**EXECUTION COPY** 

# PROFESSIONAL SERVICES AGREEMENT FOR

Disaster Recovery Grant Claims Review Services After Hurricanes Irma and Maria and for Disaster Recovery Project Formulation Services Assistance after Hurricanes Irma and Maria

by and between

### THE PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY

and

ICF INCORPORATED, LLC

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Dated as of June 7, 2018



## PROFESSIONAL SERVICES AGREEMENT FOR

Disaster Recovery Grant Claims Review Services After Hurricanes Irma and Maria and for Disaster Recovery Project Formulation Services Assistance after Hurricanes Irma and Maria

This Professional Services Agreement (the "Agreement") for Disaster Recovery Grant Claims Review Services After Hurricanes Irma and Maria and for Disaster Recovery Project Formulation Services Assistance after Hurricanes Irma and Maria is made and entered into as of this 7th day of June, 2018 by and between the PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY, a public corporation of the Government of Puerto Rico, created and authorized to enter into this Agreement by Act No. 29-2009, as amended (the "Authority"), on behalf of the Central Office for Recovery, Reconstruction, and Resiliency ("COR³" of the "CRRO"), a division of the Authority, and ICF INCORPORATED, LLC ("Provider" or "ICF"), a limited liability company organized under the laws of Delaware, with offices located at 9300 Lee Highway, Fairfax, Virginia, USA 22031, Employer Identification Number (together with its successors and permitted assigns, the "Provider" and together with the CRRO, the "Parties"). For purposes of this Agreement, as the context may require, the term CRRO shall also mean the Authority.

#### RECITALS

WHEREAS, the CRRO, by virtue of the powers conferred to it under the Public-Private Partnerships Act, Act No. 29-2009, as amended ("Act 29"), is authorized to engage professional, technical and consulting services that are necessary and convenient to the activities, projects, and operations of the CRRO.

WHEREAS, the CRRO issued a "Request for Proposal for Disaster Recovery Grant Claims Review Services After Hurricanes Irma and Maria" and a "Request for Proposal for Disaster Recovery Project Formulation Services Assistance after Hurricanes Irma and Maria," each dated February 12, 2018 (the "CRRO Disaster Recovery RFPs").

WHEREAS, the Provider responded to the CRRO Disaster Recovery RFPs by submitting two proposals on February 28, 2018 (jointly, the "Proposal"), which were selected by the CRRO.

WHEREAS, after considering the Proposal, and evaluating the further needs of the CRRO, the Parties have agreed as to the services to be provided to the CRRO by the Provider.

WHEREAS, the CRRO wishes to engage the Provider to provide Disaster Recovery Grant Claims Review Services After Hurricanes Irma and Maria and for Disaster Recovery Project Formulation Services Assistance after Hurricanes Irma and Maria.

WHEREAS, the Provider is willing to provide such services to the CRRO as provided herein.

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WHEREAS, CRRO is authorized to enter into this Agreement pursuant to Act No. 29-2009, Executive Order No. 2017-65 - Administrative Bulletin No. OE-2017-065, as amended by Executive Order 2017-069, Administrative Bulletin No. OE-2017-069, and Resolutions No. 2017-39,2018-12 and 2018-13 of the Board of Directors of the Authority.

WHEREAS, in accordance with the policies established by the Financial Oversight and Management Board for Puerto Rico (the "FOMB"), this Agreement has been reviewed by the FOMB.

**NOW, THEREFORE**, the CRRO and the Provider agree to enter into this Agreement under the following:

#### ARTICLE I DEFINITIONS

Section 1.1. <u>Definitions</u>. The following terms shall have the meanings as indicated:

"Charges" means the compensation and fees for Services and/or Deliverables (at the rates set forth herein), reimbursement of out-of-pocket expenses, and other amounts to the extent applicable and as provided for herein and in the applicable Statement of Work.

"Consent" shall have the meaning set forth in Section 3.6.

"CRRO Event" shall mean any act or omission that contributes in a material way to ICF's failure or other inability to perform its obligations under this Agreement, except to the extent undertaken at ICF's direction or with ICF's consent.

"CRRO Contractors" means those natural or legal persons that are contracted by the CRRO and/or its prime contractors with which ICF and/or its subcontractors interface, engage, or rely upon, in any respect, to perform Services or provide Deliverables hereunder or under a Statement of Work.

"CRRO-Provided Intellectual Property" shall have the meaning set forth in Section 3.3(a).

"CRRO-Provided Software" shall have the meaning set forth in Section 3.4.

"CRRO Responsibilities" shall have the meaning set forth in Section 3.1(a).

"Custom Deliverables" shall have the meaning set forth in Section 3.3(c)(i).

"Data Subject" shall have the meaning set forth in Section 3.1(a)(vii).

"Deliverables" means any materials and/or services procured and delivered under the applicable Statement of Work issued or incorporated under this Agreement. Whether or not actually delivered to the CRRO or its agents, Deliverables include Documentation, media and other objects identified as Deliverables in the applicable Statement of Work, and shall include Custom



Deliverables and Other Deliverables.

"Documentation" means, without limitation, user manuals, protocols, procedures, memoranda and any other written materials that relate to the Deliverables and are identified in the applicable Statement of Work.

"Firm Fixed Price" or "FFP" when used to refer to the compensation payable to ICF hereunder with respect to any Deliverables and Services, shall mean that such compensation shall consist of a fixed amount, as set forth in Appendix B or in the applicable Statement of Work, and shall not be determined on the basis of the hourly rates set forth in Appendix A, but which may be subject to adjustment as provided in this Agreement or in the applicable Statement of Work.

"ICF-Provided Intellectual Property" shall have the meaning set forth in Section 3.3(b).

"Other Deliverables" shall have the meaning set forth in Section 3.3(c)(ii).

"Project" means the Services to be performed and/or the Deliverables to be provided to the CRRO pursuant to the applicable Statement of Work issued under this Agreement.

"Services" means the labor effort provided by ICF and/or its subcontractors to or for the benefit of the CRRO under this Agreement, as more fully described in Article II and the applicable Statements of Work.

"Statements of Work" or "SOW" means the documents that identify the particular Services to be performed and the Deliverables to be provided by ICF and/or its subcontractors hereunder. The initial Statement of Work is set forth in Appendix B.

"Time & Material" or "T&M when used to refer to the compensation payable to ICF hereunder with respect to any Deliverables and Services provided under this Agreement that are not FFP, shall mean compensation that consists of a fixed hourly labor category billing rate, billed for each hour worked in providing any Deliverable and Services under this Agreement. The fixed labor category billing rates are set forth in Appendix A or the applicable Statement of Work. The compensation billable under a T&M shall also provide for the reimbursement of approved expenses as provided for in this Agreement.

# ARTICLE II PURPOSE; SCOPE OF SERVICES; SUBCONTRACTING

Section 2.1. <u>Purpose of Agreement</u>. The CRRO hereby engages Provider to perform the services described in Appendix B, which include the Services identified in the Proposal, through employees and subcontractors described in, and labor categories, rates and related pricing information set forth in Appendix A and Appendix B. In the event that the CRRO desires to engage the Provider to advise the CRRO in any other matter, the Parties shall negotiate in good faith a modification to this Agreement or a separate agreement with respect to such request.



Section 2.2. Scope of Services. Subject to the terms and conditions of this Agreement, the Services provided hereunder will be consistent with the provision of the Deliverables or Services described in Appendix B ("Statement of Work B-1"), which is attached hereto and incorporated herein, and any other Statement of Work incorporated herein by modification to this Agreement hereafter. Such work will be provided as set forth herein.

Section 2.3. Effective Date and Term. This Agreement shall be in effect from the date of its execution until June 30, 2021 (the "Expiration Date"), provided, however, that this Agreement shall end on the last day of each fiscal year of the CRRO (June 30) unless an amendment is ratified in writing by the CRRO and acknowledged by ICF prior to such date. The period of time ending on June 30, 2018 shall be referred to as the "Base Term," and each period of one fiscal year thereafter ending on the last day of the fiscal year shall be referred to as an Option Term:

Base Term From the date of execution through June 30, 2018
Option Term 1 July 1, 2018 – June 30, 2019
Option Term 2 July 1, 2019 – June 30, 2020

Option Term 3 July 1, 2020 – June 30, 2021

Each Option Term will be considered exercised and effective upon the notification of CRRO to Provider that such period is exercised and acknowledgment of same by ICF. The Parties agree that each Option Term shall be exercised by CRRO and acknowledged by ICF, unless funds have not been appropriated for the Agreement or the Agreement has been earlier terminated by a Party as provided herein. It is further agreed that CRRO will use reasonable efforts to provide notification of each Option Term effectiveness at least thirty (30) calendar days prior to the start of such period.

Section 2.4. <u>Subcontracting</u>. Except as otherwise set forth herein with respect to the Provider's affiliates, the Provider shall not enter into any subcontract for services under this Agreement (other than those subcontractors listed in the Proposal), or enter into any contract with third-party experts or other persons to render the services under this Agreement, which contract or subcontract, provides for compensation in any fiscal year in an amount exceeding 5% of the maximum amount payable hereunder in such fiscal year, as set forth in Section 4.2, without prior written authorization from the CRRO. Each request for authorization made under this clause shall identify the subcontractor, the services to be subcontracted, and an estimated value of the proposed subcontract. ICF will remain fully responsible to the CRRO for the performance hereunder.

Section 2.5. Provision of Services. During the term of this Agreement and subject to the payments of amounts due to ICF, ICF shall provide to the CRRO, and the CRRO shall obtain from ICF, certain Services and/or Deliverables as more particularly specified in this Agreement and individual Statements of Work which are issued hereunder or incorporated herein. The Parties may, from time to time, agree to amend a Statement of Work by mutual, written agreement of the Parties; provided that ICF will not be obligated to perform work beyond the scope identified in any such Statement of Work, except as amended. In the event of a conflict or ambiguity between any term of this Agreement and the applicable Statement of Work, the terms of this Agreement shall prevail unless and except to the extent the applicable Statement of Work



explicitly notes the deviation from this Agreement, in which case the terms of such applicable Statement of Work will prevail only with respect to such provision.

Services, Deliverables, performance schedules, charges and related items in this Agreement and the applicable Statements of Work are dependent upon the accuracy and completeness of the information provided to ICF as reflected in any assumptions and dependencies set forth in such Statement of Work. If either Party discovers that any fundamental assumptions and dependencies as set forth herein or in the applicable Statement of Work are inaccurate in any material respect, then that Party shall inform the other Party and the Parties will discuss the related impact (whether positive or negative) on ICF's ability to perform the Services or provide Deliverables in accordance with the terms of this Agreement and/or the applicable Statement of Work. In such event, the Parties will seek to establish appropriate adjustments to their respective obligations under this Agreement (including the charges payable to ICF) through the execution of a change order, as provided in this Article 2.

Section 2.7. Change Control Procedure. Over the term of this Agreement, the Parties will evaluate new business processes, technology and other innovations that may improve the value of the Services for the CRRO. Whether as a result of such opportunities or in the event of unanticipated changes to the scope, schedule or other matters (including without limitation relevant Project policies, procedures, processes or related matters) affecting the Deliverables or Services (including those resulting from Force Majeure), ICF will prepare a proposal generally consistent with the Change Order template which is attached hereto as Appendix D and incorporated by reference herein. Such submission is referred to as a "Change Order Proposal" and, when agreed, is referred to as a "Change Order". Upon submission of such Change Order Proposal, both Parties shall work in good faith to finalize a Change Order to be reflected in a modification to this Agreement and/or the applicable Statement of Work, which shall be executed by the Parties. With respect to other changes to the scope, schedule or other matters affecting the applicable Statement of Work, ICF will continue performing the Services or providing the Deliverables in accordance with the Statement of Work, until such Change Order is finalized and executed.

