the current Action Plan. There is no guarantee of a minimum level of services which may be requested by the PRDOH under the SRA.

5. Tasks

The Subrecipient will serve as Underwriter for the Re-Grow, SBF and/or HBA Programs under this SRA with PRDOH. In addition to the tasks included herein, the Subrecipient shall perform any other task necessary for the proper performance of the services under the SRA.

Task Number	Task
5.1	Office Configuration and Logistics
5.2	Project Management
5.3	Document Control and Management
5.4	Accounting and Reporting
5.5	Underwriting and Financial Review ReGrow Program
5.6	Underwriting Review for HBA Program
5.7	Financial Review for HBA Program
5.8	Compliance with Cross-Cutting Requirements

The Subrecipient will prepare and submit all necessary documentation related to proposed projects for development under the Programs with Underwriting Services. Proposed projects documentation shall demonstrate compliance with all eligibility requirements established in **Re-Grow**, **SBF** and **HBA** Program Guidelines.

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PRDOH will provide funding and technical assistance to the Subrecipient to complete the following tasks as applicable to each of the Programs with Underwriting Services:

### 5.1 Office Configuration and Logistics

- 5.1.1 Set-up offices and secure necessary equipment for these offices to function. Office spaces must be suitable for the services to be provided, and provide required visitor amenities such as on-site parking, rest rooms, and comply with ADA accessibility requirements.
- 5.1.2 Secure or provide workspace items and materials such as furnishings and equipment for the offices (including such items as computers, printers, office materials, etc.).
- 5.1.3 Secure equipment and technologies required to support remote or virtual Program operations (including items such as laptop computers and MiFi devices).
- 5.1.4 Establish satellite offices as needed to support Programs demands.

### 5.2 Project Management

- 5.2.1 Establish, communicate, prioritize, and enforce production and performance goals in alignment with Programs priorities and objectives. Lead coordination and control over execution of all Programs activities including direct communication with the Case Managers to coordinate the documentation of the cases.
- 5.2.2 Monitor and control team performance in accordance with established performance goals, regulatory compliance, and quality standards and recommend corrective action and/or performance plan for underperforming team members, subcontractors, vendors, or other staff.
- 5.2.3 Create, maintain, and control project plan which includes clear critical path, task dependencies, identified slack, resource allocation (including human and other resources), and activity status.
- 5.2.4 Deliver staff listed in **Exhibit C** promptly to support Programs demands as committed to in **Exhibit B**, which may increase and decrease or change throughout the Program life cycle. Ensure sufficient and adequate staffing levels at all times to support timely and efficient Programs operations.
- 5.2.5 Establish, communicate, and enforce standard, efficient, and streamlined processes and strategies to support delivery of Program goals, risk management, quality assurance, stakeholder management, and change management; engage in total quality management practices to regularly evaluate effectiveness of established processes and implement change when needed. Processes may be subject to PRDOH review and approval.

  
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- 5.2.6 Lead and review all program monitoring activities to prepare and present reports, data, documents, or other information as required by the PRDOH, HUD, the US Office of Inspector General (**OIG**), or other oversight entities.
- 5.2.7 Engrain transparent, regular reporting to ensure stakeholders of all levels and importance remain informed and empowered to make decisions and report on issues such as, but not limited to: risk, Program progress, milestones achieved, performance issues, Program successes, compliance concerns, and Program demographics.
- 5.2.8 Maintain a complete understanding of all applicable Program policies, requirements, procedures, guidelines; and shall possess knowledge of regulatory and statutory compliance requirements for CDBG-DR and similar programs/projects. Ensure all Program participants, including Applicants, vendors, and stakeholders are aware of all policy changes.
- 5.2.9 Support in the implementation of the Programs in a compliant manner, per the CDBG-DR regulations, policies, procedures, and all applicable state, local and federal regulations.
- 5.2.10 Identify and promote any other function in support of the successful achievement of Programs' objectives.

### 5.3 Document Control and Management

- 5.3.1 In accordance with HUD regulations, follow the records retention requirements as cited in 24 C.F.R. § 84.53, which includes: financial records, supporting documents, statistical records, and all other pertinent records. Following PRDOHs' CDBG-DR Recordkeeping Management & Accessibility Policy; records must be maintained for **five (5) years**.
- 5.3.2 Maintain a clearly defined process for acquiring, organizing, storing, retrieving, and reporting on financial records and project and activity records.
- 5.3.3 Store, archive, and retrieve physical documents and electronic images of all paper documents, Applicant-related emails, correspondence, training material, policies and procedures, and other documents or materials as may be required.
- 5.3.4 Establish and maintain protocols for physical file management, as applicable, to include, among other things, access to a file, tracking of location and possession of a file, and return of a file.
- 5.3.5 Ensure all project information and documentation is available at all times in the system of record.
- 5.3.6 Any systems, tools, or technology provided must meet Personal Identifiable Information (**PII**) requirements as outlined in the Privacy Act of 1974, 5 U.S.C. § 552a (**Privacy Act**), 24 C.F.R. Part 5, and

  
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PRDOH policy for protection of PII.

- 5.3.7 Provide sufficient, appropriate document control and management to meet the financial and documentation requirements for CDBG-DR grants. At a minimum, the following records are required:
- 5.3.7.1 Records documenting compliance with Davis-Bacon Act, Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act, Minority Business Enterprise, Women Business Enterprise, Section 3 of the Housing and Urban Development Act of 1968, fair housing and equal opportunity requirements, as applicable;
  - 5.3.7.2 Financial Records providing full description of each activity;
  - 5.3.7.3 Records verifying that activity meets national and grant objectives;
  - 5.3.7.4 Records related to demonstrating eligibility of activities;
  - 5.3.7.5 Records required to document activity related to real property;
  - 5.3.7.6 Records and reports required by the Programs with Underwriting Services; and
  - 5.3.7.7 Records supporting any specific requirements of the Re-Grow, SBF and HBA Programs or the CDBG-DR allocations.
- 5.3.8 Any other task necessary for the proper document control management.

#### 5.4 Accounting and Reporting

- 5.4.1 Provide status reports on a regular basis to keep the PRDOH and/or Program Partners informed of progress.
- 5.4.2 As requested, meet with the PRDOH or Program Partners to discuss the status of the project, Applicant concerns, and any other issues that may have arisen during the administration of the assigned Programs with Underwriting Services.
- 5.4.3 Provide the PRDOH with project progress reports on demand, as well as access to independently maintained project management system for PRDOH to monitor the project.
- 5.4.4 Report on information that includes project activity deemed critical by the PRDOH.
- 5.4.5 Compile and review information necessary to prepare reports required under HUD regulations.
- 5.4.6 Reconcile with the PRDOH, on an established periodic basis, a complete inventory of assets with an acquisition price of five hundred dollars (**\$500**) or more and a useful life of **one (1) year** or

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longer, furnished by the PRDOH or funded by the CDBG-DR grant, including items such as: equipment, furniture, computers, phones, laptops, network printers, network equipment, etc., if applicable.

