



WRITTEN TESTIMONY

COMMITTEE ON HOUSING, TRANSPORTATION AND TELECOMMUNICATION

Presented by:

Dayna Clendinen
Interim Executive Director
Chief Disaster Recovery Officer

February 28, 2024



Good day, Senator Marvin A. Blyden, Chair of the Committee on Housing, Transportation and Telecommunication; members of the Committee; other Senators present; and the listening and viewing audience. I am Dayna Clendinen, and I serve as the Interim Executive Director and Chief Disaster Recovery Officer of the Virgin Islands Housing Finance Authority (VIHFA).

Though 2024 is well on its way, this is the first time we are appearing before this body and our community, and as such, I extend to all warm wishes for a blessed year, filled with peace and wisdom.

Today, I am accompanied by: Valdez Shelford, Chief Financial Officer; Dr. Stephanie Berry, Chief Operating Officer, Jacquiel Fredericks, Chief Human Resources Officer, Rick Grant, Strategic Advisor, Royan Robinson, Director of Finance; Janine Hector, Director of Federal Programs; Ann Hanley, Director of Programs; Alanah Lavinier, Director of Policy, Procedures, and Regulatory Services; Odari Thomas, Director of Energy Solutions; Jamillie Perez, Deputy Director of Housing and Public Services; Rupert Pelle, Deputy Director of Infrastructure and Public Facilities; Donnie Dorsett, Deputy Director of Economic Resilience and Revitalization, Mone't Francis-Gardner ARPA Grant Administrator; Director of Homeownership Freida Webster, Manager of Rental Properties Nichole Johnson; and Assistant Director of Planning and Construction Marvin Vaughan.

Senators, we appear before you on the heels of a productive and successful two-day visit from HUD Deputy Assistant Secretary for Grant Programs Claudia Monterrosa. During the visit, the VIHFA team engaged with Deputy Assistant Secretary Monterrosa and her team in robust and critically constructive discussions and provided important updates on ongoing projects and plans.

Ms. Monterrosa and her team commended VIHFA's progress and approved of our dedication, focus, and effectiveness in disaster recovery efforts and housing plans. HUD representatives affirmed their support, provided suggestions for process improvement, and stressed the importance of sustainable services and recognizing long-term project risks. We extend sincere thanks for their guidance and support.

Housing Initiatives and Construction

The Virgin Islands Housing Finance Authority is actively addressing challenges as it works towards financing, developing, and constructing affordable housing in the Territory, in line with the 2022-2024 Affordable Housing Plan. We are committed to achieving a balance between supply and demand, considering the projects currently underway and those set to begin within the next six months across the territory. We are revisiting and refining the existing Plan, which should be in effect for 2025-2027, and look forward to public input. Furthermore, we are dedicated to ensuring that the structure of all divisions aligns seamlessly with established goals and objectives, with a focus on improving project control, efficiency, productivity, and profitability.

Although many agencies are now competing for contractors and developers, our housing priorities delineated in the Plan have not changed. Our focus remains on:

Developing Affordable Homeownership Opportunities

VIHFA sponsors several programs that provide direct and indirect assistance for those families seeking a homeownership alternative. VIHFA seeks to provide affordable homeownership to low-and moderate-income families; educate potential homebuyers on ways to achieve homeownership; provide loss mitigation counseling to homeowners so that they maintain homeownership; and create sustainable communities. This undertaking is accomplished through prequalifying, financing, educating, and counseling potential buyers and current homeowners. As it pertains to the mortgage programs offered, the Authority provides secondary lending to eligible first-time homebuyers for single-family residences and primary lending for land purchase of one-half acre plot.

Homeownership Financing Programs

We are currently proposing to the VIHFA Board of Directors an increase to the total acquisition cost limit for non-HOME eligible transactions. The total acquisition cost associated with acquiring a home includes purchase price, rehabilitation cost and closing costs, as applicable. Presently, VIHFA utilizes the sales price limits of the HOME and Housing Trust Fund published by HUD annually (every July) for all products offered by VIHFA. As of July 1, 2023, the HOME and Housing Trust Fund sales price limits for a single-family dwelling in St. Croix, St. John and St. Thomas are \$261,000; \$527,000; and \$333,000, respectively. The current HOME and

Housing Trust Fund limits do not reflect the growing cost of housing in the Territory.