Section 2.8. Acceptance. The CRRO shall have ten business (10) days after

performance of each Service and delivery of each Deliverable in which to notify ICF by providing a written list of all issues identifying instances where such Services and/or Deliverables failed to comply with the specific acceptance criteria specified in the applicable Statement of Work requirements. Prior to providing such list, the CRRO shall review it carefully with the goal of avoiding any conflicting or inconsistent items. If ICF is not notified in writing (which may be by e-mail) in accordance with Section 10.1 of any such failure within this time period, the Services and/or Deliverables shall be deemed accepted by CRRO. The acceptance of Services and/or Deliverables shall accrue cumulatively toward the task, project and/or overall Project success. After any notice described above is received, the Parties will agree to what constitutes a reasonable period of time to correct any deficiency. The CRRO shall then have ten (10) business days in which to notify ICF in writing whether the Service and/or Deliverable, as

corrected, complies with the relevant and applicable Statement of Work requirements. If the Service and/or Deliverable, as corrected, still does not comply with the specific acceptance

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criteria in the applicable Statement of Work requirements, ICF may at its option and as the sole remedy available to the CRRO, correct any remaining deficiency or repay the amount paid to ICF for the rejected portion of such Service or Deliverable.

## ARTICLE III REPRESENTATIONS, WARRANTIES AND AGREEMENTS

#### Section 3.1. CRRO Responsibilities.

- (a) <u>CRRO Representations</u>, <u>Warranties and Agreements</u>. The CRRO represents, warrants and agrees that it shall perform those tasks and fulfill those responsibilities specified herein and in the applicable Statement of Work ("<u>CRRO Responsibilities</u>"). In particular, for itself and with respect to its oversight of its representatives and CRRO Contractors, the CRRO represents, warrants and agrees that it shall be responsible for:
  - i. Approving the Project design, operating policies and procedures pursuant to which the Deliverables and Services will be provided.
  - ii. Supplying data and other information from sources believed to be reliable by the CRRO to ICF or its subcontractors for the preparation of Deliverables and/or performance of Services, including, but not limited to, as set forth in the applicable Statement of Work, with the understanding that ICF is entitled to rely upon such data and information in performing its Services and preparing Deliverables.
  - iii. Providing a cloud-based computing environment and any other computing equipment for the provision of Deliverables and performance of Services including overall responsibility for the system.
  - iv. Purchasing and providing all hardware and software and other non-labor items as set forth in the applicable Statement of Work. All equipment will be owned by the CRRO and delivered to the CRRO upon project completion.
  - v. Performing, to the best of its ability, the CRRO Responsibilities and cooperating in good faith with ICF to facilitate its ability to perform the Services.
  - vi. Complying with all laws applicable to the CRRO.

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- vii. Notifying any identifying natural person ("<u>Data Subjects</u>") of the CRRO's and ICF's processing or other treatment of Data Subjects' Personal Data through an applicable jurisdiction-specific privacy statement on the website of the CRRO and any applicable consent from subject individuals.
- viii. Explaining in the CRRO's data protection policies and privacy statements what the CRRO considers the related legitimate interests to be for the treatment of any identifying natural person's Personal Data.
  - ix. Complying with any and all applicable data protection regulations.
  - x. THE CRRO SHALL BE SOLELY RESPONSIBLE TO TAKE APPROPRIATE MEASURES TO ISOLATE AND BACK UP ITS SYSTEMS, DATA AND RECORDS, AND TO TAKE OTHER ACTIONS OR PRECAUTIONS NECESSARY TO PROTECT THESE AND OTHER RESOURCES.



#### Section 3.2. ICF Responsibilities.

- (a) <u>Facilities</u>. Where this Agreement or the applicable Statement of Work specifies that a Party's personnel may be located on-site at the other Party's facilities, the Party controlling the facilities shall provide such personnel of the other Party with suitable office space, desks, storage, furniture, and other normal office equipment and support, as reasonably necessary for the performance or receipt of Services described in the applicable Statement of Work. All such property at the CRRO's facilities, regardless of its physical location or use, will be deemed to be in the care, custody and control of the CRRO. All such property at ICF's facilities, regardless of its physical location or use, will be deemed to be in the care, custody and control of ICF.
- (b) <u>Cooperation with CRRO Contractors</u>. ICF represents and warrants that it shall in good faith cooperate with and provide reasonable support to CRRO and any CRRO Contractors, as requested by CRRO from time to time, to coordinate ICF's provision of Services and the performance by CRRO and/or the CRRO Third Party Vendor of any service, activity or task related to or interdependent with such Services.

### Section 3.3. <u>Intellectual Property</u>.

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- (a) Ownership of CRRO-Provided Intellectual Property. As between the Parties, CRRO and its licensors will be the sole and exclusive owner of the Intellectual Property owned by CRRO or provided to ICF by CRRO under this Agreement, including the CRRO-Provided Software as defined below (collectively, the "CRRO-Provided Intellectual Property"). CRRO-Provided Intellectual Property will be deemed to include any derivatives, modifications, enhancements or improvements to the CRRO-Provided Intellectual Property.
- (b) <u>Ownership of ICF-Provided Intellectual Property</u>. As between the Parties, ICF and its licensors will be the sole and exclusive owner of the Intellectual Property owned by ICF or provided to CRRO by ICF under this Agreement (collectively the "<u>ICF-Provided Intellectual Property</u>"). ICF-Provided Intellectual Property will be deemed to include any derivatives, modifications, enhancements or improvements to the ICF-Provided Intellectual Property.
  - c) Ownership of Custom Deliverables and Other Deliverables.
  - i. "Custom Deliverables" means the specifications, design documents, flow charts, documentation, reports and other similar work product that ICF develops for delivery specifically for CRRO pursuant to the applicable Statement of Work; provided, however, that Custom Deliverables excludes any ICF-Provided Intellectual Property. Any such ICF-Provided Intellectual Property will be subject to Section 3.4. Unless otherwise provided for in the applicable Statement of Work, and subject to any restrictions of any third-party materials and Section 3.3(d) below, Custom Deliverables shall be CRRO's sole and exclusive property. ICF hereby assigns to CRRO without further consideration ICF's rights in and to such Custom Deliverables (excepting any ICF-Provided Intellectual Property). To the extent any Custom Deliverables contains ICF Confidential Information, such information will



be subject to Article IV below.

- ii. "Other Deliverables" shall refer to any other specifications, design documents, flow charts, documentation, reports and other materials that have not been developed specifically for CRRO but have been identified in a applicable Statement of Work and provided by ICF to CRRO pursuant to such applicable Statement of Work. Unless otherwise provided for in the applicable Statement of Work, and subject to any restrictions of any third-party materials and Section 3.3(d) below, (a) CRRO will have a perpetual, irrevocable, worldwide, royalty free, non-transferable (except as otherwise provided herein or in the applicable Statement of Work), non-exclusive, paid-up right and license to use, maintain, copy, modify, enhance and prepare derivative works of the Other Deliverables, and (b) CRRO's rights in the Other Deliverables will be for purposes of administration of the Project only. All other rights (including all other intellectual and industrial property rights) in the Other Deliverables will remain with or are hereby assigned to ICF.
- iii. For purposes of this Agreement, Custom Deliverables and Other Deliverables may be collectively referred to as "<u>Deliverables</u>."
- (d) <u>Embedded ICF-Provided Intellectual Property</u>. To the extent ICF incorporates or embeds ICF-Provided Intellectual Property into any Deliverables, the following provisions will apply:
  - i. If ICF incorporates or embeds into any Deliverables any ICF-Provided Intellectual Property ("Embedded ICF-Provided Intellectual Property"), ICF will grant and hereby grants to CRRO a nonexclusive, nontransferable (except as otherwise provided herein or in the applicable Statement of Work), worldwide, royalty-free, perpetual, irrevocable license to use, maintain, modify, enhance and create derivative works of such Embedded ICF-Provided Intellectual Property to the extent necessary to use or maintain such Deliverables for purposes of administration of the Project only and solely as used in such Deliverables and not as a "stand-alone" product or separately from such Deliverables in which it is embedded. ICF will not be deemed to have transferred or assigned any other rights to CRRO with respect to any Embedded ICF-Provided Intellectual Property.
  - ii. Notwithstanding such license, ICF and its licensors will be the sole and exclusive owner of any modifications, enhancements and improvements to, or derivatives of, any Embedded ICF-Provided Intellectual Property made by CRRO or CRRO Contractors pursuant to such license (the "ICF-Provided Intellectual Property Enhancements"). CRRO hereby assigns to ICF without further consideration CRRO's rights in and to such ICF-Provided Intellectual Property Enhancements all such ICF-Provided Intellectual Property Enhancements will be deemed part of the license granted to CRRO pursuant to this Section 3.3.
  - (e) Further Assurances. The Parties shall cooperate with each other and execute such



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other documents as may be necessary or appropriate to achieve the objectives of this Section 3.3.

- (f) <u>Knowledge Capital</u>. Subject to the Parties' obligations under Article V, nothing in this Agreement will preclude either Party from acquiring, marketing, developing, distributing, licensing or using for itself or others, services, products or technology that are the same as or similar to those provided to the other Party by such Party pursuant to this Agreement. Furthermore, each Party will continue to be free to use the general knowledge, skills and experience and any ideas, concepts, know-how and techniques that are acquired or used in the course of providing or receiving the Services.
- (g) Open Source Materials. If applicable to this Agreement, ICF shall use reasonable commercial efforts through the use of industry standard software and other customary procedures to screen for and to identify for CRRO, Open Source Materials, if any, that it may make available under any applicable Statement of Work to the CRRO. To the extent ICF identifies any such Open Source Materials to be made available to CRRO, CRRO shall use them pursuant to the terms of the applicable license to such Open Source Materials. Notwithstanding the foregoing, under no circumstance shall ICF (a) knowingly incorporate any Open Source Materials into any Deliverable under any applicable Statement of Work, unless approved in writing by CRRO in advance, or (b) make available to CRRO any Open Source Materials containing "copy left" restrictions, unless approved in writing by CRRO in advance. Unless otherwise agreed in writing, if Open Source Materials are made available by either Party (and, in the case of materials made available by ICF, identified to CRRO), such materials will be made available on an "as is" basis and, to the extent permitted by applicable law, without express or implied warranties of any kind.
- <u>CRRO-Provided Software</u>. In order to carry out its responsibilities under this Agreement or the applicable Statement of Work, ICF may need to use software, databases and data that are owned by or licensed to the CRRO or otherwise obtain rights pursuant to contracts between CRRO and third parties ("CRRO-Provided Software") as specified in the applicable Statement of Work. To the extent so specified in the applicable Statement of Work, CRRO grants to ICF (and its authorized subcontractors), a worldwide, non-exclusive, nontransferable, royalty-free paid-up right and license to access, use, copy, modify and enhance such CRRO-Provided Software, all only to the extent necessary for ICF's performance of this Agreement and the applicable Statement of Work. Such license will terminate upon the expiration of the applicable Statement of Work. The CRRO is administratively and financially responsible for obtaining with respect to each item of CRRO-Provided Software, any Consents necessary for the licenses and use specified above, and paying any sales and use tax imposed in connection with the CRRO-Provided Software and the use of same by ICF. CRRO will be responsible for the impact caused by any material delay or failure in obtaining such Consents. ICF will inform CRRO as to its estimates of the impact of such delay or failure on ICF's ability to provide the Services in accordance with the terms of this Agreement and the applicable Statement of Work. In such event, the Parties shall seek to establish mutually acceptable alternative arrangements and to make appropriate adjustments in their respective obligations under the applicable Statement of Work (including the charges payable to ICF) through the execution of a Change Order. ICF shall comply with restrictions on ICF's use of CRRO-Provided Software that are identified in writing to, and acknowledged by, ICF. Subject to the

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foregoing, CRRO retains responsibility for its contractual obligations with respect to all CRRO-Provided Software.