- 5.4.7 Review and submit recommendations for approval of CDBG-DR funding requests if needed.
- 5.4.8 Review requests for payment from Applicants for CDBG-DR awards. This will include review of all reimbursement of eligible costs as well as cost feasibility.
- 5.4.9 Any other task necessary to ensure proper accounting and reporting as related to the specific Program.
- 5.4.10 All purchases conducted with any CDBG-DR funds must comply with all applicable regulations contained in 2 C.F.R. § 200.318 through §200.327.

  
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## **5.5 Underwriting and Financial Review ReGrow Program**

- 5.5.1 Gather underwriting documents and data – Assist Applicants in providing, and obtaining all documentation required to perform underwriting for grants, inclusive of, but not limited to, information regarding previous benefits received from public and private sources, financial statements, credit reports, external funding commitments, and tax returns. Assistance may include, but is not limited to, providing technical assistance or guidance to Applicants, or contacting third party entities on the Applicant's behalf to obtain information. This documentation should only be gathered on a case-by-case basis when eligibility documentation is insufficient to determine financial characteristics and conditions of a program applicant. In some circumstances, the Underwriter may need to contact the program applicant to clarify documentation.
- 5.5.2 Perform grant underwriting based on PRDOH established underwriting criteria, and in conformance with the requirements of 24 C.F.R. Part 570, Appendix A for economic development activities, inclusive of:
  - 5.5.2.1 Reasonableness of project costs.
  - 5.5.2.2 Verifying that all project funding sources are accurate and committed.
  - 5.5.2.3 That to the extent practicable, CDBG-DR funds are not substituted for non-Federal financial support.
  - 5.5.2.4 That the project is financially feasible.
  - 5.5.2.5 That to the extent practicable, the return on the owner's equity investment will not be unreasonably high.
  - 5.5.2.6 That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

  
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- 5.5.3 Perform Duplication of Benefits analysis, in accordance with Stafford Act (42 U.S.C. § 5155), including but not limited to acquiring documentation, reviewing benefits, and determining unmet needs.
- 5.5.4 Determine Applicant award amounts based on Programs policies and procedures, to and with consideration for preventing duplication of benefits.
- 5.5.5 Use third-party datasets, as provided by PRDOH, to research previous benefits received by Program Applicants and account for previous benefits received that are duplicative and non-duplicative of funding provided by the Program.
- 5.5.6 Obtain supporting financial documentation, where applicable, for Applicants, in accordance with applicable statutory and regulatory requirements.
- 5.5.7 Ensure continuous underwriting review of Applications with a goal of maintaining a pace to award the total Program budget set aside for grants within the term of this SRA, pending enough approved Applications are received.
- 5.5.8 Ensure consistent and timely treatment of all Applicants and underwriting reviews and take all precautions necessary to avoid delays in the processing of underwriting reviews.
- 5.5.9 Properly document and submit comments for all determinations, decisions, and/or clarifications undertaken. Ensure every application file is supported with enough comments and notes that all third parties reviewing file can understand the reason why checklist items were passed or failed and can follow the entire process from intake to final determination and closeout.
- 5.5.10 Ensure that underwriting for recovery grants follow HUD guidelines at 24 C.F.R. § 570.209 as the financial underwriting framework for evaluating the feasibility of Applications and adheres to program guidelines and procedures.
- 5.5.11 Perform validation of and determine pass or fail on each underwriting criteria.
- 5.5.12 Perform underwriting analysis including but not limited to evaluating that: making final underwriting determinations, calculating unmet needs, award amount, project costs are reasonable; all sources of project financing are committed; and the project is financially feasible. Also, to the extent practicable that: the return on the owner's equity investment will not be unreasonably high; CDBG-DR funds are disbursed on a pro rata basis if other sources of funds are provided to the project; and CDBG-DR funds are not substituted for non-Federal financial support.

  
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- 5.5.13 Prepare the "award package" for review of Re-Grow Partner Department of Agriculture, PRDOH or appointed.
- 5.5.14 Subrecipient shall adhere to PRDOH's financial management policies and procedures as outlined in the Financial Policy, the Program Guidelines, or policies and procedures for this Program, including but not limited to:
- 5.5.15 Follow PRDOH Finance policies and protocols for submitting and processing Request for Payments, including use of the PRDOH's CDBG-DR Finance System.
- 5.5.16 Review the Request for Payment, and submit to PRDOH; and
- 5.5.17 Establish a separate bank account to receive payments from PRDOH of HUD CDBG-DR funds.
- 5.5.18 Account and reporting of uses of CDBG-DR funds, including but not limited to information on National Objectives met, beneficiary demographics, and case completion status.
- 5.5.19 Maintain work in the designated System of Records, per the CDBG-DR Program Records Retention Policy and applicable regulatory requirements.
- 5.5.20 Submit regular Monthly Progress Reports and ad-hoc reports, as necessary, to the PRDOH, in the form and with the content specified and required by PRDOH, in the frequency or form determined by PRDOH at the moment of request.
- 5.5.21 Follow monitoring policies and procedures as directed by PRDOH.
- 5.5.22 Send confirmation of underwriting complete, recommendations for award, underwriting requests for information, underwriting fail notifications and any other required Program notifications. Notifications may be sent via email or postal mail, in accordance with any applicable regulations and Applicant communication preferences.
- 5.5.23 Coordinate closing meetings when necessary.
- 5.5.24 Any other function necessary to support and complete underwriting review of applications.
- 5.5.25 Complete documents required by PRDOH for environmental review.

## **5.6 Underwriting Review for HBA Program**

- 5.6.1 Perform the CDBG-DR assistance underwriting in accordance with the Program Guidelines and documents.
- 5.6.2 Review the mortgage loan information in the HBA system of subsidy and ensure that the loan type is eligible and that the loan features comply with the Ability-to-Repay/Qualified Mortgage Rule.

  
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- 5.6.3 Determine if the loan meets the Program requirements.
- 5.6.4 Assess the Applicant's ability to pay the monthly mortgage carrying costs and the long-term financial viability of the purchase.
- 5.6.5 Evaluate the Applicant's back-end ratio and calculate the subsidy amount required to lower it as close to thirty-six percent (**36%**).
- 5.6.6 Ensure that closing costs are reasonable by adhering to the Qualified Mortgage Rule and applicable mortgage regulatory guidance.
- 5.6.7 Review case file documents and data from the HBA system of subsidy. In some circumstances, the Underwriter may need to contact the Program applicant's lending institution to clarify documentation.
- 5.6.8 Review each application to determine if previous applicable funding awarded or gifted to the applicant was received for the same purpose. Determine the Applicant's total unmet needs first and then calculate the Applicant's duplication of benefits.
- 5.6.9 Ensure that the Applicant did not receive assistance that is duplicative, unnecessary, or unreasonable. In case funds are considered duplication of benefits under the Program, deduct from the total unmet need determination as part of the underwriting review. Ensure compliance with the Stafford Act through collection, analysis, and verification of third-party benefits received by Applicants for the purposes of homeownership assistance. Review the lending documentation to ensure that duplicative assistance is accounted for in the unmet need calculation.
- 5.6.10 Based the underwriting determination on the appraised value of the property at closing.
- 5.6.11 Review cases to determine recommendation to submit to Program Partner.
- 5.6.12 Review award amount meets the underwriting criteria to be limited to the minimum amount necessary to qualify for the mortgage loan needed to purchase the property and review property meets the underwriting criteria based on eligibility requirements.
- 5.6.13 Ensure consistent and timely treatment of applications and underwriting reviews and take all precautions necessary to avoid delays in the processing of underwriting reviews.
- 5.6.14 Properly document and submit comments for all determinations, decisions, and/or clarifications undertaken. Ensure every application file is supported with enough comments and notes that

  
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all third parties reviewing file can understand the reason why checklist items were passed or failed and can follow the entire process from intake to final determination and closeout.

