



DEPARTMENT OF

HOUSING

GOVERNMENT OF PUERTO RICO

AMENDMENT A

**COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY ENERGY
AMENDMENT A TO THE GRANT AGREEMENT**

FOR THE

ELECTRICAL POWER RELIABILITY AND RESILIENCE PROGRAM (ER2)

BETWEEN

PUERTO RICO DEPARTMENT OF HOUSING

AND

XZERTA-TEC SOLAR I, LLC

FOR THE HATILLO SOLAR FARM PROJECT

Contract No. 2025-DR0129

Amendment No. 2025-DR0129A



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This **AMENDMENT A to the GRANT AGREEMENT FOR GRANT MANAGEMENT SERVICE (AMENDMENT A)** for the Electrical Power Reliability and Resilience Program (**ER2 Program** or **Program**) under the Community Development Block Grant – Disaster Recovery Energy (**CDBG-DR Energy**) Program is entered into in San Juan, Puerto Rico, on MAY 31, 2025, by and between:

The **PUERTO RICO DEPARTMENT OF HOUSING (PRDOH)**, a public agency created under Act No. 97 of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*, known as the “Organic Act of the Department of Housing”, with its main offices at 606 Barbosa Avenue, Juan C. Cordero Dávila Building, San Juan, Puerto Rico 00918, herein represented by its Secretary, Hon. Ciary Y. Pérez Peña, of legal age, single, and resident of Las Piedras, Puerto Rico; and **XZERTA-TEC SOLAR I, LLC (BENEFICIARY)** a limited liability company organized and existing under the laws of the Commonwealth of Puerto Rico, with its principal offices in Condominio Midtown, 420 Ponce De Leon Suite B-14, San Juan, Puerto Rico, herein represented by Fernando Molini Vizcarrondo, in his capacity as President and Chief Executive Officer, of legal age, married, and resident of San Juan, Puerto Rico, duly authorized by the Corporate Resolution issued on April 1, 2025; collectively, the “**Parties**”.

I. RECITALS

WHEREAS, on May 6, 2025, the PRDOH and the BENEFICIARY entered into an Grant Agreement (“**Grant Agreement**” or “**Agreement**”), for Electrical Power Reliability and Resilience Program (ER2) – Hatillo Solar Farm Project under the CBDG-DR Program, registered under **Contract No. 2025-DR0129** for a maximum amount not to exceed **eighty-eight million, six hundred and twenty-one thousand, two hundred and twenty-eight dollars and ninety-eight cents (\$88,621,228.98)**; from Account Number: esp-ier2doh-lmi/6090-01-000, for a term of **forty-two (42) months** from the date of its execution.


WHEREAS, upon execution of the **Agreement** a copy of all pertaining documents was duly presented for registration to the Office of the Comptroller on May 20, 2025. Consequently, **Agreement** was registered and assigned the identification number 1703731.


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WHEREAS, notwithstanding the aforementioned the original Agreement (2025-DR0129), which, due to error and inadvertence, contains a miscalculation of the **48-month** expiration date. According to **ARTICLE VII** of the original Agreement, as recorded in the Office of the Comptroller of Puerto Rico, the Agreement is set to expire on November 6, 2025, when it should have stated **November 6, 2028**.

WHEREAS, notwithstanding the aforementioned, the Parties hereby rectify the term of this Agreement by applying the correct **48-month** calculation, which concludes on **November 6, 2028**.

WHEREAS, this **AMENDMENT A** does not constitute an extinctive novation of the obligations of the Parties under the Agreement, as amended.

WHEREAS, this **AMENDMENT A** is being executed with the sole purpose of complying with the Office of the Comptroller, according to the dispositions included in Regulation No. 9571 of July 3, 2024, also known as Regulation No. 33

– Registry of Contracts of the Office of the Comptroller of the Commonwealth of Puerto Rico. The Parties acknowledge and agree that all other provisions of the Agreement, as amended, including its exhibits, remain in full force and effect.

WHEREAS, as per Article XLIII 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, it is the intention of the Parties that this Amendment is not intended to affect nor does it constitute an extinctive novation of the obligations of the Parties under the Agreement but is rather a modification and amendment of certain terms and conditions under the Agreement.

WHEREAS, each party represents that the person executing this Amendment has the legal authority to do so on behalf of the respective party.

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

II. TERMS AND CONDITIONS

A. SAVING CLAUSE

The information included in this **AMENDMENT A** serves the purpose of modifying and amending certain terms and conditions under the Agreement, including any modified Exhibits. All other provisions of the original Agreement shall continue to be in full force and effect, as amended by this **AMENDMENT A**.

B. SCOPE OF AMENDMENT

The Parties acknowledge and agree that, through this **AMENDMENT A**, they are partially modifying **ARTICLE VII. PERFORMANCE TIMEFRAME** of the original Agreement (2025-DR0129), which, due to error and inadvertence, contains a


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miscalculation of the **48-month** expiration date. According to **ARTICLE VII** of the original Agreement, as recorded in the Office of the Comptroller of Puerto Rico, the Agreement is set to expire on **November 6, 2025**, when it should have stated **November 6, 2028**, as agreed upon by the Parties during the Grant Agreement negotiations and as reflected in the supporting documentation provided during the Agreement’s preparation

Finally, the Parties agree to add a new **Article XVII. COMPLIANCE WITH ADMINISTRATIVE ORDER NO. OA-HD-25-03 OF PRDOH** to include the recently established public policy on the use and management of electronic and digital signatures in the Puerto Rico Department of Housing. In addition, the recognition of electronic and digital signatures in the course of the operations of PRDOH.