ICF-Provided Software. As between the Parties, ICF will be the sole and exclusive owner of the ICF-Provided Software. Unless otherwise specified in this Agreement or applicable Statement of Work, ICF is administratively and financially responsible for obtaining any Consents necessary for CRRO and ICF to use ICF-Provided Software. ICF retains responsibility for its contractual obligations with respect to all such ICF-Provided Software; provided, however, that CRRO shall comply with restrictions on CRRO's use of such ICF-Provided Software that are identified in writing to, and acknowledged by, CRRO. ICF-Provided Software that CRRO may access or use in connection with receipt of the Services will be specified in the applicable Statement of Work; CRRO's rights to such ICF-Provided Software will be limited to the rights separately identified by the Parties in writing, and unless otherwise agreed any CRRO access and use rights or license will terminate upon the expiration of the applicable Statement of Work. ICF shall have the right to monitor and audit use of the ICF-Provided Software, provided, however, that ICF may only exercise such right (i) following reasonable prior written notice to CRRO and (ii) during regular business hours with minimal disruption to CRRO's operations; and provided further that ICF's personnel performing such audit shall be subject to and abide by CRRO's security policies and procedures. If an audit shows that CRRO has not complied with restrictions on CRRO's use of the ICF-Provided Software that have been identified to, and acknowledged by CRRO, then ICF shall notify CRRO and CRRO shall promptly modify its use of the ICF-Provided Software so as to be in compliance with such restrictions.

Section 3.6. <u>Consents</u>. The following provisions apply to the Party responsible for providing any software or Intellectual Property and otherwise when this Agreement or the applicable Statement of Work imposes upon a Party the responsibility to obtain any consents, waivers, permits, clearances, approvals, licenses, rights and other authorizations ("<u>Consents</u>").

- i. The Party responsible for obtaining the Consent shall use reasonable efforts to obtain such Consent. The other Party shall provide reasonable assistance to the responsible Party in obtaining such Consent. The Parties will cooperate to obtain such Consent in a cost effective and efficient manner.
- ii. Responsibility for obtaining the Consent will also include (subject to Section 3.6 (iii) below) the payment of any required transfer, upgrade, access, license or similar fees or charges related thereto.
- iii. If any Consent cannot be obtained on a commercially reasonable basis, the Parties will (a) make any appropriate adjustments to their respective obligations under this Agreement and the applicable Statement of Work, including, where necessary, adjusting the Charges, all to the extent necessary due to a failure to obtain such Consent, and (b) seek to establish mutually acceptable alternative arrangements so that the Parties may perform their respective obligations under this Agreement and the applicable Statement of Work(s), by alternative means. A Party and its employees, agents and subcontractors will be included within the scope of any Consent to be obtained by the other Party.



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### ARTICLE IV COMPENSATION

Section 4.1. General. Under this Agreement, any Service or Deliverable that is billed on a Firm Fixed Price basis shall be considered fully earned on the date it is invoiced by the Provider except to the extent the CRRO notifies ICF in writing as specified herein that such Service or Deliverable failed to comply with the CRRO's acceptance criteria specified in the applicable Statement of Work requirements. In addition, Charges shall include compensation by the CRRO to ICF for fees incurred in connection with Project audit activities; as part of interfacing, participating, or working with CRRO Contractors, as required by the CRRO or in connection with the performance under a Statement of Work; and/or reasonably resulting from or otherwise connected with CRRO Events or Force Majeure events. ICF is not obligated to continue performance that is not covered by any funding established in this Agreement or the applicable Statement of Work. Funding for the amounts payable by the CRRO to ICF under this Agreement include, but may not be limited to, federal assistance and disaster recovery appropriations, grants or other funding from the U.S. Government (the "Federal Programs").

Section 4.2. <u>Compensation for Services and Deliverables</u>. The CRRO shall compensate ICF for Services and Deliverables in the manner set forth in this Agreement, including Appendix A and Appendix B, and the applicable Statement of Work. Except as otherwise provided in the applicable Statement of Work for Services and Deliverables provided on a Firm Fixed Price basis, the CRRO shall compensate ICF in accordance with labor rates for the applicable labor categories as set forth in Appendix A, which is attached hereto and incorporated herein by reference.

Within fifteen (15) days of the execution of this Agreement, the Provider will deliver a management plan to the CRRO. After delivery of such management plan, Provider shall invoice the fixed amount set forth in Appendix B of this Agreement for such management plan, which amount shall be considered fully earned and non-refundable on the date such management plan is delivered. The CRRO shall make payment of such fixed amount to ICF in accordance with Section 4.7.

The maximum amount payable by CRRO for Services and Deliverables provided under this Agreement, including Travel and Out of Pocket Expenses pursuant to Section 4.3, during the Base Term and each Option Term shall be as set forth in the table below, as the same may be amended from time-to-time by the Parties; provided that ICF shall not be required to perform Services or provide Deliverables that would require compensation beyond such maximum amount, as such amount may be amended by written agreement of the Parties.



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Term	Firm Fixed Price SOWs	T&M SOWs	Maximum Total
Base Term (through 6.30.18)	\$1,493,000	\$9,087,000	\$10,580,000
Option Term 1 (7.1.18 – 6.30.19)		\$80,050,000	\$80,050,000
Option Term 2 (7.1.19 – 6.30.20)		\$48,880,000	\$48,880,000
Option Term 3 (7.1.20 – 6.30.21)		\$49,340,000	\$49,340,000

### Section 4.3. Travel and Out of Pocket Expenses.

- (a) The CRRO will reimburse the Provider on a monthly basis for out of pocket expenses incurred in connection with performance under this Agreement, including but not limited to travel and lodging (including housing rental expense), expense of outside counsel, filing fees, taxi fares, delivery expenses, and services such as overnight mail, courier and messenger charges.
- (b) Any expense for which a reimbursement is requested shall be reasonable and related to the performance of such services. Prior to incurring any individual expense estimated to exceed \$10,000, ICF shall request the written authorization of the CRRO; provided that this requirement shall not be applicable to amounts payable to subcontractors (which may be in the form of services or expenses in support of the work hereunder), which are governed by Section 2.4. The CRRO may in its discretion provide approval in advance for recurring expenses regardless of amount, and CRRO will in any case establish a process for timely review and approval of requests so as to avoid delays in the performance of Services or provision of Deliverables. The CRRO will not reimburse expenses which do not comply with this provision. Under no circumstances will expenses for alcoholic beverages be reimbursed.
- (c) Any request for reimbursement of expenses must be accompanied by the corresponding invoice or receipt and shall specify the relation of the expense to the services rendered; provided that ICF shall not be required to provide receipt documentation for per diem allowances as provided in subsection 4.3(d) below. All reimbursements shall be for actual expenses incurred and shall be billed at cost, inclusive of indirect costs applied and charged in accordance with ICF's disclosed U.S. Government accounting practices, and shall include any sales taxes paid by ICF.
- (d) For travel required as part of the Services or as otherwise provided in the applicable Statement of Work, the CRRO will reimburse the Provider based on the federal Defense Travel Management Office ("DTMO") per diem guidelines for Puerto Rico as referenced by the U.S. General Services Administration for federal funded travel for Puerto Rico.



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See the DTMO website (<a href="http://www.defensetravel.dod.mil/site/perdiemCalc.cfm">http://www.defensetravel.dod.mil/site/perdiemCalc.cfm</a>) for established rates and travel regulation governing Puerto Rico. Per diem will be paid based on the daily allowance rates established for meals, incidentals, and lodging (no receipt will be required for payment of this per diem). Reimbursement for air travel expenses is restricted to coach fares. In the event a scheduled trip is cancelled for reasons not attributable to the Provider, the CRRO will assume the cost of any penalty. The CRRO will not process reimbursements of expenses submitted without the required documentation.

Section 4.4. <u>Administrative Bulletin No. OE 2001-73</u>. The applicable provisions of Administrative Bulletin No. OE 2001-73, approved on November 29, 2001 state that the invoices submitted to the directors of agencies and departments in the Executive Branch for payment of personal or professional goods and services rendered, including invoices related to construction works and projects, must contain the following certification to be made by the Provider:

"Under penalty of absolute nullity, I certify, that no public servant from the Government is a party to or has any interest in the revenues or benefits resulting from the contract that is the subject of this invoice. If he/she is party to or has any interest in the revenues or benefits resulting from the Agreement, there would have been a prior waiver. The only consideration for providing goods or services that are the subject of the Agreement was the payment agreed upon with the Government. The amount of this invoice is fair and accurate. The services were rendered and payment for them has not been made."

Section 4.5. <u>Invoicing</u>. ICF will render a single consolidated invoice for Services and Deliverables provided under this Agreement and the applicable Statement of Work that reflect Charges for the period. Each invoice will include reasonable detail and such supplemental information as specified in the applicable Statement of Work. Each invoice shall be itemized with entries for fractions of an hour based on tenths of an hour (.10) and must be duly certified by an authorized representative of ICF. The CRRO will not honor invoices submitted after one hundred eighty (180) days of services having been rendered. ICF accepts and agrees to this requirement, and understands that if it does not comply accordingly, it waives its right to payment for rendered services covered by such invoices. The CRRO reserves the right to review the invoices and if they are in compliance with the requirements set forth in this Agreement, it will proceed with payment.

Section 4.6. <u>Disputed Charges</u>. Except for Charges accepted or deemed accepted as provided in Section 2.8, if CRRO, reasonably and in good faith, disputes Charges set forth in an invoice, the CRRO must notify ICF in writing within fifteen business (15) days of receipt of such invoice setting forth the specific basis or bases for objection (the "<u>Disputed Charges</u>"). CRRO and ICF shall diligently pursue an expedited resolution of such Disputed Charges. If the Parties are unable to resolve any such dispute within thirty (30) days after the date payment of the applicable invoice is due, the Parties may exercise the rights available under the Dispute Resolution provisions of this Agreement.

Section 4.7. <u>Payment</u>. (a) The CRRO shall pay all Charges invoiced by ICF, other than Disputed Charges, within thirty (30) days after receipt of the invoice. Any portion of a Disputed Charge as to which the Parties resolve the dispute shall be paid within fifteen (15)

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business days after such resolution. All amounts to be paid to ICF under this Agreement will be paid in U.S. dollars by electronic funds transfer to the account or accounts designated by ICF from time to time or by such other method as is mutually determined by the Parties. Any amount not paid when due will accrue interest from the original due date until paid at a rate equal to the lesser of 1% per month or the maximum rate permitted by law. Payments will be made by wire transfer as follows:

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Account Name		ICF Consulting Group, Inc.	
Bank Name		PNC Bank	
Bank Address		800 17 <sup>th</sup> Street NW	
		Washington, DC 20006	
Domestic	ABA Number	031207607	***************************************
EFT	Account Number	80-2637-4453	

ICF may designate replacement payment information at any time upon notice to CRRO.

(b) The CRRO shall segregate in a separate bank account with a non-governmental depository institution all amounts received by the CRRO under the Federal Programs identified in Section 4.1. Within a reasonable period of time after the date hereof, the CRRO shall provide to ICF electronic access to a data site that shows the amounts allocated to ICF that have been deposited and withdrawn from such segregated account for the purpose of providing ICF a reasonable and on-going assurance that CRRO has the funding necessary to pay for the Services and Deliverables hereunder.

## ARTICLE V INFORMATION; CONFIDENTIALITY; CUSTOMER DATA

Section 5.1. <u>Information Provided by the Provider</u>. No information or advice provided or materials prepared by the Provider as a result of its activities hereunder may be disclosed, in whole or in part, or summarized, excerpted from or otherwise referred to a third party outside of the Executive Branch (other than, on a confidential, non-reliance, need to know basis, to the CRRO's employees, advisors, counsel and other representatives) without the Provider's prior written consent, unless compelled by law or court order. In addition, the CRRO agrees that any reference to the Provider in any press release or communication is subject to the Provider's prior written approval, which may be given or withheld in its reasonable discretion, for each such reference. Notwithstanding any of the foregoing, the Provider agrees that the restrictions set forth by this Section 5.1 shall be effective solely during the Project and, once the Project has ended, either due to successful completion or termination or cancellation by the CRRO, such information or materials may be disclosed at the CRRO's discretion, with the exception of trade secret or other proprietary information of ICF or its subcontractors.