- 5.6.15 Perform validation of and determine pass or fail on each underwriting checklist item.
- 5.6.16 Send confirmation of underwriting complete, recommendations for award, underwriting requests for information, underwriting fail notifications and any other required Program notifications.
- 5.6.17 Any other function necessary to support and complete underwriting review of applications.

### **5.7 Financial Review for HBA Program**

- 5.7.1 Subrecipient shall adhere to PRDOH's financial management policies and procedures as outlined in the Financial Policy, the Program Guidelines, or policies and procedures for this Program, including but not limited to:
- 5.7.2 Follow PRDOH Finance policies and protocols for submitting and processing Request for Payments, including use of the PRDOH's CDBG-DR Finance System.
- 5.7.3 Review the Request for Payment, and submit to PRDOH; and
- 5.7.4 Establish a separate bank account to receive payments from PRDOH of HUD CDBG-DR funds.
- 5.7.5 Account and reporting of uses of CDBG-DR funds, including but not limited to information on National Objectives met, beneficiary demographics, and case completion status.
- 5.7.6 Maintain work in the designated System of Records, per the CDBG-DR Program Records Retention Policy and applicable regulatory requirements.
- 5.7.7 Submit regular Monthly Progress Reports and ad-hoc reports, as necessary, to the PRDOH, in the form and with the content specified and required by PRDOH, in the frequency or form determined by PRDOH at the moment of request.
- 5.7.8 Follow monitoring policies and procedures as directed by PRDOH.

### **5.8 Compliance with Cross-Cutting Requirements**

- 5.8.1 Uniform Relocation Act – Ensure all Program activities comply with the URA, as outlined in its implementing regulation at 49 C.F.R. Part 24, and in accordance with the PRDOH URA and Residential Anti-Displacement Policy Guide, as applicable.
- 5.8.2 Ensure Program Activities are carried out in a manner that is compliant with applicable cross-cutting requirements as outlined in

  
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the PRDOH cross-cutting policy guide, as may be amended from time to time, as applicable.

## 6. Time Performance

All underwriting services shall be completed in a **twenty-four (24) months** period, as per the Term stated in the SRA.

## 7. Budget

Please refer to **Exhibit D**.

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## EXHIBIT B

### TIMELINES AND PERFORMANCE GOALS

#### RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM

#### SMALL BUSINESS FINANCING PROGRAM

#### HOMEBUYER ASSISTANCE PROGRAM

#### PATHSTONE CORP.



#### 1. PROGRAM OBJECTIVE:

The Puerto Rico Department of Housing (**PRDOH**) is seeking Underwriting Services to support the implementation efforts of three (3) CDBG-DR Programs: Homebuyer Assistance Program (**HBA Program**), Small Business Financing (**SBF**) Program and Re-Grow Puerto Rico Urban Rural Agriculture Program (**Re-Grow Program**), through the provision of underwriting analysis of Program related applications.

#### 2. TERMS:

- **Key Objective** – The major objectives the Programs wants to achieve.
- **Key Activity** – The activities necessary to carry out the Objective.
- **Indicator** – The quantitative method used to demonstrate that the Key Activities have been performed.
- **Source of Verification** – The documentation used to verify that the Indicators have been met, and thus the activities are complete.
- **Partner** – Program Partners are subrecipients as defined in 2 C.F.R. § 200.93 who perform grant management duties under PRDOH involving turnkey administration of programs under the PRDOH CDBG-DR portfolio.
- **Target** – The goal for each of the Indicators.
- **Timeline** – The expected completion date or timeframe.

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3. TIMELINES & PERFORMANCE GOALS

3.1 RE-GROW PROGRAM - OBJECTIVE 1: ASSIST WITH UNDERWRITING ANALYSIS OF ELIGIBLE RE-GROW APPLICATIONS

  
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KEY OBJECTIVE #1	KEY ACTIVITY	INDICATOR	SOURCE OF VERIFICATION	TARGET	TIMELINE
Complete Underwriting Analysis of Eligible Re-Grow Applications to make an underwriting determination for review of Re-Grow Partner Department of Agriculture, PRDOH or appointed.	1.1 Complete underwriting analysis and submit cases with underwriting determination for final QC check, award documentation, and closing meeting.	# of reviewed cases submitted with underwriting determination for review per quarter  Maximum % of cases returned to the Underwriter by the Partner Department of Agriculture, PRDOH or appointed after QC review to be corrected	Received Applications, Dashboards, Grant Management System	- 300 cases submitted to per quarter  < 5% maximum of cases return for correction.	Quarterly from Q2 2022 to Q2 2024

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3.1.1. COMPLETE UNDERWRITING ANALYSIS AND SUBMIT CASES WITH ELIGIBILITY DETERMINATION RECOMMENDATION TO PROGRAM PARTNER.

Underwriting analysis must be completed on all Re-Grow cases as a step in the underwriting process to confirm the applicant meets the financial criteria to receive a federal award. This underwriting analysis takes place after an applicant's case has first been reviewed by Department of Agriculture or participating case management service providers to confirm the applicant meets all program requirements for eligibility (excluding financial underwriting review), and that the file possesses all necessary documentation to move on to the underwriting analysis phase.

To disburse a significant amount of the funds allocated to the Re-Grow Program, a high rate of disbursement must be maintained. To maintain this desired rate, cases received must be assessed diligently and within a reasonable amount of time. At the same time, the Re-Grow Program must also attend all applications with equal importance and give good customer service to all applicants. The Underwriter is tasked with analyzing cases while maintaining said rate.

- Underwriter is expected to complete underwriting analysis on 100% of cases referred to PathStone, up to at least 300 cases per quarter.
- Must submit and maintain records within the Program's Grant Management System. Documents must be uploaded in a high-quality format and labeled according to Programs SOPs.
- High accuracy in work is a must, as such the Program will tolerate **a Maximum of 5%** of cases returned to the Underwriter by the Partner for correction of work product.
- Program Goals are based on the current needs of the Re-Grow Program. PRDOH reserves the right to change these goals as the need arises. PRDOH will notify the Subrecipient, at the program level, in writing **30 days** prior to the new goals taking effect.