As of November 15, 2023, the current FHA Mortgage Limits for a single-family dwelling in St. Croix, St. John and St. Thomas are \$498,257; \$1,059,150; and \$639,400, respectively. Establishing FHA Mortgage Limits for non-HOME eligible clients could facilitate the financing of additional single-family homes with VIHFA's assistance. By increasing the total acquisition cost limit for non-HOME eligible households to match FHA Mortgage Limits there are several benefits, including but not limited to the realistic alignment with current housing acquisition costs in the Territory and enabling moderate income households to take advantage of VIHFA's First Time Homebuyer's Program for Moderate Income Households. To date, there have been no loans approved under this program, which in part is attributable to the existing acquisition cost limit.

New Construction Projects (including those listed in the 2022-2024 Plan)

Planned for the 2 & 3 Quarter of 2024

- Estate Bonne Esperance, St. Croix – we are currently reviewing a proposal for the construction of up to 100 single-family dwellings and infrastructure on the remainder of VIHFA's property in Bonne Esperance (South Side). The proposed terms of the agreement are being reviewed.
- Estate Fortuna, St. Thomas – We are currently soliciting for the design of this project and anticipate solicitation for construction immediately thereafter. We anticipate selection and design completion within 90 days. With the approval of disaster recovery funds, this project (referred to as Wild Pineapple) consists of 20 turnkey homes.
- Estate Mount Pleasant (West), St. Croix - We expect funding approval for Estate Mount Pleasant (West) within two weeks. This will allow us to solicit for the design of seven units - two of which will comply with the ADA - which we expect to be complete within 60 days. Construction solicitation is set for the second quarter of 2024. An additional eight turnkey homes will be developed within this subdivision, and we will be soliciting for those designs within two weeks, with construction expected to start no later than the third quarter of 2024.
- Queen Louise Apartments, St. Thomas - We are currently soliciting design services for this project and anticipate solicitation immediately thereafter for construction. We

anticipate selection and design completion within 90 days. With the approval of disaster recovery funds, 16 townhomes are slated to be constructed.

Scheduled for 2025

- Cotton Valley, St. Croix – given the demand for turnkey homes, our plan to subdivide and develop roads that provide an additional 20, one-half acre lots for sale to clients is deferred until the first quarter of 2025.
- Estate Jealousy, St. Croix – the proposal to construct up to 6 single-family dwellings and infrastructure was not viable. However, given the projected commencement dates of up to four projects this year, this project is deferred until the first quarter in 2025.
- Estate Solitude, St. Croix – the proposal to construct up to 6 single-family dwellings and infrastructure was not viable. However, given the projected commencement of up to four projects this year, this project is deferred until the first quarter in 2025.
- Estate Nazareth, St. Thomas – our plans to subdivide this property and provide thirty (30) lots and forty (40) homes for sale is deferred until the first quarter of 2025.
- Estate Donoe, St. Thomas – the completion of two turnkey homes is projected for the third quarter of 2024. Given the projected commencement dates of up to four projects this year and the extensive infrastructure work required to develop additional turnkey homes, this project is deferred until the second quarter of 2025.
- Estate Bethany, St. John - the proposal to construct up to 6 single-family dwellings and infrastructure was not viable. However, given the projected commencement dates of up to four projects this year, this project is deferred until the second quarter in 2025.

Affordable Rental Housing

We are aggressively working on:

- Ross Mixed Use facility (St. Thomas): This project is delayed allowing for additional work to be completed on the existing plans. Solicitation for services to allow for bridging of design drawings will commence within 30 days. With the approval of disaster recovery funds, this three-storied building will consist of commercial bays and 8 residential units on the third floor. Solicitation for construction is slated to start by the third quarter of 2024.

- 20-A Strand and 5BB Smith St. mixed use facility (St. Croix): We are currently performing site assessments to determine the viability of renovating our existing building to become a multi-use facility, which will include a minimum of 10 residential units.