### Section 5.2. <u>Confidential Information</u>.

(a) In connection with this Agreement, each Party may disclose to the other Party information that relates to the disclosing Party's business operations, financial condition,



customers, products, services, or technical knowledge. CRRO and ICF agree that all information communicated to it by the other or to which it has access in connection with the Services, and the terms and conditions of this Agreement ("Confidential Information") will be held by the receiver in confidence and used only for the purposes of this Agreement. The Parties acknowledge that third-party software may be subject to additional confidentiality restrictions imposed by the applicable vendor's license or other agreement. With respect to information communicated to ICF by CRRO or to which ICF has access in connection with the Services, the term "Confidential Information" shall include CRRO Data, as defined and further addressed later in this Article V. CRRO Data will remain the property of CRRO. The Provider acknowledges the proprietary and confidential nature of all internal, non-public, information systems, financial, and business information relating to the CRRO, as well as to the Government of Puerto Rico, its agencies, corporations or municipalities, now or hereafter provided to the Provider, which shall be considered to be Confidential Information of the CRRO.

- The recipient and its Representatives (as defined below) shall keep in confidence in accordance with the terms of this Agreement all such Confidential Information, and use the same only in connection with the performance of this Agreement, and shall not, except as otherwise set forth herein, make public or disclose any of said information without the previous written consent of the CRRO disclosing party. The recipient and its Representatives may use the Confidential Information in connection with providing the services contemplated by this Agreement. The term Confidential Information shall not include information which (i) is previously known to or in the possession of the recipient and/or its Representatives, (ii) is available to the public prior to the time of disclosure hereunder other than as a result of breach of this Agreement, (iii) subsequent to the time of disclosure hereunder, becomes available to the public other than as a result of a breach of this Agreement by the Provider, (iv) subsequent to the time of disclosure hereunder becomes available to the recipient or its Representatives by a third party who, to the knowledge of the recipient, is under no obligation to keep the information confidential, (v) is independently developed by the recipient or its Representatives without reference to the Confidential Information or (vi) is approved for disclosure or release by the CRRO disclosing party.
- (c) Notwithstanding the above, the recipient and/or its Representatives, as applicable, may divulge Confidential Information to its affiliates and its and their respective directors, officers, employees, agents, consultants, advisors and/or representatives (such individuals receiving Confidential Information hereunder, collectively, the "Representatives") who need to know such Confidential Information to fulfill the purposes of this Agreement or provide advice or guidance to the recipient, provided that such persons shall have been advised of the confidential nature of such materials and information and the recipient shall require them to treat as confidential such information and to return all materials to the Provider upon request; provided, that the recipient shall be responsible for any breach of this Agreement by its Representatives.
- (d) A Party will not be considered to have breached its obligations under this Article V for disclosing Confidential Information of the other Party to the extent required to satisfy any legal requirement of a competent governmental or regulatory authority, provided that promptly upon receiving any request from or on behalf of such authority and to the extent that it may

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legally do so, such Party receiving such request: (a) timely advises the other Party prior to making such disclosure in order that the other Party may object to such disclosure, take legal action to ensure confidential treatment of the Confidential Information, or (subject to applicable law) take such other action as it considers appropriate to protect the Confidential Information; and (b) takes reasonable action to limit disclosure of Confidential Information to that which is required to satisfy such legal requirement.

- (e) The recipient will promptly, upon the written request of the disclosing party, deliver to the disclosing party, or at the disclosing party's election, destroy all Confidential Information; provided, however, that the recipient and its Representatives may retain copies of Confidential Information, subject to the confidentiality terms of this Agreement, in accordance with their respective internal record retention policies for legal, compliance or regulatory purposes or to establish the rights of the recipient and its Representatives under this Agreement.
- (f) This provision shall survive for a period of two (2) years from the date of this Agreement.

### Section 5.3. CRRO Data.

CRRO Data. For purposes of this Agreement, "CRRO Data" means data and/or information that is provided by or on behalf of CRRO and which consists of information or data naming or identifying a natural person such as: (a) personally identifying information that is explicitly defined as a regulated category of data under any data privacy or data protection laws applicable to CRRO; (b) non-public information, such as a national identification number, passport number, social security number, driver's license number; (c) health or medical information, such as insurance information, medical prognosis, diagnosis information or genetic information; (d) financial information, such as a policy number, credit card number and/or bank account number; (e) sensitive personal data, such as mother's maiden name, race, marital status, gender or sexuality; and/or any other non-public personal information as defined by or mandated under: (i) the Fair Credit Reporting Act (FCRA) of 1970, as amended; (ii) the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM); (iii) the Privacy Act of 1974, as amended; (iv) the Right to Financial Privacy Act of 1978, as amended; (v) the Privacy Protection Act of 1980, as amended; (vi) the Electronic Communications Privacy Act (ECPA) of 1986, as amended; (vii) the Video Privacy Protection Act (VPPA) of 1988, as amended; (viii) the Telephone Consumer Protection Act (TCPA) of 1991, as amended; (ix) the Telecommunications Act of 1996, as amended; (x) HIPAA; (xi) the Children's Online Privacy Protection Act (COPPA) of 1998, as amended; (xii) the Financial Modernization Act (Graham-Leach-Bliley Act (GLBA)) of 2000, as amended; (xiii) state Laws governing the use of electronic communications, e.g., email, text messaging, telephone, paging and faxing; (xiv) state Laws governing the use of information collected online, state Laws requiring privacy disclosures to consumers, state data breach notification Laws, state Laws investing individuals with rights in or regarding data about such individuals and the use of such data, and any state Laws regarding the safeguarding of data, including encryption; and (xv) any relevant Federal or state guidelines or recommended best practices for information security and data privacy, including, but not limited to, the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (Cybersecurity Framework) and Federal Trade Commission (FTC)

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privacy guidelines, and the EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council ("GDPR") and any data protection laws substantially amending, replacing or superseding the GDPR following any exit by the United Kingdom from the European Union, or, and to the extent applicable, the data security or data privacy laws of any other country (collectively, "Data Protection Laws"). The term "CRRO Data" will not include information or data that is aggregated. The term "CRRO Data" will also not include information that is anonymized or de-identified (i.e., that was once associated with data that named or identified a natural person but where the name or identification has been removed) to the extent that (1) ICF agrees, in writing, not to attempt to re-identify such data, and (2) ICF requires any third parties that are provided such data to enter into a written agreement that states that they will not attempt to re-identify such data and that they will not provide such data to any additional third parties that are permitted to re-identify such data. To the extent possible, the applicable Statement of Work will identify the type of files and data that comprise CRRO Data and that will be processed by ICF under that applicable Statement of Work.

(b) <u>Data Protection Laws</u>. The Parties shall comply with their respective obligations as the data owner/controller/covered entity and the data processor/licensee/business associate/trading partner/service provider under applicable Data Protection Laws.

#### ARTICLE VI TERMINATION

- Section 6.1. <u>Breach of Contract Terms</u>. Subject to the other provisions of this Agreement, any violation or breach of terms of this Agreement on the part of the Provider or the Provider's subcontractors may result in the suspension or termination of this Agreement or such other action, including the recovery of damages, that may be necessary to enforce the rights of the CRRO to the extent provided herein. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
- Section 6.2. <u>Termination by the Office of the Governor's Chief of Staff</u>. The Office of the Governor of Puerto Rico's Chief of Staff shall have the authority to terminate this Agreement at any time.

### Section 6.3. <u>Termination; Stop Orders.</u>

- (a) Notwithstanding any provision to the contrary in this Agreement, the CRRO shall have the right to order ICF to suspend its performance under this Agreement to the extent that the federal appropriations under the Federal Programs for the work performed hereunder are suspended or reduced, and, in such case, the CRRO shall provide the Provider thirty (30) days' prior written notice by registered mail, return receipt requested, or overnight express mail.
- (b) The CRRO shall have the right to terminate this Agreement for convenience by providing thirty (30) days' prior written notice by certified mail, return receipt requested, or overnight express mail. Any provisions of this Agreement which expressly or by implication are intended to survive its termination or expiration of this Agreement will survive and continue to



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bind the parties. The CRRO shall also have the right to terminate this Agreement upon thirty (30) days' prior notice as described above, reasonably describing the basis thereof, in the event of the Provider's negligence, or dereliction of duties provided that such party does not cure such negligence or dereliction of duties within such notice period. The Provider may terminate this Agreement if the Provider determines any part of the services would be in conflict with law or professional standards.

- (c) Failure by either Party to comply with any material term or condition of this Agreement or any applicable Statement of Work shall entitle the other Party to give the defaulting Party written notice requiring it to cure the default. If the Party in default has not cured, or commenced to cure (if a cure cannot be performed within the time period set forth below), the default within ten (10) business days (five (5) business days for defaults related to non-payment) after receipt of written notice, the notifying Party shall be entitled, in addition to any other rights it may have under this Agreement, the applicable Statement of Work, or otherwise at law or in equity, to immediately terminate this Agreement or a specific Statement of Work. Notwithstanding the foregoing (i) either Party may immediately terminate this Agreement without right to cure for any breach of Article V, provided such Party has first engaged in the dispute resolution procedures set forth in Section 11.2 and (ii) ICF may terminate the Agreement or any Statement of Work for the CRRO's nonpayment of any fees, provided that ICF has first engaged in the dispute resolution procedures set forth in Section 11.2 (a).
- (d) In addition to all other rights or remedies provided for in this Agreement or by law, a Party may by written notice terminate this Agreement in whole, but not in part, in the event that: (i) the other Party makes a general assignment for the benefit of creditors; (ii) the other Party becomes or is unable to pay its debts as they fall due; (iii) a trustee, custodian or receiver is appointed by any court with respect to the other Party or any substantial part of such Party's assets; (iv) the other Party is the subject of a winding-up petition which is not dismissed within five business days, or a resolution is passed for its winding-up; or (v) a material amount of the funds allocated to the Authority to fund the payments hereunder are attached or there is any interference with their use for payments hereunder.
- (e) Upon any termination or expiration of this Agreement, the CRRO shall promptly pay the Provider any accrued but unpaid fees hereunder incurred prior to the effective date of such termination or expiration, as the case may be, and fees and expenses payable in connection with such termination, including services rendered at the request of the CRRO (and agreed to in writing by the Parties) in connection with any transition of responsibilities hereunder and shall reimburse the Provider for any unreimbursed expenses that are reimbursable hereunder.
- (f) Upon any termination or expiration of this Agreement, all license rights granted pursuant to this Agreement that are will survive such termination or expiration, shall continue in accordance with their terms.
- (g) Except for any claims by the CRRO against ICF involving fraud, no claim arising out of this Agreement, regardless of the form or forum in which it is brought, may be brought by either Party more than six years after the claim accrued.