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**3.2 SBF PROGRAM - OBJECTIVE 2: ASSIST WITH UNDERWRITING ANALYSIS OF ELIGIBLE SBF APPLICATIONS**

KEY OBJECTIVE #2	KEY ACTIVITY	INDICATOR	SOURCE OF VERIFICATION	TARGET	TIMELINE
Complete Underwriting Review for Program Applicants to make an Award Recommendation to SBF Partner BDE.	2.1 Complete underwriting analysis for cases and submit award determination recommendation to SBF Program Partner BDE	# of cases submitted to BDE for review  % of eligible applications that commence review  % of cases returned to the Underwriter by BDE after review	Received Applications, Dashboards, Grant Management System Progress Report	at least 120 cases submitted to the Program Partner per month (or 360 per quarter)  If, cases exceed 120 per month, 90% of all the applications received must be in process of review  A maximum of 5% of cases returned by the Program Partner after review	Q2 2021- Q2 2022
	2.2 Support resolution of Program Based Reconsideration Requests and Complaints Resolution	100% of reconsideration cases responded	Grant Management System and Formal Communications	100% of reconsiderations responded	Q2 2021- Q2 2022

  
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### 3.2.1 COMPLETE UNDERWRITING ANALYSIS FOR CASES AND SUBMIT AWARD DETERMINATION RECOMMENDATION TO PROGRAM PARTNER

Underwriting analysis must be completed on all referred SBF cases as a step in the eligibility process to confirm the applicant meets the financial criteria to receive a federal award. This underwriting analysis takes place after an applicant's case has first been reviewed by BDE or participating case management service providers to confirm the applicant meets all program requirements for eligibility (excluding financial underwriting review), and that the file possesses all necessary documentation to move on to the underwriting analysis phase.

To disburse a significant amount of the funds allocated to the Program, a high rate of disbursement must be maintained. To maintain this desired rate, cases received after underwriting analysis must be assessed diligently and within a reasonable amount of time. At the same time the Program must also attend all applications with equal importance and give good customer service to all applicants. The Underwriter is tasked with analyzing cases while maintaining said rate and quality.

- Underwriter is expected to complete analysis on 100% of all cases referred to Pathstone for underwriting analysis or number of cases permitting.
- Applications must move quickly through the entire evaluation process. As such the average days taken to complete the Underwriting process must be maintained at **an average of no less than 4 days** per case.
- High accuracy in work is a must, and the Program will tolerate a **Maximum of 5%** of cases returned to the Underwriter by the Partner for correction of work product.
- Program Goals are based on the current needs of the SBF Program. PRDOH reserves the right to change these goals as the need arises. PRDOH will notify the Subrecipient, at the program level, in writing **30 days** prior to the new goals taking effect.

### 3.2.2 SUPPORT PROCESSING OF PROGRAM BASED RECONSIDERATION REQUESTS AND COMPLAINTS RESOLUTION

The program-based reconsideration requests resolution task involves support activities on the Underwriters behalf which may be necessary for BDE to adjudicate program-based reconsideration requests initiated by program applicants. This task is expected to be recurring throughout the life of the SRA. The program-based reconsideration requests resolution task is initiated when a citizen or applicant submits a program-based reconsideration request. The task is considered complete when a program-based reconsideration request is adjudicated and duly notified to the applicant.

The complaint resolution task involves activities necessary to attend to citizen or applicant complaints, as coordinated by BDE. This task is expected to recur throughout



the life of the SRA. BDE shall compile all information required by PRDOH in order to resolve the complaint. The task is considered complete when all information has been submitted to PRDOH to resolve the complaint.

- **One Hundred percent (100%)** of all requests for information pertaining to reconsideration requests received must be responded to.
  - Subrecipient might be requested to provide additional information or documentation related to their review in relation to a reconsideration request.
- Submit information requested by BDE related to complaints or administrative review requests within **three (3)** business days of request.

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**3.3 HBA PROGRAM – Objective 2: COMPLETE UNDERWRITING ANALYSIS OF ELIGIBLE HBA APPLICATIONS**

Key Objective #2	KEY ACTIVITY	INDICATOR	SOURCE OF VERIFICATION	TARGET	TIMELINE
Complete underwriting review of Program applications to make an award recommendation to HBA Partner PRHFA.	3.1 ELIGIBLE APPLICATIONS UNDERGO COMPLETE UNDERWRITING PROCESS REVIEW AND ARE SUBMITTED FOR AWARD DETERMINATION RECOMMENDATION TO SUBRECIPIENT <ul style="list-style-type: none"> <li>Review lending institution submissions</li> <li>Track with lending institutions when cases are ready for closing</li> <li>Ensure all required documentation for closing is final</li> <li>Prepare recommendation for Partner review</li> </ul>	% of cases reviewed and submitted to the Partner  # Award Determination Recommendations	Cases ready for closing submitted through the Grant Management System	100% of cases submitted to Program Partner for underwriting analysis At least 250 per month (or 750 per quarter) have recommended determinations	Monthly (Q2 2022 – Q2 2024)

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### 3.3.1 COMPLETE UNDERWRITING REVIEW AND SUBMIT AWARD DETERMINATION RECOMMENDATION TO PROGRAM PARTNER

The Underwriting analysis must be completed on all HBA cases as a step in the eligibility process to confirm the applicant meets the financial criteria to receive a federal award. This underwriting analysis takes place after an applicant's case has first been reviewed by HBA participating lending institutions to confirm the applicant meets all Program requirements for eligibility (excluding financial underwriting review) and that the file possesses all necessary documentation to move on to the underwriting analysis phase.

The Program has a selection of eligible applicants from which the Subrecipient must identify cases to be processed. While this selection will not be the responsibility of Underwriters, it is part of the production pipeline that will yield cases ready for underwriting analysis.

Once a case has been deemed eligible by the Program Partner, the Underwriters will review the individual case file in the system of subsidy of the Program. Among the tasks that must be performed by the Underwriters for each case is to review lending institution submissions, track with lending institution when the case can be determined to be ready for closing and ensure all documentation required for closing is completed and final. The underwriting process for each case will be completed when the Underwriter prepares a final recommendation for award determination and returns the file to Program Partner for final review. The target for this activity is for the Underwriters to complete **100%** of the cases submitted for underwriting analysis, up to 250 monthly award determination recommendations. The average timeline for analysis and completion of review of a completed case is **three to six hours**, when needed.

The Underwriters are responsible for tracking cases, completing the underwriting analysis in accordance with Program Guidelines, standard operating procedures, and under the guidance of HBA Program staff. This role is a support function to the Program and underwriting analysis services under this agreement are provided in addition to the existing team of underwriters from the HBA's Program Partner, the PRHFA.

### **3.4 PROGRAM RESERVES**

The PRDOH reserves the right to modify or remove any of the key activities listed above or, if appropriate, increase tasks prior to and during the term of this SRA.

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## EXHIBIT C

### KEY PERSONNEL

#### RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM

#### SMALL BUSINESS FINANCING PROGRAM

#### HOMEBUYER ASSISTANCE PROGRAM

#### PATHSTONE CORP.

Below is the Staffing Plan for the CDBG-DR **Underwriting Services** Program which reflects a combination existing employees or new hired employees dedicated for the CDBG-DR **Underwriting Services** Program.