Emergency Housing

VIHFA's Emergency Housing Program is short-term housing that temporarily assists persons who are displaced from their current household due to a natural disaster, catastrophic incident, domestic violence, or financial hardship. Projects include:

- Taarneberg Emergency Housing (St. Thomas) is expected to secure site control within 30 days. Pending approval of disaster recovery funds, the project will involve constructing 11 emergency housing units along with necessary infrastructure.
- Staabiland Apartments (St. Thomas) is currently undergoing repairs following damage from the 2017 storms, with completion expected by the end of the first quarter of 2024.
- Charolette Apartments (St. Thomas) consists of six buildings. Repairs for two buildings (12 units) affected by the 2017 storms are set to begin in the first quarter of 2024.
- Profit Hills Emergency Housing (St. Croix) comprises three buildings (12 units). Repairs for one building damaged in the 2017 storms are scheduled to start no later than the first quarter of 2024.
- Anna's Hope Emergency Housing (St. Croix) is finalizing a work scope not covered by FEMA, with solicitation for repairs to the 16-unit building expected to commence in the second quarter of 2024. Some aspects may require architectural and engineering services.
- Campo Rico Emergency Housing (St. Croix) involves two buildings (16 units), with repairs for one building underway and projected to be completed by the second quarter of 2024.
- The Kronegade Inn (St. Croix) will begin solicitation within two weeks for the design of two ADA-compliant units. Pending approval of disaster recovery funds, solicitation for renovations to the 18-unit building will begin no later than the third quarter of 2024, with selection and design completion expected within 60 days.

Emergency Rental Assistance Program

The territory has received \$19.8 million through the ERA 1 and ERA 2 grants, which provide essential support to eligible residents who faced financial challenges during the COVID-19 pandemic. This assistance spans up to 18 months and covers rental and utility expenses. As of February 22, 2024, VIHFA has not only committed nearly \$12.2 million but has also disbursed over \$11 million. The impact is tangible, with a total of 1,412 applications processed and almost \$8.1 million distributed in rental and utility aid. In 2023, VIHFA introduced the Housing Stability and Eviction Prevention Services program through Legal Services of the Virgin Islands, disbursing \$371,812 to help residents maintain or secure housing. It's worth noting that these funds will remain available until September 30, 2025.

Homeowner Assistance Fund Program (HAFP)

A positive development under the American Rescue Plan Act is the allocation of \$8.5 million to the Virgin Islands through the Homeowner Assistance Fund (HAF). This program also provides critical post-pandemic support to homeowners, covering a range of housing costs such as mortgage payments, principal reduction, foreclosure prevention, property taxes, insurance, and more. Further, VIHFA's Homeownership Division offers counseling to homeowners in financial distress.

When the program first launched, we were able to offer applicants up to \$25,000 in assistance. While the authority successfully addressed outstanding balances for most of the population served, 24% of applicants still had significant remaining balances, sometimes surpassing the maximum award amount by an average of \$24,000. As the program aims to fully resolve or alleviate delinquent homeowner expenses to help applicants retain ownership, VIHFA worked to increase the maximum award of the program. VIHFA announced late last week that qualified homeowners can now access up to \$65,000 in assistance.

Homeowners must demonstrate financial distress experienced after January 21, 2020, including factors like job loss, reduced income, or substantial healthcare expenses related to COVID-19. The application is accessible at vihfa.gov. As of February 22, 2024, the HAFP Application Portal has logged 239 applications. Positive progress is evident, with 82 applications totaling \$1.4 million already approved. Of the remainder, 28 are under review, another 26 are awaiting data

validation or certification from the lender, 87 are either incomplete or have been withdrawn, and 18 have been declined. This financial aid is accessible until September 30, 2026.

Community Development Block Grant – CARES (CDBG-CV) – and Emergency Grant Solutions – CARES (ESG-CV)

The federal CARES Act allocated \$2.8 million in supplemental Community Development Block Grant (CDBG) funds to the Territory to address the COVID-19 pandemic. Selections were made in three rounds - the chart below shows the 10 projects selected to receive a portion of the \$2.8 million. As of February 26, 2024, \$203,282.51 of the CDBG-CV funds has been drawn down, and the deadline for expenditure is September 2026.