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### ARTICLE VII INDEMNIFICATION; LIMITATIONS AND DISCLAIMERS; INSURANCE

### Section 7.1. <u>Indemnification</u>.

- (a) Each Party shall defend, indemnify and hold harmless the other Party, its subsidiaries, and their respective personnel from all third party claims, damages, liabilities, or expenses payable under a judgment, verdict, court order or settlement for death or bodily injury or the damage to or loss or destruction of any real or tangible personal property ("Claim(s)") to which the indemnitee may become subject to as a result of the negligence or intentional misconduct of the indemnitee or its personnel or representatives. Without limiting the effect of any other provision hereof that limits Provider's liability hereunder (including other subsections of this Article VII), the aggregate liability of Provider, its subsidiaries, and their respective personnel for any Claim shall not exceed an amount that is proportional to the relative fault that the conduct of Provider bear to all other conduct giving rise to such Claim.
- (b) Each Party shall defend, indemnify and hold harmless the other Party from all claims to which the indemnitee may become subject to as a result of the indemnitor or its personnel violate applicable data privacy laws with respect to Data Subjects.
- Provider shall indemnify, defend and hold harmless the CRRO from all claims brought by any subcontractor of Provider hereunder against the CRRO for payment or for other damages arising under the applicable subcontract agreement between the Provider and such subcontractor. For purposes hereof, "Subcontractor Claim(s)" shall mean any and all sums finally awarded (or paid pursuant to a final settlement agreement) to a third party arising from a claim, action or demand by such third party against a party entitled to indemnification hereunder (an "Indemnified Party"), and any costs (including reasonable attorneys' fees) incurred by the Indemnified Party Indemnified Party in connection with such Subcontractor Claim, whether based in whole or in part in contract, tort, negligence, statute or otherwise. The CRRO shall indemnify, defend and hold harmless Provider, its subsidiaries and subcontractors, and their respective officers, directors, employees and agents, from all claims arising from the performance of services hereunder, except to the extent such claim is judicially determined in a final judgement to have resulted from the gross negligence, bad faith or intentional misconduct of Provider or its subcontractors. ICF's rights to indemnification hereunder shall be in addition to and shall not affect its rights to compensation as provided hereunder with respect to any Deliverables or Services giving rise to any claims.



i. <u>ICF Infringement Indemnity</u>. Provided that the CRRO promptly (and in any event in a manner sufficiently timely for ICF's defense not to be materially prejudiced) notifies ICF in writing of a third party claim, action or demand against the CRRO that the Services, any ICF-Provided Intellectual Property or any Deliverable (except Custom Deliverables) infringes (a) a patent issued by a country where the Services/Deliverables are contracted, performed and/or delivered under this Agreement, or (b) a patent issued on or before the delivery date of the applicable

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Custom Deliverable by a country where the Services are contracted and/or delivered under this Agreement, (c) a copyright, trademark or trade secret of any third party (each a "CRRO Infringement Claim"), ICF will indemnify, defend and hold harmless CRRO from and against any and all sums awarded (or paid pursuant to settlement agreement) to a third party arising from such CRRO Infringement Claim and any Damages incurred by CRRO in connection with such claim.

- ii. <u>CRRO Infringement Indemnity</u>. If ICF promptly (and in any event in a manner sufficiently timely for CRRO's defense not to be materially prejudiced) notifies CRRO in writing of any third party claim, action or demand against ICF that any CRRO-Provided Intellectual Property infringes (a) a patent issued by a country where the Services are contracted and/or delivered under this Agreement, or (b) a copyright or trade secret of any third Party (each an "ICF Infringement Claim"), CRRO will indemnify, defend and hold harmless ICF and any ICF affiliates from and against any and all sums awarded to a third party arising from such ICF Infringement Claim against an ICF Indemnified Party.
- iii. Exclusions. Notwithstanding anything to the contrary herein, ICF will have no liability to any CRRO Indemnified Party and CRRO will have no liability to any ICF Indemnified Party, under Sections 7.1 to the extent that the CRRO Infringement Claim or ICF Infringement Claim (as applicable) is based upon: (a) modifications to any deliverable or item made by or at the direction of the Indemnified Party in a manner that causes the infringement; (b) use of any deliverable or item in combination with any hardware, software or other products or services in a manner that causes the infringement and where such combination was not within the reasonable contemplation of the Parties given the intended use of the deliverable or item; (c) the failure of an Indemnified Party to use corrections or enhancements to such deliverables or items that are made available by the other Party; (d) detailed, non-discretionary designs or specifications provided by the Indemnified Party that necessarily caused such Infringement Claim; (e) the Indemnified Party's distribution, marketing or use for the benefit of third parties (other than to provide Services to CRRO and its affiliates hereunder) of the deliverable or item, or (f) Open Source Materials that, with respect to a CRRO Infringement Claim, were identified to CRRO by ICF as Open Source Materials and approved by CRRO.

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iv. Remedy. If any Service, ICF-Provided Intellectual Property or Deliverable provided by ICF hereunder is, or in ICF's reasonable judgment is likely to become, the subject of a CRRO Infringement Claim, ICF, at its expense and in addition to defending the claim and providing the indemnity as required by Section 7.1 (a) above, will, at ICF's option: (1) procure for CRRO the right to use and continue using such deliverable or item, (2) replace it with a non-infringing equivalent or (3) modify it to make its use hereunder non-infringing, such that such replacement or modification does not result in a degradation of the performance or quality of such deliverable or item. If none of the foregoing



options (1), (2) or (3) are available despite ICF's commercially reasonable efforts to pursue all of them, then (but only then) ICF may terminate the applicable Statement of Work with respect to the infringing ICF-Provided Intellectual Property or Deliverable and return to CRRO the Charges paid to ICF under the applicable Statement of Work which relates to such ICF-Provided Intellectual Property or Deliverable (provided the Charges under such applicable Statement of Work shall be prorated over the term of such applicable Statement of Work).

If any deliverable or item provided by CRRO hereunder is, or in CRRO's reasonable judgment is likely to become, the subject of an ICF Infringement Claim, CRRO, at its expense and in addition to defending the claim and providing the indemnity as required by 7.1 (b) above, may at its option (a) procure for ICF the right to use such deliverable or item, replace it with a non-infringing equivalent or modify it to make its use hereunder non-infringing, or (b) notify ICF to cease use of such deliverable or item, in which case the Parties will seek to establish mutually acceptable alternative arrangements and to make any appropriate adjustments to their respective obligations under this Agreement though the execution of a Change Order.

The foregoing provisions of this Section 7.1(b) constitute the Parties' sole and exclusive remedies and each Party's entire liability with respect to CRRO Infringement Claims and ICF Infringement Claims, as the case may be. To the extent ICF has incurred liability and CRRO has recovered Damages from ICF with respect to CRRO Infringement Claims pursuant to this Section 7.1 (b), CRRO shall not be entitled to a claim for breach of warranty.

- (e) <u>Consent to Settlement</u>. The Indemnifying Party will have no obligation to indemnify the Indemnified Party under any settlement made without the Indemnifying Party's written consent.
- (f) <u>Limitation of Liability</u>. If the CRRO should become entitled to claim damages from Provider for any reason (including without limitation, for breach of contract, breach of warranty, negligence or other tort claim), Provider will be liable only for the amount of the CRRO's actual direct damages up to the amount that the CRRO paid Provider for the Services or Deliverables that are the subject of the claim. In no event, however, will Provider be liable to the CRRO (in the aggregate for all claims made with respect to a Statement of Work) for more than the amount paid by the CRRO to Provider under the applicable Statement of Work for the nine (9) month period prior to the claim. These limits also apply to Provider's subcontractors. They are the maximum liability for which Provider and its subcontractors are collectively responsible.
- (g) No Liability for Certain Damages. In no event will Provider or any person or entity involved in the creation, manufacture or distribution of any software, services or other materials provided by Provider hereunder be liable for: (i) any damages arising out of or related to the failure of CRRO or its Affiliates or suppliers to perform their responsibilities; (ii) any claims of third parties (other than those third party claims subject to indemnification under Section 7.1(b)); or (iii) any lost profits, loss of business, loss of data, loss of use, lost savings,



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failure to realize expected savings, or other consequential, special, incidental, indirect, exemplary or punitive damages, even if Provider has been advised of the possibility of such damages.

- (h) No Implied Warranties. Except as otherwise expressly provided in this Section 7.1(h), the Parties make no representations or warranties, and hereby exclude all representations and warranties, express or implied, regarding any other matter, including fitness for a particular purpose, satisfactory quality, informational content, systems integration, non-infringement, interference with enjoyment, or results to be derived from the use of any service, Software, Deliverables, Custom Deliverables or other materials provided under this Agreement. ICF expressly disclaims any warranty, representation, term or condition as to the accuracy or completeness of data, operational criteria or parameters provided by the CRRO. ICF does not assume any liability whatsoever with respect to any third party services or products, including, but not limited to, hardware, firmware, or software.
- (i) <u>Duty to mitigate</u>. Each Party has a duty to mitigate any damages or losses that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or losses.

### Section 7.2. <u>Insurance</u>.

- (a) The Provider represents that as of the date of execution of this Agreement, it maintains professional liability insurance to provide for errors, omissions and negligent acts that may arise from the services rendered under this Agreement in the minimum amount of One Million Dollars (\$1,000,000.00), per claim.
- (b) The Provider also represents that it maintains Commercial General Liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00), per occurrence. It shall be the Provider's obligation to submit to the CRRO the corresponding Insurance Industry ACORD form certifications evidencing such coverages. The certificates provided must identify the CRRO as Additional Insured solely with respect to Provider's obligations to the CRRO hereunder.
- (c) The Provider acknowledges that compliance with this obligation is a prerequisite for the CRRO to make the first payment for services rendered under this Agreement.

### Section 7.3. Force Majeure.

Neither Party will be liable for any delays or failures in performance (other than payment obligations under this Agreement), losses or damage to the extent due to the following circumstances, or circumstances similar to the following, that are beyond its reasonable control (each a "Force Majeure" event): acts of God, disease, war, terrorism or acts of the public enemy; riot, civil commotion or sabotage; expropriation, condemnation of facilities, changes in law or regulations (but only to the extent such change in law or regulations causes a failure to perform such Party's obligations under this Agreement), national or state emergencies or other governmental action; strikes, lockouts, work stoppages or other such labor difficulties; floods,



droughts or other severe weather; fires, explosions or other catastrophes; or accidents causing damage to or destruction, in whole or in part, of the equipment or property necessary to perform the Services.

### ARTICLE VIII APPLICABLE LAWS OF PUERTO RICO

Section 8.1. <u>Interagency Service Clause</u>. Both Parties acknowledge and agree that the contracted services may be provided to any entity of the Executive Branch with which the CRRO subscribes an interagency agreement or by direct disposition of the Office of the Chief of Staff of the Governor of Puerto Rico. These services will be provided under the same terms and conditions regarding work hours and/or compensation as set forth in this Agreement. For the purposes of this Clause, the term "entity of the Executive Branch" includes all agencies of the Government of Puerto Rico, as well as its instrumentalities, public corporations and the Governor's Office.

### Section 8.2. Intentionally Omitted

Section 8.3. <u>Professional Ethics Rules</u>. The Provider, which is not a member of an association or other professional group nor subject to a particular set of ethics rules, shall observe the general principles of ethical conduct that are considered reasonable in its profession. The Provider also certifies that it does not represent any particular interests in matters that involve a conflict of interests, as defined in Act No. 2-2018, or in matters involving public policy, between the CRRO and any such particular interests.

### Section 8.4. Compliance with Laws.

- (a) <u>Laws</u>. ICF shall perform the Services and provide the Deliverables in compliance with all laws that pertain to ICF's operation of its business, including all laws relating to ICF's employment and compensation of ICF personnel, accounting and financial reporting, and laws that regulate ICF in its capacity as a provider of professional consulting and outsourcing services, such as laws regulating the practice of engineering in Puerto Rico.
- (b) <u>CRRO Compliance Directives</u>. CRRO may instruct ICF in writing as to the manner in which it desires ICF to perform the Services or implement changes to the Services so as to permit CRRO to comply with laws applicable to CRRO (a "CRRO Compliance Directive"), and, provided CRRO so instructs ICF, ICF shall use reasonable efforts to comply with such instructions, and shall be authorized to act and rely on, and shall implement, each CRRO Compliance Directive in the performance and delivery of the Services as agreed by the Parties as of the Effective Date (or subsequently in accordance with the Change Control Procedure).
- (c) <u>Interpretive Issues</u>. If ICF determines in good faith that the performance of the Services requires an interpretation of any aspect of any CRRO Compliance Directives (an "Interpretive Issue"), ICF shall give CRRO a written request for interpretation, which will include the relevant facts. CRRO shall as soon as practical instruct ICF in writing with respect to each such Interpretive Issue so presented to it, and ICF shall be authorized to act and rely on, and to implement such CRRO instruction(s) in the performance and delivery of the Services as



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agreed by the Parties in accordance with the Change Control Procedure. All CRRO interpretative responses regarding Interpretive Issues will be deemed CRRO Compliance Directives. CRRO shall be responsible for any fines or penalties imposed on ICF or CRRO by a governmental authority resulting from ICF's failure to comply with CRRO Compliance Directives to the extent such fines or penalties result from CRRO's failure to respond, within a reasonable period of time, to a written request by ICF for interpretation of any applicable law or CRRO Compliance Directive. To the extent of any change in laws applicable to the Project, including laws affecting the Deliverables and/or Services, or if there is a change to the Services as a result of a CRRO Compliance Directive, the cost of such change shall be borne by CRRO as determined and mutually agreed in accordance with the Change Control Procedure.