#### I. Roles

##### Roles

**Deputy Director for Economic Development**

**Business Development Officer**

**Director of Housing Programs**

**Homebuyer Programs Specialist**

**Assistant**

#### II. Roles Description:

Role	Description
<b>Deputy Director for Economic Development</b>	Implement programmatic strategies to meet national program objectives for SBF and Re Grow Program. Supervise employees and oversee staffing plan. Review application and determine eligibility per approved program guidelines, determine unmet needs, and ensure reasonable and necessary use of funds for SBF and Re-Grow Program. Perform any other necessary function to complete underwriting review of applications. Manage and implement program activities according to agreed-upon procedures. Review applicants with respect to potential duplication of benefits and determinate award amounts for applicants under the SBF and Re-Grow Program. Review and approve employee's timesheets and

Role	Description
<b>Business Development Officer</b>	assist in processing invoices for payments. Review application and determine eligibility per approved program guidelines, determine unmet needs, and ensure reasonable and necessary of intended use of funds for the SBF and Re-Grow Program. Prepare and send communications to applicants and other entities in the process as needed. Gather documents and data related to underwriting reviews for the SBF and Re-Grow Program. Review documentation with respect to HUD underwriting criteria. Review applicants under SBF and Re-Grow Program for potential duplication of benefits. Perform any other necessary function to complete underwriting review of applications.
<b>Director of Housing Programs</b>	Implement programmatic strategies to meet national objectives for Home Buyer Assistance Program. Supervise employees and oversee staffing plan. Review loan requests, work with lending institutions to identify when cases are ready for closing and ensure all required closing documentation is final. Perform any other necessary function to complete underwriting reviews and process electronic loan packages for closing. Manage and implement programs activities according to agreed-upon procedures. Review and approve employee's timesheets and complete invoices for payments. Perform review of Program Guidelines and perform QA/QC on awarded cases, as requested by Program with Underwriting Services.
<b>Homebuyer Programs Specialist</b>	Review loan request, work with lending institutions to identify when cases are ready for closing and ensure all required closing documentation is final. Perform other necessary functions to complete the underwriting review of applications and electronic loan packages for closing.
<b>Assistant</b>	Provide support to Re Grow, SBF and HBA underwriting services' staff by coordinating meetings, receive calls from applicants and provide status when needed. Prepare monthly reports after collecting data from staff. Prepare and submit invoices. Join and attend program meetings with POC's, lenders and other subrecipients as needed. Assist in the implementation of program activities.

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## **EXHIBIT D – SECTION 1**

### **BUDGET**

#### **RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM**

#### **SMALL BUSINESS FINANCING PROGRAM**

#### **HOMEBUYER ASSISTANCE PROGRAM**

#### **PATHSTONE CORP.**



### **DESCRIPTION SERVICES**

PathStone will provide Underwriting Services for various CDBG-DR programs, especially the Re-Grow PR Urban Rural Agriculture Program, Small Business Financing Program and Homebuyer Assistance Program to assist with the economic recovery of Puerto Rico. These services include the following two (2) functions:

- Complete the underwriting process to determinate the amount of CDBG-DR assistance that is necessary and reasonable to assist the applicant in achieving recovery.
- Ensure Program compliance by confirming that all applicants meet federal and local regulations, and programmatic requirements.

PathStone will provide the services for all application received via the agencies delegated to administer the programs. The PathStone staff assigned to the Programs will complete their underwriting review with an understanding that different levels of review may be required depending upon differences in the size and scope of each Program Application, and in the case of a microenterprise or other small business, based upon differences in the capacity and level of sophistication among businesses of differing sizes.

The funds committed by this Agreement will be use only to provide services in connection with the program. The program budget will support the salaries (including fringe benefits) for fifteen (15) employees per the responsibilities described in **Exhibit C**. The PathStone staff will deliver underwriting services, compliance review, monitoring, reporting, strategic planning, and coordination to ensure the achievement of program goals and its success. PathStone will request reimbursement of indirect cost per the Negotiated Indirect Cost Related Agreement as approved by the United States Department of Labor.

PathStone has included only the costs necessary to cover reimbursement for staff travel at federal mileage rate, minimum equipment for the staff to be hired and the space that will be used exclusively for Re-Grow PR Urban Rural Agriculture Program and Homebuyer Assistance Program.

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## STAFFING

Position	Qty. of Resources [A]	Estimated Hours per month per Resource [B]	Months Needed [C]	Estimated Hourly Rate [D]	Estimated Monthly Cost [E=AxBxD]	Max Cost for the Program [F=CxE]
Deputy Director For Economic Development	1	80	24	\$48.63	\$ 3,890.40	\$ 93,370.00
Business Development Officer	1	176	24	\$34.92	\$ 6,145.92	\$ 147,503.00
Business Development Officer	4	176	24	\$30.44	\$ 21,429.76	\$ 514,315.00
Business Development Officer	2	176	24	\$29.77	\$ 10,479.04	\$ 251,497.00
Director of Housing Programs	1	50	24	\$87.87	\$ 4,393.50	\$ 105,444.00
Homebuyer Programs Specialist	1	176	24	\$33.55	\$ 5,904.80	\$ 141,716.00
Homebuyer Programs Specialist	2	176	24	\$27.01	\$ 9,507.52	\$ 228,181.00
Homebuyer Programs Specialist	2	176	24	\$29.12	\$ 10,250.24	\$ 246,006.00
Assistant	1	176	24	\$21.63	\$ 3,806.88	\$ 91,366.00
<b>Total Maximum Monthly Cost:</b>					<b>\$ 75,808.06</b>	
					<b>Total Cost for 2 Years (24 Months):</b>	<b>\$ 1,819,398.00</b>

\*Estimate amount in rate, hours, and monthly cost, could vary based on actual need and work performed on the program

## OTHER OPERATING

Item Name	Item Description	Budget
Travel	Reimbursement for travel expenses at federal rate.	\$ 5,879.00
Indirect Cost	Indirect Cost per the approved Negotiated Indirect Cost Rate Agreement.	\$ 331,494.00
Rent	Lease space of the office for the program.	\$ 120,000.00
<b>Total Expenses Budget:</b>		<b>\$ 457,373.00</b>

## EQUIPMENT

Item Name	Item Description	Budget
Office Equipment	Equipment such as but not limited to computers, monitors and backup batteries for the program.	\$ 8,000.00
<b>Total Expenses Budget:</b>		<b>\$ 8,000.00</b>

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PROJECT ACTIVITY DELIVERY COSTS		
Staffing	Direct salaries of the staff members for the programs.	\$ 1,819,398.00
Other Operating	Operational costs associated with delivery and implementation of services	\$ 457,373.00
Equipment	Office equipment for the staff member of the programs.	\$ 8,000.00
<b>TOTAL COSTS</b>		<b>\$ 2,284,771.00</b>
<b>GRAND TOTAL</b>		<b>\$ 2,284,771.00</b>

### Budget Re-distribution

- a) The Subrecipient may request in writing to the PRDOH a re-distribution of the Maximum Authorized Budgets shown above without exceeding the Total Authorized Budget.
- b) The PRDOH will evaluate the re-distribution request to validate purpose and balance of funds, and if determined the re-distribution is in benefit for the Program and the balance of funds is validated, the PRDOH will provide written authorization to the Subrecipient. Until the written authorization is submitted by the PRDOH, the re-distribution cannot be considered as authorized.
- c) This re-distribution of funds as described here shall be considered binding and will not require an amendment to this SRA.