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C. AMENDMENTS

- i. Article VII. PERFORMANCE TIMEFRAME** of the Grant Agreement is being modified to read as follows:

VII. PERFORMANCE TIMEFRAME

*This Agreement shall be in effect and enforceable between the Parties from the date of its execution. The term of this Agreement is **forty-two (42)** months from the date of its execution, ending on **November 6, 2028**.*
[...]

- ii.** A new article **XVII. COMPLIANCE WITH ADMINISTRATIVE ORDER NO. OA-HD-25-03 OF PRDOH** is being added via this **AMENDMENT A** to establish the public policy regarding the use and management of electronic and digital signatures within PRDOH.

III. HEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms

of this Agreement, and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

IV. NON-WAIVER

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

V. HOLD HARMLESS

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

VI. BANKRUPTCY

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


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VII. GOVERNING LAW: JURISDICTION

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

VIII. COMPLIANCE WITH THE LAW

It is the intention and understanding of the Parties hereto that each and every provision of law required to be inserted in this Agreement should be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted and if, through mistake or otherwise, any such provision is not inserted herein or is not inserted in the correct form, then this Agreement 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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IX. SUBROGATION

The BENEFICIARY acknowledges that funds provided through this Agreement are Federal funds administered by HUD under the CDBG-DR Program and that all funds provided by this Agreement are subject to audit, disallowance, and repayment. Any disagreement with adverse findings may be challenged and subject to Federal regulation; however, the BENEFICIARY shall promptly return any and all funds to the PRDOH, which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause. This clause shall survive indefinitely the termination of this Agreement for any reason in accordance with **ATTACHMENT F** of the Grant Agreement.

X. COMPTROLLER REGISTRY

PRDOH shall remit a copy of this Agreement to the Office of the Comptroller for registration within **fifteen (15) days** following the date of execution of this Agreement and any subsequent amendment thereto. The work object of this Agreement may not be invoiced or paid until this Agreement has been

registered by PRDOH at the Comptroller's Office, pursuant to Act No. 18 of October 30, 1975, 2 LPRA § 97 *et seq.*, known as the "Contract Registry Act", as amended by Act No. 127-2004.

XI. ENTIRE AGREEMENT

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

XII. FEDERAL FUNDING

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

XIII. RECAPTURE OF FUNDS

PRDOH may recapture payments it makes to Subrecipient that: (i) exceed the maximum allowable rates; (ii) are not allowed under applicable laws, rules, or regulations; or (iii) are otherwise inconsistent with this Agreement, including any unapproved expenditures. Subrecipient must refund such recaptured payments within the term specified by PRDOH via notification, as per CDBG-DR/MIT Program Recapture of Funds Policy. ([Recapture of Funds Policy - CDBG-DR/MIT Recovery Funds](#)).

XIV. OVERPAYMENT

BENEFCIARY shall be liable to PRDOH for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Agreement.

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BENEFICIARY shall reimburse such disallowed costs from funds other than those BENEFICIARY received under this Agreement.

XV. COUNTERPARTS

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


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XVI. SURVIVAL OF TERMS AND CONDITIONS

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


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XVII. COMPLIANCE WITH ADMINISTRATIVE ORDER NO. OA-HD-25-03 OF PRDOH

On April 28, 2025, PRDOH issued an Administrative Order No. OA-HD-25-03, to establish public policy regarding the use and management of electronic and digital signatures within PRDOH. Additionally, to recognize electronic and digital signatures in the course of PRDOH's operations.

In compliance with OA-HD-25-03, PRDOH validates the consent of the electronic signatories through the incorporation of the following clause:

The Parties agree that this document may be signed by electronic means. They further acknowledge that, if signed in this manner, the document shall retain its legal validity and effect with respect to enforceability, consent, applicability, and admissibility.

XVIII. NON-CONFLICT OF INTEREST CERTIFICATION

The Subrecipient reassures PRDOH of its willingness to comply with the applicable conflict of interest policies by signing the Non-Conflict of Interest Certification incorporated by reference into the Agreement via this **AMENDMENT A. (Attachment I)**.


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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**

**XZERTA-TEC SOLAR I, LLC
BENEFICIARY**



Ciary Pérez Peña (May 31, 2025 16:42 EDT)

Name: **Hon. Ciary Y. Pérez Peña**

Title: Secretary



Fernando Molini (May 23, 2025 11:45 EDT)

Name: **Fernando Molini**

Vizcarrondo

Title: President and Chief


Executive Officer

NON-CONFLICT OF INTEREST CERTIFICATION
ELECTRICAL POWER RELIABILITY AND RESILIENCE PROGRAM (ER2)
XZERTA-TEC SOLAR I, LLC

The Subrecipient certifies that to the best of its knowledge:

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

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


Fernando Molini (May 23, 2025 11:45 EDT)

Signature

Fernando Molini Vizcarrondo

Printed Name

May 23, 2025

Date

President and Chief Executive Officer

Position


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