### Section 8.5. <u>Anti-Corruption Provisions</u>.

- (a) The Provider certifies that it has received a copy of and agrees to comply with Act No. 2-2018, known as the Anti-Corruption Code for the New Puerto Rico ("Act No. 2-2018"), and with Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico ("Act No. 1-2012").
- (b) The Provider shall furnish a sworn statement to the effect that neither the Provider nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for the Provider has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico ("Act No. 8-2017") or any of the crimes included in Act No. 2-2018.
- (c) The Provider hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code ("Act No. 146-2012"), any of the crimes typified in Act No. 2-2018, or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017.
- (d) The CRRO shall have the right to terminate the Agreement in the event the Provider is convicted in Puerto Rico or United States Federal court under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, Act No. 146-2012, any of the crimes typified in Act No. 2-2018, or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017.
- (e) It is expressly acknowledged that the certifications provided by the Provider, pursuant to this Section 8.5, are essential conditions of this Agreement. If these certifications are not correct in their entirety or in any of their material parts, it shall constitute sufficient cause for the CRRO to terminate this Agreement immediately, without prior notice, pursuant to, and, subject to the other provisions herein, applicable to Provider under applicable law.



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(f) If the status of the Provider or any of its shareholders, partners, associates, officers, directors, employees or agents with regards to the charges previously mentioned should change at any time during the term of the Agreement, the Provider shall notify the CRRO in writing immediately. The failure to comply with this responsibility constitutes a violation of this Clause and, subject to the other provisions herein, may result in the remedies determined in accordance with applicable law.

### Section 8.6. Certain Additional Mandatory Provisions.

As required by Article 5(C), (D), and (F) of Act No. 237-2004, as amended ("Act No.237-2004"), the CRRO certifies that no officer or employee of the CRRO and no member of his or her family unit has or has had any direct or indirect economic interest in the Provider during the four years prior to his or her holding public office.

As required by Article 5(E) of Act No. 237-2004, the CRRO certifies that no officer or employee of the CRRO is a party to this Agreement or has any interest in any profits or benefits produced by this Agreement.

As required by Article 5(H) of Act No. 237-2004, both Parties certify that this Agreement is not being executed with or for the benefit of any person who was an officer or employee of the CRRO at any time during the two years prior to its execution.

### Section 8.7. Conflicts of Interests.

- (a) Both Parties hereby declare that, to the best of their knowledge, as of the date hereof, no public officer or employee of the Government of Puerto Rico, or any of its agencies, instrumentalities, public corporations or municipalities or employee of the Legislative or Judicial branches of the Government has any direct or indirect interest in the present Agreement. The Provider certifies that neither it, nor any of its directors, executives, officers or employees, offered or paid, directly or indirectly, any commissions, referrals, contracts, or any other consideration having an economic value, to a third party as a condition for obtaining this Agreement or to influence in any way its execution. In addition, the Provider certifies that it shall not pay any commissions, make any referrals, execute any contracts, or provide any other consideration having an economic value, to a third party for the services to be rendered under this Agreement, except for any subcontracts authorized by the CRRO in accordance with the provisions established herein.
- (b) The Provider certifies that none of its partners, directors, executives, officers and employees receives salary or any kind of compensation for the delivery of regular services by appointment (or otherwise) in any agency, instrumentality, public corporation, or municipality of the Government of Puerto Rico.
- (c) The Provider certifies that, at the time of the execution of this Agreement, it is not involved in a conflict of interests, as defined in Act 1-2012, nor, to its knowledge, does it represent anyone in cases or matters which involve a conflict of interests with the CRRO. See,



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- Section 4.3 (e) of Act 1-2012. If such conflict of interests arises after the execution of this Agreement, the Provider shall notify the CRRO immediately.
- (d) The Provider certifies that at the time of execution of this Agreement it has no other contracts with agencies, public corporations, municipalities, or instrumentalities of the Government of Puerto Rico.
- Section 8.8. Improvement of Family Assistance and Support for the Elderly. The Provider also certifies and warrants that, to the extent required by applicable law, it is in compliance with Act No. 168-2000, as amended, known as the Act for the Improvement of Family Assistance and for the Support of the Elderly. In the event the Provider is under a court or administrative order directing it to provide financial support or to fulfill any obligation under the mentioned Act, the Provider further certifies and warrants that it is in compliance with said obligations. It is expressly acknowledged that this certification is an essential condition of this Agreement. If the certification is not correct in its entirety or in any of its parts, it shall constitute sufficient cause for the CRRO to terminate the Agreement immediately, without prior notice to the Provider.

### Section 8.9. Required Certifications.

- (a) The Provider represents and certifies that at the execution of this Agreement, it has submitted income tax returns in Puerto Rico (if it was required by applicable law to submit) during the past five (5) years since it was authorized to do business in Puerto Rico. The Provider also represents and certifies that it does not have outstanding debts with the Government of Puerto Rico for income taxes, real or chattel property taxes, unemployment insurance premiums, workers' compensation payments or Social Security for chauffeurs in Puerto Rico and the Administration for the Sustenance of Minors (known by its Spanish acronym as "ASUME").
- (b) The Provider has provided the CRRO with its certificate of formation and operating agreement, and Good Standing Certificates issued by the Departments of State of Delaware and Puerto Rico as proof that it is duly authorized to do business in Puerto Rico and has complied with its annual corporation report filing obligations. The Provider has also provided the CRRO with the certifications listed in Appendix C hereto.
- (c) It is expressly acknowledged that the certifications provided by the Provider pursuant to this Section 8.9, are essential conditions of this Agreement, and if these certifications are incorrect, the CRRO shall have sufficient cause to terminate this Agreement immediately, without prior notice to the Provider, unless any such matter can be cured by Provider.
- (d) For the purposes of this Agreement, tax debt shall mean any debt that the Provider, or other parties which the CRRO authorizes the Provider to subcontract, may have with the Government of Puerto Rico for income taxes, real or chattel property taxes, including any special taxes levied, license rights, tax withholdings for payment of salaries and professional services, taxes for payment of interest, dividends and income to individuals, corporations and non-resident accounting firms, for payment of interests, dividends and other earnings shares to residents, unemployment insurance premiums, workers' compensation payments, Social Security for



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(e) The Provider shall also be responsible for providing the CRRO with the certifications required under this clause from any professional or technical consultant subcontracted by the Provider and authorized by the CRRO. Any person engaged by the Provider in accordance with the conditions herein established, who dedicates twenty-five percent (25%) or more of his or her time to provide advisory services related to the Agreement shall be considered subcontractors for the purposes of this Clause. Notwithstanding anything herein to the contrary, the Provider shall have the right to rely conclusively on the aforementioned certifications from government agencies in making the representations in this Clause.

Section 8.10. Withholdings. The Provider is an independent contractor and, as such, shall be responsible for the payment of all of its income taxes. The Provider will also be responsible for making any required withholdings from its subcontractors and employees under the applicable tax laws of Puerto Rico or the U.S. Internal Revenue Code. No withholdings or deductions shall be made from payments to the Provider for services rendered, except the special contribution of one point five percent (1.5%) of the gross amounts paid under this Agreement, required by Act No. 48-2013, as amended, and those applicable under the Puerto Rico Internal Revenue Code and its regulations, if any. The CRRO shall forward any such required withholdings or deductions to the Secretary of the Treasury of Puerto Rico. Notwithstanding the above, no income tax withholdings or deductions under the Puerto Rico Internal Revenue Code shall be made from payments to the Provider for services rendered outside of Puerto Rico. The Provider will allocate its fees between those relating to activities undertaken outside Puerto Rico and constituting gross income form sources without Puerto Rico, and those relating to activities undertaken within Puerto Rico and constituting gross income from sources within Puerto Rico.

Provider represents and warrants that it has and shall continue to pay all taxes and other amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.

Section 8.11. Registration at the Office of the Comptroller. The CRRO shall submit this Agreement for registration with the Office of the Comptroller of Puerto Rico, in accordance with the provisions of Act No. 18 of October 30, 1975, as amended, and provide evidence of such filing to ICF. Such filing shall be made no later than fifteen (15) days from the date hereof. The Parties agree that no performance of either Party's obligations hereunder may be required by the other Party until the Agreement has been signed by both Parties and submitted for registration as described above, and evidence of such registration shall be provided to ICF.

Section 8.12. <u>Dispensation</u>. To the best of its knowledge and belief (after reasonable inquiry), the Provider certifies it is not required to obtain a dispensation in compliance with the applicable laws and regulations of the Government of Puerto Rico prior to or in connection with the execution of this Agreement. Both parties agree that the proven illegality of any of the provisions of this Agreement shall not invalidate it as a whole.

Section 8.13. <u>Alimony and Child Support</u>. Provider is not required to provide alimony or child support to any person.



# ARTICLE IX FEDERALLY REQUIRED CLAUSES

Services or work to be performed within the general scope of this Agreement. If such changes cause an increase or decrease in Provider's cost of, or time required for, performance of any services under this Agreement, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly. Provided, however, that no changes shall be made to the scope of the Services that would render the costs incurred in the performance of this Agreement unallowable or not allocable under, or outside the scope or not reasonable for the completion of, Federal grant awards from the Federal Emergency Management Agency ("FEMA"), the U.S. Department of House and Urban Development ("HUD") or any other U.S. Federal agency.

### Section 9.2. Debarment, Suspension, and Ineligibility.

- (a) The Provider represents and warrants that the Provider, it principals, and affiliates have not been debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000 (government debarment and suspension regulations). The Provider represents and warrants that it will not enter into any contracts or subcontracts with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During the term of this Agreement, the Provider will periodically review SAM.gov and local notices to verify the continued accuracy of this representation. The Provider shall require all subcontractors at every tier to comply with this requirement.
- (b) This certification is a material representation of fact relied upon by the CRRO. If it is later determined that the Provider did not comply with 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, in addition to remedies available to the CRRO, and the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- Section 9.3. Reporting Requirements. The Provider shall complete and submit all reports, in such form and according to such schedule, as may be required by the CRRO.

### Section 9.4. Access to Records.

- (a) The Provider agrees to provide the CRRO, the Government of Puerto Rico, the Federal Program Administrators, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Provider which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- (b) The Provider agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (c) The Provider agrees to provide the CRRO, the Government of Puerto Rico, Federal Program Administrators, the Comptroller General of the United States or their authorized

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representatives access to work sites pertaining to the work being completed under the Agreement.

Section 9.5. Records Retention. The Provider agrees to maintain all books, records, accounts and reports and all other records produced or collected in connection with this Agreement for a period of not less than three (3) years after the date of final payment and closeout of all pending matters related to later of this Agreement or the federally declared disasters. If any litigation, claim, or audit is reasonably anticipated to arise or is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

Section 9.6. <u>Program Fraud and False or Fraudulent Statements or Related Acts.</u> The Provider acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Provider's actions pertaining to this Agreement.

Section 9.7. Clean Air Act and the Federal Water Pollution Control Act. The Provider agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Provider agrees to report each violation to the CRRO and understands and agrees that CRRO will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, FEMA, HUD, or other Federal Program agencies, and the appropriate Environmental Protection Agency Regional Office. The Provider agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

Section 9.8. Energy Efficiency. The Provider agrees to comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the Government of Puerto Rico's energy conservation plan issued in compliance with this Act.

Section 9.9. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Providers who apply or bid for an award of \$100,000 or more shall file the required certification attached as Appendix B to this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the CRRO and the Government of Puerto Rico.