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GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING

# Exhibit E - I

**Contract Code:** 2101-a  
**Type:** Change Order A\_V2  
**Original Registered Code:** 2021-DR0212

## CERTIFICATION OF FUNDS

Requested on behalf: CDBG-DR Director

The Finance Division certifies the availability of the following funds:

**Contracting Of:** PATHSTONE CORPORATION  
**Source of Funds:** 14.228 CDBG Funds  
**For:** Amendment A to 2021-DR0212  
(Underwriting Services for Re-Grow, SBF, HBA)  
**Amount:** \$1,560,603.51

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

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Grant	Area / Project	Activity Code	Category Description	Account	Amount
B-18-DP-72-0001	Housing	r02e15sbf-edc-lm	E - Equipment (Sub recipient)	6090-01-000	-\$240.00
B-18-DP-72-0001	Housing	r02e15sbf-edc-lm	E - Indirect Cost	6090-01-000	-\$5,430.94
B-18-DP-72-0001	Housing	r02e15sbf-edc-lm	E - Other Operating (Not ICR)	6090-01-000	-\$282.19
B-18-DP-72-0001	Housing	r02e15sbf-edc-lm	E - Staff / Personnel (Sub-recipient)	6090-01-000	-\$28,096.20
B-18-DP-72-0001	Housing	r02e15sbf-edc-un	E - Equipment (Sub recipient)	6090-01-000	-\$560.00
B-18-DP-72-0001	Housing	r02e15sbf-edc-un	E - Indirect Cost	6090-01-000	-\$12,672.18
B-18-DP-72-0001	Housing	r02e15sbf-edc-un	E - Other Operating (Not ICR)	6090-01-000	-\$658.45
B-18-DP-72-0001	Housing	r02e15sbf-edc-un	E - Staff / Personnel (Sub-recipient)	6090-01-000	-\$65,557.80
B-18-DP-72-0001	Housing	r02e23rur-doa-lm	E - Economic Program Subsidy	6090-01-000	\$680,256.82
B-18-DP-72-0001	Housing	r02e23rur-doa-un	E - Economic Program Subsidy	6090-01-000	\$291,538.64
B-18-DP-72-0001	Housing	r02h22ha-doh-lm	H - Program Subsidy	6090-01-000	\$210,691.74
B-18-DP-72-0001	Housing	r02h22ha-doh-un	H - Program Subsidy	6090-01-000	\$491,614.07
					<u>\$1,560,603.51</u>

The above distribution of funds is subject to changes and will be allocated in accordance with the executed agreement within the parties

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

Ave. Barbosa #606 Edificio Juan C. Cordero Dávila, Río Piedras, PR 00918 | P.O. Box 21365 San Juan, PR 00928-1365  
Tel: (787)274-2527 | [www.vivienda.pr.gov](http://www.vivienda.pr.gov)

Cesar Candelario Signed Date - 04/25/2022  
Electronic Approval  
Budget Manager

Felix Hernandez Signed Date - 04/28/2022  
Electronic Approval  
Finance Director

  
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## EXHIBIT F

### HUD GENERAL PROVISIONS

#### RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM

#### SMALL BUSINESS FINANCING PROGRAM

#### HOMEBUYER ASSISTANCE PROGRAM

#### PATHSTONE CORP.

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

The SUBRECIPIENT (also referred to as the "Partner") shall include these terms and conditions in all subcontracts or purchase orders directly servicing the SRA.

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

#### General Provisions:

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

Each and every provision of law and clause required by law to be inserted in this 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 physically amended to make such insertion or correction.

##### 2. STATUTORY AND REGULATORY COMPLIANCE

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

##### 3. BREACH OF SUBRECIPIENT AGREEMENT TERMS

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

#### 4. REPORTING REQUIREMENTS

The SUBRECIPIENT shall complete and submit all reports, in such form and according to such schedule, as may be required by the PRDOH and/or the Government of Puerto Rico. The SUBRECIPIENT shall cooperate with all the PRDOH and/or the Government of Puerto Rico efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 2 C.F.R. § 200.328 and 24 C.F.R. § 570.507, when applicable.

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#### 5. ACCESS TO RECORDS

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

#### 6. MAINTENANCE/RETENTION OF RECORDS

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

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

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

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and

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

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

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

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

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

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

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

The SUBRECIPIENT 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.

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

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

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

#### **12. AGE DISCRIMINATION ACT OF 1975**

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

### 13. DEBARMENT, SUSPENSION, AND INELIGIBILITY

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

### 14. CONFLICTS OF INTEREST

The SUBRECIPIENT shall notify the PRDOH as soon as possible if this AGREEMENT or any aspect related to the anticipated work under this AGREEMENT raises an actual or potential conflict of interest (as defined 2 C.F.R. § 200.318(c), if applicable). The SUBRECIPIENT shall explain the actual or potential conflict in writing in sufficient detail so that the PRDOH is able to assess such actual or potential conflict. The SUBRECIPIENT shall provide the PRDOH any additional information necessary to fully assess and address such actual or potential conflict of interest. The SUBRECIPIENT shall accept any reasonable conflict mitigation strategy employed by the PRDOH, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

  
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### 15. SUBCONTRACTING

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

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

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

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

### 16. ASSIGNABILITY

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

### 17. INDEMNIFICATION

The SUBRECIPIENT shall indemnify, defend, and hold harmless the Government of Puerto Rico and PRDOH, its agents and employees, from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful

misconduct of the SUBRECIPIENT in the performance of the services called for in this AGREEMENT.

#### **18. COPELAND "ANTI-KICKBACK" ACT**

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

Salaries of personnel performing work under this AGREEMENT 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 SUBRECIPIENT shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

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

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

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

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

#### **20. DAVIS-BACON ACT**

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

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

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

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

#### **21. TERMINATION FOR CAUSE**

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

If, through any cause, the SUBRECIPIENT shall fail to fulfill in a timely and proper manner his or her obligations under this AGREEMENT, or if the SUBRECIPIENT shall violate any of the covenants, agreements, or stipulations of this AGREEMENT, the PRDOH shall thereupon have the right to terminate this AGREEMENT by giving written notice to the SUBRECIPIENT

of such termination and specifying the effective date thereof, **at least five (5) days** before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the SUBRECIPIENT under this Agreement shall, at the option of the PRDOH, become the PRDOH's property and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the SUBRECIPIENT shall not be relieved of liability to the Government of Puerto Rico and PRDOH for damages sustained by the Government of Puerto Rico and/or PRDOH by virtue of any breach of the Agreement by the SUBRECIPIENT, and the Government of Puerto Rico and/or PRDOH may withhold any payments to the SUBRECIPIENT for the purpose of set-off until such time as the exact agreement of damages due to the Government of Puerto Rico and/or PRDOH from the SUBRECIPIENT is determined.