CARES ACT- Community Development Block Grant CDBG-CV		
Listing of Projects	Island	Grant Amount
B-20-SW-78-00001		
The Harvey Community Health Pilot Program	STX	\$254,184.83
VIRCD Classroom Retrofitting Project	STT	\$40,000.00
STJ Rescue Oxygen & Portable Oxygen Concentrators Project	STJ	\$142,445.00
FRC Youth Counseling – St. Thomas & St. John	STT/STJ	\$50,000.00
Community Action Now! – NewRock VI YouthBuild Pilot Program	STT	\$112,680.00
FRC Safe House Renovation Project	STT	\$750,000.00
St. Thomas Boys and Girls Club COVID-19 Program	STT	\$40,000.00
Project Promise COVID-19 Program	STX	\$100,000.00
Mon Bijou COVID-19 Program	STX	\$20,006.17
Community First Bathroom and Isolation Units Construction Project	STX	\$750,000.00
CDBG-CV Program Administration		\$564,829.00
GRAND TOTAL		\$2,824,145.00

ESG-CV funds, totaling \$1.65 million, are dedicated to addressing the COVID-19 crisis, particularly for those who are homeless, receiving homeless aid, or for expanding prevention and assistance programs. Six organizations, including Catholic Charities STT/STJ, Meeting the Needs of Our Community, and the Department of Human Services, among others, received funding for nine projects. These cover a range of activities such as emergency shelter operations, homelessness prevention, rapid re-housing, and more. As of now, over \$1,082,741.32 has been drawn from the funds. Although the program deadline was September 2023, we have until April 2024 to draw on all the funds.

CARES ACT- Emergency Solutions Grant ESG-CV		
Listing of Projects	Island	Grant Amount
E-20-SW78-0001		
Catholic Charities Shelter/ Street Outreach, HMIS, and Administrative Costs	STT/STJ	\$648,475.00
MTOC Street Outreach, HMIS, and Administrative Costs	STT/STJ	\$156,358.75
Dept of Human Services Street Outreach	STX/STT/STJ	\$43,250.00
STX Mission Outreach Street Outreach, Shelter, HMIS, and Administrative Costs	STX	\$141,361.75
Women's Coalition of STX Shelter and Administrative Costs	STX	\$50,006.25
Liberty Place Shelter, HMIS, and Administrative Costs	STX	\$465,150.00
VIHFA Rapid Rehousing	STX/STT/STJ	\$65,000.00
ESG-CV Program Admin		\$88,487.15
GRAND TOTAL		\$1,658,088.90

Disaster Recovery - VIHFA/ODR Transition

As we focus on boosting housing development, we look forward to celebrating continued progress within our disaster recovery efforts, now led by the Office of Disaster Recovery (ODR). On November 20, 2023, VIHFA and ODR transitioned the CDBG-DR program, transferring 45 specialized employees.

As the grantee, VIHFA actively manages the grant, ensuring compliance, and monitors ODR's performance based on our agreement. We collaborate and provide technical assistance when needed. Further, we have a liaison who meets biweekly with program staff, keeping both teams on the same page and projects on track. This hands-on approach ensures the success of our disaster recovery initiatives and strengthens the collaboration between VIHFA and ODR for a resilient and thriving community. Senators, ODR will provide testimony relative to specific programs including EnVIsion, per your request.

Looking at the financial snapshot, the balance of the CDBG-DR grant funds stands at \$770.3 million, with Program-related remaining funds totaling \$742 million. Within this, Planning and Administration still hold \$28.2 million. Notably, 80% or \$612 million of the Program funds have been earmarked for the ODR Programmatic Oversight transition, ensuring a strategic focus on program success. There is an optimistic outlook for the year ahead, with a projected fiscal year-end expended rate of 47%. This positive trajectory indicates effective fund utilization and a commitment to advancing the outlined programs.