Section 9.10. <u>Compliance with Laws, Regulations, and Executive Orders</u>. The Provider acknowledges that FEMA, HUD, or other federal financial disaster funds will be used to fund this Agreement. The Provider shall comply will all applicable Federal and Government of Puerto Rico laws, regulations, executive orders, policies, procedures, and directives, including but not limited to all Federal Cost Principles set forth in 2 C.F.R. Part 200, and all applicable FEMA regulations in 44 C.F.R. Chapter I.

Section 9.11. Provisions Required By Law Deemed Inserted. Each and every



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provision of law and clause required by federal law, regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency 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. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall be amended to make such insertion or correction.

Section 9.12. No Obligation by the Federal Government. The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, Provider, or any other party pertaining to any matter resulting from the Agreement.

Section 9.13. <u>Modifications and Amendments</u>. No amendment to or modification or other alteration of the Agreement shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the CRRO.

Section 9.14. <u>Assignment</u>. Except as provided in Section 12.2, the Provider 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 CRRO.

Section 9.15. <u>Title VI of the Civil Rights Act of 1964</u>. The Provider shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 9.16. Section 109 of the Housing and Community Development Act of 1964. The Provider 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.

Section 9.17. Section 504 of the Rehabilitation Act of 1973. The Provider shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations. The Provider agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

Section 9.18. Age Discrimination Act of 1975. The Provider 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.

Section 9.19. 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 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- (c) The Provider agrees to send to each labor organization or representative of workers with which the Provider has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The Provider agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The Provider will not subcontract with any subcontractor where the Provider has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.
- (e) The Provider will certify that any vacant employment positions, including training positions, that are filled: (1) after the Provider is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the Provider's obligations under 24 C.F.R. part 135. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
- (f) 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 (25U.S.C. § 450e) 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).



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

Section 9.20. Fair Housing Act. Provider shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

**Section 9.21.** Equal Employment Opportunity Act. During the performance of this contract, the Provider agrees as follows:

(1) The Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Provider, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Provider will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Provider's legal duty to furnish information.
- (4) The Provider will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Provider's commitments under



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this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The Provider 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 Provider will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Provider's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Provider may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions 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) The Provider will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor or vendor. The Provider will take such action with respect to any contract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

*Provided*, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a contractor or vendor as a result of such direction by the administering agency, the Provider may request the United States to enter into such litigation to protect the interests of the United States.

Provider further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if Provider so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such Government which does not participate in work on or under the contract.

Provider agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

Provider further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally

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assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractor by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Provider agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to Provider under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Section 9.22. <u>Davis-Bacon Act</u>. (a) To the extent any work contemplated hereby relates to the actual construction, alteration and/or repair by Provider, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency (the "Agency") or financed from funds obtained by pledge of any contract of an Agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR 5.1, the following provisions shall be applicable and shall specifically be referred to in the applicable SOW:

(1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which ever the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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- (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the

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contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- (2) Withholding. The CRRO shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the CRRO may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (3) Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Agency if the Agency is a party to the contract, but if the Agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying



number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Agency if the Agency is a party to the contract, but if the Agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Agency, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Agency or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails

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to submit the required records or to make them available, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees—(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed



as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements. The Provider shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) Subcontracts. The Provider shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Provider shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Provider (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of eligibility. (i) By entering into this contract, the Provider certifies that neither it nor any person or firm who has an interest in the Provider's firm is a person or firm

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ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (b) Contract Work Hours and Safety Standards Act. To the extent any work performed hereunder is subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, the following clauses shall be applicable. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of paragraph (b)(1) of this section the Provider and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Provider and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The CRRO shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Provider or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) Subcontracts. The Provider or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall



be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

# ARTICLE X NOTICES

Section 10.1. Notices. Any required notices under this Agreement shall be sent by certified mail, return receipt requested, business email with receipt verification and/or certified mail or through a nationally recognized courier service with return receipt requested and addressed to the Parties as follows:

ICF Points of Contact	CRRO Points of Contact	
As to Contractual Matters	As to Contractual Matters	
Attn: Robert Toth	Attn: Omar Marrero, Esq.	
Senior VP, Contracts & Administration	Executive Director PPP Authority	
Address:	Address:	
9300 Lee Highway Fairfax, VA 22031	Puerto Rico Public-Private Partnerships Authority Central Office of Recovery, Reconstruction, & Resiliency	
,	Roberto Sánchez Vilella Government Ctr, De Diego Avenue San Juan, Puerto Rico 00940-2001	
With a copy to the Office of General	With a copy to Legal Affairs Office,	
Counsel at the same address	Attention: Fermín Fontanés Gómez	
Telephone: (703) 934-3000	Telephone: (787) 722-2525	
E-Mail: Robert.Toth@icf.com	E-Mail: Fermin.Fontanes@p3.pr.gov	
As to Technical Matters:	As to Technical Matters:	
Attn: Al Blankenship, Vice President	Attn: Laura Femenias, Chief of Staff ,	
Address:	Address:	
	Puerto Rico Public-Private Partnerships Authority	
City View Plaza I - ICF	Central Office of Recovery, Reconstruction, & Resilience	
48 Road 165, Suite 315	Roberto Sánchez Vilella Government Ctr, De Diego Avenu	
Guaynabo, P.R. 00968-8031	San Juan, Puerto Rico 00940-2001	
Telephone: (703) 934-3306	Telephone: (787) 722-2525	
E-Mail: Albert.Blankenship@icf.com	E-Mail: Laura.Femenias@p3.pr.gov	

Either Party may change these designations at any time within its discretion and shall promptly notify in writing the other of such changes in designation(s).

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# ARTICLE XI GOVERNING LAW; DISPUTE RESOLUTION

Section 11.1. Governing Law. Except for those matters that are governed by U.S. federal laws and/or regulations, which shall be governed by the applicable provisions of such laws and/or regulations, this Agreement and any dispute relating to the services will be governed by and construed, interpreted and enforced in accordance with the laws of the Government of Puerto Rico, without giving effect to conflict of law rules that would result in the application of the laws of any other jurisdiction, and excluding the United Nations Convention on the International Sale of Goods.

### Section 11.2. <u>Dispute Resolution</u>.

- (a) In the event of any dispute arising out of or relating to this Agreement, the affected Party shall notify the other Party, and the Parties shall attempt in good faith to resolve the matter within ten (10) days after the date such notice is received by the other Party (the "Notice Date"). Any disputes not resolved by good faith discussions shall be referred to senior executives of each Party, who shall confer at a mutually acceptable time and an agreed location, within thirty (30) days after the Notice Date and attempt to negotiate a settlement.
- (b) The Parties agree that any dispute, claim or controversy directly or indirectly relating to or arising out of this Agreement, the termination or validity of this Agreement, any alleged breach of this Agreement, the engagement contemplated by this Agreement or the determination of the scope of applicability of this Agreement shall be brought only in the Courts of First Instance of the Commonwealth of Puerto Rico or in the United States District Court for the District of Puerto Rico. The CRRO and the Provider also agree that service of process may be effected through next-day delivery using a nationally-recognized overnight courier or personally delivered to the addresses set forth or referred to in this Agreement. In any claim, all of the costs and the reasonable attorneys' fees of the prevailing Party (as determined by the court in such claim) shall be borne by the Party who did not prevail. The CRRO and the Provider further agree that a final, non-appealable judgment in respect of any claim brought in any such court shall be binding and may be enforced in any other court having jurisdiction over the party against whom the judgment is sought to be enforced.
- (c) Any dispute arising out or otherwise related to the performance of the Parties' obligations under this Agreement shall be commenced through the dispute resolution process set forth herein no later than twelve (12) months from the date the basis for such dispute arose.
  - (d) The Parties hereby agree to waive any right to jury trial in any proceeding between them.

# ARTICLE XII MISCELLANEOUS

Section 12.1. <u>Independent Contractor</u>. The CRRO and the Provider agree that the Provider's status hereunder, and the status of any agents, employees and subcontractors engaged



by the Provider, shall be that of an independent contractor only and not that of an employee or agent of the CRRO. The Provider shall not have any power or right to enter into agreements on behalf of the CRRO.

Section 12.2. <u>Assignment</u>. This Agreement may not be assigned by either party hereto without the prior written consent of the other, to be given in the sole discretion of the party from whom such consent is being requested; provided that ICF may assign this Agreement, in whole or in part, to a parent, subsidiary or affiliate of ICF after providing written notice to the CRRO. In such event, ICF will provide CRRO evidence that the assignee has agreed in writing to be bound by this Agreement. Any attempted assignment of this Agreement made without such consent shall be void and of no effect, at the option of the non-assigning party.

Section 12.3. <u>Patriot Act</u>. The Provider hereby notifies the CRRO that pursuant to the requirements of the USA PATRIOT Improvement and Reauthorization Act. Pub. L. N 109-177 (Mar. 9, 2006) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the CRRO in a manner that satisfies the requirements of the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act.

Section 12.4. No Third Party Rights. It is understood that this Agreement is the sole agreement between the Parties with regard to the services covered hereby and supersedes any prior agreements, written or verbal. The Agreement may not be changed orally, but may be amended in writing by mutual agreement of the Parties. This Agreement is solely for the benefit of the CRRO, the Provider and, to the extent expressly set forth herein, the Indemnified Persons and no other party shall be a third party beneficiary to, or otherwise acquire or have any rights under or by virtue of, this Agreement.

Section 12.5. <u>Drafting Responsibility</u>. This Agreement has been reviewed by each of the signatories hereto and its counsel. There shall be no construction of any provision against either Party because this Agreement was drafted by either Party, and the Parties waive any statute or rule of law to such effect.

Section 12.6. <u>Severability</u>. If any provision hereof shall be held by a court of competent jurisdiction to be invalid, void or unenforceable in any respect, or against public policy, such determination shall not affect such provision in any other respect nor any other provision hereof.

Section 12.7. <u>Waiver</u>. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party against which it is sought to be enforced. The delay or failure by either Party to exercise or enforce any of its rights under this Agreement will not constitute or be deemed a waiver of that Party's right to thereafter enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise of these rights or any other right.

Section 12.8. <u>Non-Solicitation</u>. During the term of this Agreement and for a period of one (1) year following the expiration or termination hereof, it is expressly agreed and understood that, without the prior written consent of ICF, the CRRO shall not recruit, solicit or hire the personnel assigned by, or proposed to be assigned by, ICF or its subcontractors to provide

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services under the Agreement. Notwithstanding the above, this paragraph will not restrict the right of CRRO to solicit or recruit generally through the media, without contacting or targeting any ICF personnel.

Section 12.9. <u>Interpretation</u>. The headings in the sections and subsections of this Agreement are for convenience only. The phrase "and/or" in reference to its objects to A or B means "either A, or B or both". The word "including" (and its grammatical variations) or the phrase "e.g." each mean "including, without limitation". References to "such as", "for example" and the like will be deemed to be followed by the term "without limitation".

Section 12.10. <u>Publicity</u>. All advertising, press releases, public announcements and public disclosures (including, but not limited to, on social media sites such as Facebook, Twitter, Instagram, etc.) by either Party relating to this Agreement that includes (a) the other Party's name, trade names, trademarks, logos, service marks or trade dress (collectively, "Name") or (b) language from which the connection of such Name may be inferred or implied, will be coordinated with and subject to approval by both Parties prior to release, which approval shall not be unreasonably withheld or delayed by the other Party.

Section 12.11. Integration. This Agreement, including the appendices and other exhibits, sets forth the entire agreement between the Parties and supersedes all prior agreements, conditions, warranties, representations, arrangements and communications, whether oral or written, with respect to the subject matter of this Agreement whether with or by ICF, or any of its employees, officers, directors, agents or stockholders. This Agreement may not be modified or amended except by the mutual written agreement of the Parties. Any purchase order issued by CRRO will be for its administrative purposes only and none of its terms and conditions will be of any force or effect against ICF. Each Party acknowledges that it is entering into this Agreement solely on the basis of the agreements and representations contained herein, and that it has not relied upon any representations, warranties, promises, or inducements of any kind, whether oral or written, and from any source, other than those that are expressly contained within this Agreement. Each party acknowledges that it is entering into this Agreement for its own purposes and not for the benefit of any other third parties. The terms of this Agreement, including this Section 9.13, have been the subject of specific negotiations by the Parties. Each Party acknowledges that it is a sophisticated business or government entity and that in negotiating and entering into this Agreement it has had the opportunity to consult with counsel of its choosing.