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## **22. TERMINATION FOR CONVENIENCE**

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

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

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

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

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

#### **Equal Opportunity for Workers with Disabilities:**

- 1) The SUBRECIPIENT will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The SUBRECIPIENT agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
  - (i) Recruitment, advertising, and job application procedures;
  - (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
  - (iii) Rates of pay or any other form of compensation and changes in compensation;
  - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
  - (v) Leaves of absence, sick leave, or any other leave;
  - (vi) Fringe benefits available by virtue of employment, whether or not administered by the SUBRECIPIENT;
  - (vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
  - (viii) Activities sponsored by the SUBRECIPIENT including social or recreational programs; and
  - (ix) Any other term, condition, or privilege of employment.



- 2) The SUBRECIPIENT agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 3) In the event of the SUBRECIPIENT's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 4) The SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the SUBRECIPIENT'S obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The SUBRECIPIENT must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the SUBRECIPIENT may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- 5) The SUBRECIPIENT will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the SUBRECIPIENT is bound by the terms of Section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- 6) The SUBRECIPIENT will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The SUBRECIPIENT will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

  
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#### **24. EQUAL EMPLOYMENT OPPORTUNITY**

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

The SUBRECIPIENT shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. chapter 60). During the performance of this Agreement, the SUBRECIPIENT agrees as follows:

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

all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

- 3) The SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the SUBRECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 4) The SUBRECIPIENT will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the SUBRECIPIENT's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) The SUBRECIPIENT will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 6) The SUBRECIPIENT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 7) In the event of the SUBRECIPIENT's non-compliance with the non-discrimination clause of this Agreement or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the SUBRECIPIENT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- 8) SUBRECIPIENT shall incorporate the provisions of 1 through 7 above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such subcontractor. The SUBRECIPIENT will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the SUBRECIPIENT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the SUBRECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

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

The SUBRECIPIENT certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control

  
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where segregated facilities are maintained. The SUBRECIPIENT agrees that a breach of this certification is a violation of the equal opportunity clause of this Agreement.

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

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

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

The SUBRECIPIENT and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. 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:

- 1) A stipulation by the SUBRECIPIENT or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.
- 2) Agreement by the SUBRECIPIENT to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 7414) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- 3) A stipulation that as a condition for the award of the Agreement, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Agreement, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- 4) Agreement by the SUBRECIPIENT that he or she will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the SUBRECIPIENT will take such action as the government may direct as a means of enforcing such provisions.

## 27. ANTI-LOBBYING

### (Applicable to contracts exceeding \$100,000)

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

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

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

## 28. BONDING REQUIREMENTS

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

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

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

contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**29. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

- A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this Agreement agree to comply with HUD's regulations in 24 C.F.R. Part 75, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the in 24 C.F.R. Part 75 regulations.
- C. The SUBRECIPIENT agrees to send to each labor organization or representative of workers with which the SUBRECIPIENT has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the SUBRECIPIENT's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The SUBRECIPIENT agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 75. The SUBRECIPIENT will not subcontract with any subcontractor where the SUBRECIPIENT has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 75.
- E. The SUBRECIPIENT acknowledges that SUBRECIPIENTS, contractors, and subcontractors are required to meet the employment, training, and contracting requirements of 24 C.F.R. 75.19, regardless of whether Section 3 language is included in recipient or SUBRECIPIENT agreements, program regulatory agreements, or contracts.
- F. The SUBRECIPIENT will certify that any vacant employment positions, including training positions, that are filled: (1) after the SUBRECIPIENT is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 75 require employment opportunities to be directed, were not filled to circumvent the SUBRECIPIENT's obligations under 24 C.F.R. Part 75.

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

H. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (46 U.S.C. § 5307) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

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

  
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### 30. FAIR HOUSING ACT

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

### 31. ENERGY POLICY AND CONSERVATION ACT

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

### 32. HATCH ACT

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

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

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

### 33. HEALTH AND SAFETY STANDARDS

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

### 34. PERSONNEL

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

### 35. WITHHOLDING OF WAGES

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

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

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

### 37. DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS

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

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

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

  
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purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or for the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefore or connected therewith.

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

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

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

#### **40. INTEREST OF SUBRECIPIENT**

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

#### **41. POLITICAL ACTIVITY**

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

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

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

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

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

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

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

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

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

The SUBRECIPIENT must comply with the regulations regarding systematic and organized approach to analyze functions of systems, equipment, facilities, services, and materials to ensure they achieve their essential functions at the lowest cost consistent to life cycle in execution, reliability, quality, and safety, in accordance with 2 C.F.R. § 200.318(g).

#### **46. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT (URA)**



Every project funded in part or in full by Community Development Block Grant – Disaster Recovery (CDBG-DR) funds, and all activities related to that project, are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 42 U.S.C. § 4601 et seq., and section 104(d) of the Housing and Community Development Act of 1992, as amended (HCDA), 42 U.S.C. § 5304(d), except where waivers or alternative requirements have been provided by the U.S. Department of Housing and Urban Development (HUD). The implementing regulations for URA are at 49 C.F.R. Part 24, and the regulations for section 104(d) are at 24 C.F.R. Part 42, subpart C. Additionally, HUD has established regulations specific to CDBG-funded housing activities at 24 C.F.R. § 570.606. PRDOH has also established the Uniform Relocation Assistance Guide & Residential Anti-Displacement and Relocation Assistance Plan (URA & ADP Guide) which provides guidance and requirements regarding URA compliance and minimizing displacement that are applicable to all CDBG-DR programs. The primary purpose of these laws and regulations is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

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When CDBG-DR funds are planned, intended, or used for any activity or phase of a project and the phases are interdependent, URA applies to that activity or project. This includes any property acquisition, even if CDBG-DR funds are not used to fund the purchase, if the contract to acquire property is executed with the intention of seeking CDBG-DR funds to complete the project or an interdependent phase of the project. SUBRECIPIENTS are responsible for ensuring URA compliance throughout the design, proposal, and implementation of any project that includes real property acquisition or displacement of residential or business occupants.

**END OF DOCUMENT**



GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING

## Attachment VII

### EXHIBIT H

## SUBROGATION AND ASSIGNMENT PROVISIONS

### RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM

### SMALL BUSINESS FINANCING PROGRAM

### HOMEBUYER ASSISTANCE PROGRAM

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#### 1. General Provisions.

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

#### 2. Subrogation and Assignment Relating to Funds Received from the Puerto Rico Department of Housing PR Urban Rural Agriculture Program, Small Business Financing Program and Homebuyer Assistance Program.