CDBG-Mitigation Grant

We launched the \$774 million Mitigation Grant in January with a series of in-person town halls across both districts and greatly appreciate the overwhelming community response. The enthusiasm was evident, with more than 300 participants, including local businesses, non-profits, and food producers actively engaging in these sessions. We have also met with department and agency heads within the GVI to inform them of current and upcoming funding opportunities and how they can apply.

The Notice of Funding Availability for MIT's economic programs is now public, marking another significant step forward. In light of the valuable lessons learned from our experiences with the CDBG-DR program, we are committed to supporting the community through the application process by providing technical assistance to ensure a smoother application process and the compilation of all required documents.

The first workshop begins this evening at 6 PM with a virtual hearing on Zoom (registration information is available on our website at vihfa.gov). Subsequent in-person hearings are scheduled as follows:

- St. Thomas – Monday, March 4 at 6 PM - UVI Innovation Center in the SBDC Training Room
- St. John – Tuesday, March 5 at 6 PM – Julius E Sprauve School Cafeteria
- St. Croix – Friday, March 8 at 6 PM - Sunny Isle Shopping Center in the Elections Office

Details can also be found on our website at vihfa.gov.

Under MIT, Economic Resilience and Revitalization represents a significant commitment of \$75 million aimed at substantially reducing future disaster risks, minimizing damage, and fortifying overall territorial resilience. A dedicated \$40 million is allocated to enhance the resilience of commercial and private buildings against emergencies, with the goal of strengthening and diversifying the economy. Further, an allocation of \$35 million is directed towards small businesses, vital contributors to the local economy and tourism. The objective is to reduce operational disruptions and expedite recovery post-disasters, ensuring stable access to energy and vital community lifelines. The deadline for submission under these programs is Friday, April 5, 2024.

A total of \$188 million is allocated for housing, including \$100 million for rehabilitating and reconstructing multifamily developments. \$60 million is also dedicated to new home construction, while \$23 million is allocated for housing for the unsheltered. \$5 million is set aside for projects that will encourage resilience, such as a solar initiative that will provide grants for batteries and panels to eligible homeowners. We are currently finalizing the program plan and anticipate a launch in May 2024.

With \$436 million allocated, our MIT infrastructure program is a comprehensive initiative addressing crucial systems like energy, transportation, and telecommunications. It aims to fill existing gaps and urgent needs, emphasizing the development of multi-purpose facilities to enhance disaster preparedness and response capabilities. The program includes upgrading resilient power systems in energy, improving transportation networks for efficient evacuation, establishing new USEPA-compliant waste disposal facilities and expansions within both districts.

Finally, the total allocation for Public Services \$15 million, with a Notice of Funding Availability expected by the end of March. These programs will focus on several key areas such as: food security, food scarcity, and lack of access for the homeless; case management assistance and housing support for the unsheltered; education and outreach and Technology-Based Resiliency

Programs that mitigate risks for future disasters.

Electrical Grid

Our Electrical Grid grant makes available \$67.6 million for program and activity execution. This grant is a dedicated effort to elevate and enhance the territory's electrical power system, focusing on aspects such as cost-effectiveness, reliability, efficiency, sustainability, and long-term financial viability. Moreover, it aims to fortify the system's resilience against future disasters and address the impacts of climate change.

The grant launch is set for the summer of 2024, offering ample time for enthusiastic participation. The funds will be available until September 2029, with a significant portion—\$53 million—dedicated to additional generation at the Estate Richmond power plant in St. Croix. This endeavor marks a transformative step towards a more resilient and sustainable future for our electrical infrastructure.

Centered on community empowerment, we also have allocated \$10 million from this grant to champion community-focused projects. This offers a remarkable opportunity for qualified applicants to put forward innovative initiatives that have the potential to positively impact diverse populations and demographics. By doing so, we aim to narrow equity and access gaps, ensuring broader and more inclusive access to sustainable energy solutions.

We invite a diverse range of entities to apply, including public and private organizations, small businesses (with up to 100 employees), for-profit and nonprofit groups, educational institutions, affordable housing developers, social service providers, community organizations, public authorities, government bodies, and those working with low-to-moderate-income or vulnerable populations. This inclusive approach ensures a broad spectrum of ideas and involvement, promoting equity and engagement.