Section 12.12. <u>Survival</u>. All provisions of this Agreement which are by their nature intended to survive the expiration or termination of this Agreement shall survive such expiration or termination, including Articles IV, V, VI, VII, XI, and this Article XII.

Section 12.13. <u>Counterparts</u>. This Agreement may be executed in facsimile or other electronic counterparts, each of which will be deemed to be an original and all of which together will be deemed to be one and the same document.

IN WITNESS WHEREOF, the parties hereto execute this Agreement on this 7th day of June 2018.

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PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY

Name: Omar / Marrero, Esq. Title: Executive Director

Tax Id:

By:

ICF INCORPORATED, LLC

By:
Name: Robert F. Toth
Title: Senior Vice-President
Employer Identification Number

# APPENDIX A PROVIDER'S LABOR CATEGORIES AND RATES

CRRO shall pay ICF for labor hours incurred in accordance with and based upon the hourly rates set forth below:

Tahay Catagory	Base Term	Option Term 1	Option Term 2	Option Term 3
Labor Category	Rate/Hr	Rate/Hr	Rate/Hr	Rate/Hr
Sr. Consultant 5	\$293.00	\$293.00	\$300.33	\$307.83
Sr. Consultant 4	\$258.00	\$258.00	\$264.45	\$271.06
Sr. Consultant 3	\$222.00	\$222.00	\$227.55	\$233.24
Sr. Consultant 2	\$194.00	\$194.00	\$198.85	\$203.82
Sr. Consultant 1	\$171.00	\$171.00	\$175.28	\$179.66
Consultant 4	\$150.00	\$150.00	\$153.75	\$157.59
Consultant 3	\$131.00	\$131.00	\$134.28	\$137.63
Consultant 2	\$119.00	\$119.00	\$121.98	\$125.02
Consultant 1	\$104.00	\$104.00	\$106.60	\$109.27
Analyst_4	\$90.00	\$90.00	\$92.25	\$94.56
Analyst_3	\$83.00	\$83.00	\$85.08	\$87.20
Analyst_2	\$72.00	\$72.00	\$73.80	\$75.65
Analyst_1	\$55.00	\$55.00	\$56.38	\$57 <i>.</i> 78

ICF reserves the right to replace an ICF employee during the performance of any applicable Statement of Work hereunder with an individual possessing the training, skills and level of competence required to perform assigned duties hereunder.

- (a) For hours performed by staff in excess of 8 hours per day, ICF staff who are classified as exempt employees under applicable law shall continue to be billed at the hourly rates set forth above, while ICF staff who are classified as non-exempt under applicable law shall be billed at 1-1/2 times the hourly rates set forth above. Prior to incurring time in excess of 8 hours per day for non-exempt staff, ICF shall request the authorization of the CRRO through the contact set forth herein for technical matters. Such authorization may be specific to a particular task or date, or more general.
- (b) ICF will make requests to CRRO for approval of waivers to qualifications for labor categories.





### APPENDIX B SCOPE OF WORK AND LIST OF DELIVERABLES

### Statement of Work B-1

This exhibit identifies the Services to be performed and the Deliverables to be provided by ICF and/or its Subcontractors in support of the Project. The Services and Deliverables are organized into two tasks—Project Formulation and Grant Management—that are comprised of related activities that are expected to be performed.

### 1. Project Formulation

- 1.1. Provide technical assistance to State agencies, municipalities, and private non-profits (subrecipients) in development of project worksheets.
- 1.2. Collaborate with the COR3 on project formulation, including damage; information; project development (define both small and large projects' scope, size, and damages, including cost estimating, that will be the basis of each project worksheet); and project submittals.
- 1.3. Assist with the management of FEMA and/or other federal grants along with the COR3, arranging for routine status/action plan meetings, establishing priorities, scope changes, and updates at meetings.
- 1.4. Develop improved and/or alternate project requests for COR3 submission to FEMA and/or other federal grants.
- 1.5. Develop Section 406 Hazard Mitigation Proposals (HMPs) where mitigation actions can minimize future disaster impacts.
- 1.6. Develop Section 404 Hazard Mitigation strategies providing staff experience in the use of FEMA BCA tools and methodologies that can minimize future disaster impacts.
- 1.7. Provide the needed support to comply and implement the requirements set forth in the Bipartisan Budget Act of 2018 that are related to disaster and recovery matters.
- 1.8. Provide knowledge and expertise associated with developing a framework for reconstruction that incorporate resiliency measures to build to a risk-adjusted level.
- 1.9. Provide knowledge and expertise associated with the environmental review and permitting process with opportunities for accelerated review where appropriate.
- 1.10. Provide knowledge and expertise associated with procurement and delivery best practices and lean construction practices.

## 2. Grant Management

2.1. Review requests for reimbursements or advance of funds.

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- 2.2. Monitor all grant management, grant accounting, and reconciliation.
- 2.3. Provide recommendation on requests for reimbursement or advance of funds.
- 2.4. Assess grant management and claims internal controls and procedures for Puerto Rico and subgrantees.
- 2.5. Provide the needed support to comply and implement the requirements set forth in the Bipartisan Budget Act of 2018 that are related to disaster and recovery matters.
- 2.6. Provide knowledge and expertise on FEMA, HUD/Community Development Block Grant (CDBG), Section 428, and other Federal disaster grant and assistance programs.

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- 2.7. Provide knowledge and expertise associated with developing a framework for reconstruction that incorporates resiliency measures to build to a risk-adjusted level.
- 2.8. Provide knowledge and expertise associated with the environmental review and permitting process with opportunities for accelerated review where appropriate.
- 2.9. Provide knowledge and expertise associated with procurement and delivery best practices and lean construction practices.

On February 22, 2018, the proposals for Project Formulation and Grant Claim Review Services were submitted to the Central Recovery and Reconstruction Office of Puerto Rico.

As limited information was available and no estimations of scale for projects were provided in the RFP, the proposals assumed that a core staff would perform the evaluation of the scale of the disaster work proposed throughout the Period of Performance.

After the proposal submittals, the estimation of damages and services to be performed in each sector were provided and identified as:

Sector

Estimated damage inventory

Municipalities

78/ State Agencies 138

Energy

Generation 4/Transmission 800/Distribution 12,000

Water

Facilities and Structures 6,500

Transportation

Roads 12,000 miles/Bridges 1,000/Airports 5/Ports 5

Health and Social Services

800 medical facilities

Education

900 Schools

Public Buildings

1,400 buildings

Communications

2,500 sites telecommunications/data Emergency Services

Natural and Cultural Resources

900 sites

Based on the estimations above, ICF was able to detail the scope and adjust the level of effort to the project assuming a minimum of 8,000 site inspections and associated number of grant claim reviews. Price and staffing chart were adjusted to reflect the defined requirements and detailed scope.

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DELIVERABLES	PAYMENT TYPE	AMOUNT
Initial Mobilization	FFP	\$1,493,000
and Management Plan		
Support Services and	T&M	\$187,357,000
Expense		, ,
Reimbursement		
	Total	\$188,850,000



# APPENDIX C LIST OF CERTIFICATIONS PROVIDED BY PROVIDER

Sworn statement to the effect that neither the Provider nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for the Provider has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico ("Act No. 8-2017") or any of the crimes included in Act No. 2-2018.

Certification as to filing of income tax returns.

Good standing certificates from Delaware and Puerto Rico.

Certificate from Puerto Rico Treasury Department as to absence of tax debts, if applicable.

Certificate from Puerto Rico Treasury Department as to filing of tax returns, if applicable

Certificate from CRIM as to absence of tax debts, if applicable

Certificate from the Department of Labor and Human Resources on the payment of unemployment insurance, temporary disability, or social security, if applicable.



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### APPENDIX D CHANGE ORDER TEMPLATE

This Change Order No. [ENTER NO.] (the "Change Order") made as of [MONTH DAY, 201X] (the "Effective Date") is a modification to the Statement of Work ("SOW") dated [MONTH DAY, 201X], which was issued under the Professional Services Agreement (the "Agreement") dated [MONTH DAY, 201X], between ICF Incorporated, LLC ("ICF" or the "Provider"), and by and between the PUERTO RICO PUBLIC PRIVATE PARTNERSHIPS AUTHORITY, a public corporation of the Government of Puerto Rico, created and authorized to enter into this Agreement by Act No. 29-2009, as amended (the "Authority"), on behalf of the Central Office for Recovery, Reconstruction, and Resiliency ("COR³" of the "CRRO"), a division within the Authority (each a "Party" and collectively the "Parties").

### A. Change Order Details

IN CONSIDERATION of the promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the SOW as follows:

- 1. Section A. Project Scope and Deliverables is modified as follows:
  - a. [ENTER SCOPE/DELIVERABLE ADDITIONS IN SAME FORMAT AND LEVEL OF DETAIL AS ORIGINAL SOW.]
  - b. [ENTER ANY SCOPE/DELIVERABLE DELETIONS.]
  - c. [ENTER ANY SCOPE/DELIVERABLE MODIFICATIONS.]
- 2. Section C. Project Timeline and Termination. The period of performance is hereby extended through [MONTH DAY, 201X].
- 3. Section F. Customer Responsibilities, Assumptions and Exclusions is modified as follows:
  - a. [ENTER ASSUMPTIONS ADDITIONS.]
  - b. [ENTER ASSUMPTIONS DELETIONS.]
  - c. [ENTER ASSUMPTIONS MODIFICATIONS.]
- 4. Section G. Fees, Expenses and Payment.
  - a. [There is no change to estimated fees, hours and expenses.] OR
  - b. Total estimated fees is increased by \$[ENTER] from \$[ENTER] to \$[ENTER].
  - c. Total estimated hours is increased by [ENTER] from [ENTER] to [ENTER].
  - d. Total estimated expenses is increased by \$[ENTER] from \$[ENTER] to \$[ENTER].
  - e. Services under this Change Order shall be provided at the rates in the table below:

Role	Hourly Rate	Estimated Hours	Estimated Fees
[Role Description 1]	\$		\$
[Role Description 2]	\$		\$



Total Estimated Hours/Fees - Change Order No. [ENTER]:	\$
Total Estimated Hours/Fees - SOW (Including all previous change orders thereto):	\$
Total Estimated Hours/Fees – SOW (Inclusive of this Change Order No. [ENTER]):	\$

#### **B.** General Provisions

- 1. No representations or statements of any kind made by either Party that are not expressly stated herein or in any written amendment hereto shall be binding on either Party. The Parties agree this Change Order, the SOW and all previous change orders thereto, and the Agreement shall constitute the complete and exclusive statement of the agreement between them, and supersede all prior or contemporaneous proposals, oral or written, and all other communications between them relating to the subject matter hereof.
- 2. Order of Precedence. In the event of any inconsistencies between the SOW and all previous change orders thereto and this Change Order, this Change Order shall take precedence.
- 3. Subject to the modifications herein, all other terms and conditions of the SOW remain unchanged and shall remain in full force and effect.
- 4. This Change Order quote is valid through [MONTH DAY, 201X] and shall become binding upon execution by Customer and acceptance by ICF.

IN WITNESS WHEREOF, the Customer authorizes ICF to implement this Change Order and agrees to the above project impact on the Statement of Work. By executing below, the Parties hereto, each acting under due and proper authority, have executed this Change Order as of the Effective Date.

# Puerto Rico Public Private Partnerships ICF Incorporated, LLC Authority

Ву:	Ву:	, sales
Name:	Name:	1,000,000,000,000
Title:	Title:	- Company
Date:	Date:	