- a) These provisions are incorporated into the Subrecipient Agreement in consideration of the commitment by PRDOH to evaluate Subrecipient's application for the award of disaster assistance funds (the "**Application**") or the Subrecipient's receipt of CDBG-DR disaster recovery funds (the "**Grant Proceeds**") under the Program being administered by PRDOH.
- b) Subrecipient understands and acknowledges that the Program is subject to the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121-5207 (the "**Act**") and that, under such Act, the Subrecipient may only receive assistance to the extent that the Subrecipient has a disaster recovery need that is not fully met by insurance or other forms of disaster assistance. Subrecipient further acknowledges that these provisions are intended to ensure that Subrecipient does not receive duplicate benefits available to the Subrecipient from another source, for the same purposes as the Grant Proceeds provided under the Program, and that, any assistance

determined to be duplicative must be deducted from the Program's calculation of the Subrecipient's total need prior to awarding assistance.

- c) Subrecipient hereby subrogates and assigns to PRDOH any and all of Subrecipient's future rights to, and any interest Subrecipient may have in, any reimbursement and all payments received or subsequently received from any grant, loan, insurance policy or policies of any type (each individually, a "**Policy**" and collectively, the "**Policies**"), or under any subsidy, reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("**FEMA**"), insurance payments, or any other federal, state or local government agency (each, individually, a "**Disaster Program**" and collectively, the "**Disaster Programs**") to the extent of all Grant Proceeds paid or to be paid under the Program and that are determined, in the sole discretion of PRDOH or its designated agent, to be a duplication of benefits ("**DOB**"). Any payments referred to in this paragraph, whether they are from Policies, FEMA, or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "**Proceeds**"; any Proceeds that are determined to be a DOB shall be referred to herein as "**DOB Proceeds**".
- d) Subrecipient agrees that, in the event that Subrecipient receives additional Proceeds related to disaster recovery that are not listed on the Duplication of Benefits Certification submitted in connection with the Application, Subrecipient will notify the PRDOH within **ten (10) working days** of receipt of the funds by sending a written notification to [kcruz@vivienda.pr.gov](mailto:kcruz@vivienda.pr.gov). PRDOH will, in turn determine, in its sole discretion, if such Proceeds constitute DOB Proceeds. If any of the Proceeds are determined to be DOB Proceeds, the Subrecipient shall pay PRDOH the DOB Proceeds, to be disbursed as provided in Section 3 of this Agreement.

### 3. Cooperation and Further Documentation.

- a) If PRDOH elects to pursue any of the claims Subrecipient has or may have under any Policies, Subrecipient agrees to assist and cooperate with PRDOH. Subrecipient's assistance and cooperation shall include, but shall not be limited to, allowing suit to be brought in Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the PRDOH. Subrecipient also agrees to assist and cooperate in the attainment and

  
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collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Assistance Program.

- b) If requested by PRDOH, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better subrogate and assign to PRDOH (to the extent of the Grant Proceeds paid to Subrecipient under the Program) the Policies, any amounts received under the Disaster Assistance Programs that are determined to be DOB Proceeds and/or any rights thereunder. Subrecipient further agrees to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the PRDOH to consummate and make effective the purposes of these provisions.
- c) Subrecipient expressly allows and authorizes PRDOH to request information from any company with which Subrecipient holds or held any insurance policy or policies of any type, any other company or entity -public or private- from which the Subrecipient has applied for or is receiving assistance (such as FEMA, or others), or any non-public or confidential information determined by PRDOH, in its sole discretion, to be reasonably necessary to monitor/enforce its interest in the rights subrogated and assigned to it under this Agreement, and grant consent to such company or entity to release said information to the PRDOH.

**4. Agreement to Turn Over Proceeds; Future Reassignment.**

- a) If Subrecipient (or, to the extent permitted by superior loan documents, any lender to which DOB Proceeds are payable) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to PRDOH, if Subrecipient received Grant Proceeds under the Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.
- b) In the event that Subrecipient receives or is scheduled to receive any Proceeds not listed on its Duplication of Benefits Certification ("**Subsequent Proceeds**"), Subrecipient shall pay such Subsequent Proceeds directly to the PRDOH, and PRDOH will determine the amount, if any, of such Subsequent Proceeds that are DOB Proceeds ("**Subsequent DOB Proceeds**"). Subsequent Proceeds shall be disbursed as follows:
  - (i) If Subrecipient has received full payment of the Grant Proceeds, Subrecipient shall remit any Subsequent DOB Proceeds to PRDOH. PRDOH shall return to the Subrecipient any Subsequent Proceeds in excess of the Subsequent DOB Proceeds.

  
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- (ii) If Subrecipient has received no payment of the Grant Proceeds, PRDOH shall reduce the payment of the Grant Proceeds to Subrecipient by the amount of the Subsequent DOB Proceeds and shall return all Subsequent Proceeds in excess of the Subsequent DOB Proceeds to Subrecipient.
  - (iii) If Subrecipient has received a portion of the Grant Proceeds, the following shall occur: (A) PRDOH shall reduce the remaining payments of the Grant Proceeds and return Subsequent DOB Proceeds in such amount to the Subrecipient; and (B) Subrecipient shall remit any remaining Subsequent DOB Proceeds to PRDOH. PRDOH shall also return to the Subrecipient any Subsequent Proceeds in excess of the Subsequent DOB Proceeds.
  - (iv) If the PRDOH makes the determination that Subrecipient does not qualify to participate in the Program or Subrecipient decides not to participate in the Program, PRDOH shall return the Subsequent Proceeds to Subrecipient, and the Agreement shall terminate.
- c) Once PRDOH has recovered an amount equal to the Grant Proceeds paid to Subrecipient, PRDOH will reassign to Subrecipient any rights given to PRDOH pursuant to these provisions.

**5. Miscellaneous.**

- a) Subrecipient hereby represents that all statements and representations made by Subrecipient regarding any Proceeds are true and correct, as of the date of the issuance of the Grant Proceeds.
- b) In any proceeding to enforce these provisions, PRDOH shall be entitled to recover all costs of enforcement, including PRDOH's attorney fees.
- c) The parties hereto each waive the right to have any judicial proceeding concerning any of the provisions hereof tried by a jury.
- d) Neither these provisions, nor any portion or provisions hereof may be changed, waived, or terminated orally or by any course of dealing, or in any manner other than by an agreement in writing, signed by all parties hereto and approved by PRDOH.
- e) These provisions, and the rights and obligations of the parties shall be governed and construed in accordance with federal law and the laws of the Government of Puerto Rico without giving effect to conflict of law provisions. Any action arising out of or related to this Subrogation and Assignment provisions shall be brought within the Government of Puerto Rico.

  
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- f) The captions of the various sections of this Subrogation and Assignment provisions have been inserted only for the purpose of convenience; such captions are not a part of the Agreement and shall not be deemed in any manner to modify, explain, enlarge or restrict any provisions of this Subrogation.
- g) Subrecipient acknowledges that making a false, fictitious, or fraudulent statement or representation in this agreement is punishable under State and Federal law (18 U.S.C. §§ 287, 1001 and 31 U.S.C. § 3729), and shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Subrecipient acknowledges that they have been informed and understand the penalties for making a materially false or misleading statement to obtain CDBG-DR funds under the Program or any other of the PRDOH's Programs.

  
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**END DOCUMENT**

  
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# PATHSTONE - AMENDMENT A[41]

Final Audit Report

2022-05-05

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By:	Radames Comas Segarra (rcomas@vivienda.pr.gov)
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