Conclusion

I appreciate the opportunity to share the impactful progress and plans that are the result of our team's dedicated efforts. We've conducted thorough assessments, implemented crucial changes, upgraded systems, and strategically recruited new talent, all with a laser focus on driving tangible results. My heartfelt gratitude goes to our steadfast staff whose dedication has

been instrumental in shaping our successes. My staff and I stand ready to address any questions or concerns you may have.

Appendix A

Subrecipient Agreement

PFA Office of Disaster Recovery Official

11.2023

COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY 2017 FUNDS
VIRGIN ISLANDS HOUSING FINANCE AUTHORITY SUBRECIPIENT AGREEMENT No.
SA-DR(PFA/ODR)-001-2024
(PROGRAM: Overall Management)

BETWEEN

VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

[Grantee]

AND

PUBLIC FINANCE AUTHORITY, OFFICE OF DISASTER RECOVERY

[Subrecipient]

This SUBRECIPIENT AGREEMENT (“Agreement”) for the use of the **VIRGIN ISLANDS HOUSING FINANCE AUTHORITY (“VIHFA”) COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) funds** is entered into this 20 day of November 2023, in the Territory of the United States Virgin Islands between the **Virgin Islands Housing Finance Authority (“Grantee”)**, a body corporate and politic constituting a public corporation and autonomous governmental instrumentality of the Government of the Virgin Islands by the name of **the Virgin Islands Housing Finance Authority, hereinafter “Authority,” located at 3202 Demarara Plaza, Suite 200, St. Thomas, USVI 00802, and Public Finance Authority, Office of Disaster Recovery, a (“Subrecipient”) located at 8000 Nisky Center, Suite 1 St. Thomas, VI 00802.** Grantee and Subrecipient are herein jointly referred to as the “Parties”; and

I. RECITALS

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

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

WHEREAS, based on the approved Action Plan, the USVI has received HUD Community

Development Block Grant Disaster Recovery funding (“CDBG-DR”) for hurricane disaster recovery; and

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

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

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

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

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

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

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

WHEREAS, the Subrecipient will manage all project(s) for the Grantee with an approved budget of **\$18,137,668.75** Funds for this project will be allocated from **Grant Agreements No. B-17-DP-78- 0001, B-18-DP-78-0001, B-19-DP-78-0001.**

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

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

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

II. GENERAL INFORMATION

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

General Information:

Name of Grantee:	The Virgin Islands Housing Finance Authority
Name of Awarding Official:	Dayna Clendinen
Title:	Chief Disaster Recovery Officer
Address:	3202 Demarara Plaza Suite 200
City, State, ZIP:	St. Thomas, VI 00802
Email Address:	dclendinen@vihfa.gov
Phone Number:	340- 777- 4432
Department (if applicable)	
Grantee Unique Identifier:	CJGNN7KKH58
Name of Subrecipient:	Public Finance Authority, Office of Disaster Recovery
Name of Subrecipient Primary Contact:	Adrienne Williams
Title:	Director, Office of Disaster Recovery
Address:	402 Strand Street
City, State, ZIP:	Frederiksted, VI 00840
Email Address:	awilliams@usvipfa.com
Phone Number:	340- 202-1221
Department (if applicable)	
Subrecipient Unique Identifier	GCULBBHVJ3D6
Federal Award Identification Number (FAIN):	B-19-DP-78-0001

Catalog of Federal Domestic Assistance (CFDA) Number and Award:	14.228 Community Development Block Grants/ State’s Program
Federal Award Date:	September 27, 2018
Grant Number:	B-17-DP-78-0001, B-18-DP-78-0001, B-19-DP-78-0001
Federal Award Project Description: <i>[Please include the name of the program (i.e., New Housing Construction Own A Lot Build A Home) describe the purpose of the project, reason for this agreement/need for Subrecipient assistance.]</i>	Program Management and Project Management for all programs and projects being funded with VIHFA CDBG-DR funds.
Subaward Period of Performance as defined in Section VI of this agreement: <i>[Insert Start and End Date]</i>	November <u>20</u> , 2023 to August 31, 2026
Amount of CDBG-DR Funds Committed to the Subrecipient by the Grantee: <i>[Spell out sum and put the numerical value in parenthesis]</i>	Eighteen million one hundred thirty-seven thousand, six hundred sixty-eight dollars and seventy-five cents. (\$18,137,668.75)
Amount of Federal Funds Obligated by this Agreement:	\$ 18,137,668.75
Total Amount of Federal Funds Obligated to the Subrecipient Agreement is not to exceed:	\$18,137,668.75

III. TERMS AND CONDITIONS

A. Exhibits

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

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

IV. STATEMENT OF WORK

Scope of Services

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

Subrecipient Management Responsibilities

The Subrecipient shall submit to the Grantee the required project application forms provided by the

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

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

Eligible Use of Funds

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

Prohibited Activities

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

A. General Administration of CDBG-DR Funds

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

B. Pre-Award Costs

Pre award costs applicable to Subrecipients are not allowed unless approval received from Grantee.

C. National Objectives

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

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

1. Benefiting Low-Moderate Income Individual to include the subcategories of Low-Moderate Housing (LMH); Limited Clientele (LMC); Low-Moderate Job Creation and Retention (LMJ); and Low-Moderate Area (LMA).
 - 70% of funds must be used on LMI.
2. Urgent Need- Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community

and other financial resources are not available.

D. Level of Accomplishments- Performance Goals and Timelines

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

E. Staffing

The Subrecipient shall supervise and direct the completion of all activities under this agreement. The Subrecipient shall identify the key personnel working on their project(s). Grantee had identified Key Personnel as:

- Procurement Staff Member
- Finance Staff Member
- Program/Projects Lead/Manager
- Compliance Staff Member

Subrecipient must notify the Grantee of any changes in the Key Personnel assigned or their responsibilities for their respective positions. All notifications shall be submitted to the grantee in writing within 30 days of change in key personnel.

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

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

V. PERFORMANCE MONITORING & REPORTING

Monitoring

The Grantee shall monitor the performance of the Subrecipient as necessary and in accordance with regulations on Subrecipient Monitoring and Management, 2 CFR 200.330 – 2 CFR 200.332, to ensure compliance with all of the requirements of this agreement, including the timeframes and performance goals associated with the activities. Substandard performance as determined by the Grantee will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within 10 days after being notified by the Grantee Department, the Grantee may impose additional conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 CFR 200.207, suspend or terminate this agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 CFR200.338.

Reporting

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

- 4th Reporting Month (Jan 2024 for Reporting Period Dec 2023): Subrecipient must have submitted for reimbursement 1% of CDBG-DR Funds (project costs).
- 10th Reporting Month (July 2024 for Reporting for Jan-Jun 2024): Subrecipient must have submitted for reimbursement totaling to date 30% of CDBG-DR Funds (project costs).
- 17th Reporting Month (Jan 2025 for Reporting months July- Dec 2024): Subrecipient must have submitted for reimbursement totaling to date 50% of CDBG-DR Funds (project costs).
- 24th Reporting Month (July 2025 for Jan- Jun 2025) - Subrecipient must have submitted for reimbursement totaling to date 70% of CDBG-DR Funds (project costs).
- 31st Reporting Month (Jan 2026 for Jul- Dec 2025) - Subrecipient must have submitted for reimbursement totaling to date 85% of CDBG-DR Funds (project costs).
- 38th Reporting Month (July 2026 for Jan 2026- Jun 2026)- Subrecipient must have submitted for reimbursement totaling to date 95% of CDBG-DR Funds (project costs).

Non Performance

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

VI. BUDGET

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

A. Budget Table

BUDGET CATEGORY	Allocations					
	Housing	Public Services and Facilities	Infrastructure	Local Match	Economic Revitalization	CDBG-DR Budget
Project Cost (Direct)						
Program Staff - CDBG-DR Team Salary	\$ 5,229,000.00	\$ 1,296,000.00	\$ 1,173,000.00	\$ 1,122,000.00	\$ 600,000.00	\$ 9,420,000.00

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Program Staff - CDBG-DR Team Fringe	\$ 2,457,630.00	\$ 609,120.00	\$ 551,310.00	\$ 527,340.00	\$ 282,000.00	\$ 4,427,400.00
Program Staff - ODR Team Salary	\$ 247,924.58	\$ 123,962.29	\$ 275,141.25	\$ 74,362.50	\$ 22,234.39	\$ 743,625.00
Program Staff - ODR Team Fringe	\$ 166,556.25	\$ 10,575.00	\$ 79,312.50	\$ 21,150.00	\$ 71,910.00	\$ 349,503.75
						\$ 14,940,528.75
Project Cost (Activity Delivery Cost)						\$ -
Marketing / Ad Placements / Communications	\$ 24,570.00	\$ 3,510.00	\$ 3,510.00	\$ -	\$ 3,510.00	\$ 35,100.00
Office Supplies/ Materials/ Equipment	\$ 111,300.00	\$ 15,900.00	\$ 23,850.00	\$ 3,975.00	\$ 3,975.00	\$ 159,000.00
Training	\$ 135,240.00	\$ 13,524.00	\$ 19,320.00	\$ 19,320.00	\$ 5,796.00	\$ 193,200.00
Recovery Coordination Travel	\$ 152,250.00	\$ 21,750.00	\$ 32,625.00	\$ 5,437.50	\$ 5,437.50	\$ 217,500.00
Licensing / Software	\$ 18,468.00	\$ 18,468.00	\$ 18,468.00	\$ 18,468.00	\$ 18,468.00	\$ 92,340.00
Contracted / Consulting Labor ~.5% of remaining DR funding (ADC directly attributable to ODR/DR consultants and contractors providing project level support)	\$ 1,750,000.00	\$ 250,000.00	\$ 375,000.00	\$ 62,500.00	\$ 62,500.00	\$ 2,500,000.00
Subtotal Project Cost (Activity Delivery Cost)						\$ 3,197,140.00
TOTAL						18,137,668.75

B. Program Income

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

C. Indirect Costs

Due to the nature and classification as the Subrecipient responsible for programmatic oversight. All work performed will be activity delivery costs. Indirect costs may **not** be charged to this subaward.

If at a later date, the Subrecipient and Grantee change the terms and nature of the subrecipient’s scope of work, the Subrecipient may request indirect costs. Indirect costs may be charged to this subaward under a negotiated indirect cost rate agreement with a federal cognizant agency or an indirect cost proposal prepared prior to the charging of any indirect cost rate to the grant in accordance with 2 CFR part 200, subpart E, submitted to a federal cognizant agency, and as approved by the Grantee in accordance with its written policies and procedures. Any indirect costs, as defined in 2 CFR part 200, that are included in the budget shall only be charged to CDBG-DR funds to the extent that the costs

are consistent with the conditions of Section X (D) (2) of this agreement.

VII. PERIOD OF PERFORMANCE AND TERM

The period of performance for the Subrecipient , meaning the time during which the Subrecipient may incur new obligations to carry out activities under this agreement, shall start on the 20 day of November 2023 and end on the 31st day of August 2026.

Extensions

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

A. Implementation of Agreement and Assurances

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

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

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

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

B. Performance and Timeline Requirements

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

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

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

VIII. PAYMENT

Subrecipient shall only seek a total payment amount **not to exceed \$18,137,668.75** from The Virgin Islands Housing Finance Authority Community Development Block Grant- Disaster Recovery Fund for Program services provided under this Agreement and for reimbursement of costs and expenses that Subrecipient necessarily incurs for the Program and that are eligible for reimbursement under applicable regulations.

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

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

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

The Grantee shall authorize to the Subrecipient the payment through allocation of CDBG-DR funds available under this agreement based upon information submitted by the Subrecipient for allowable costs permitted under this agreement and consistent with the approved budget. With the exception of advances¹, payments/allocations will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments/Allocations will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. The Grantee shall not pay any advance or reimburse any costs not consistent with this agreement or costs not consistent with federal statutes, regulations (including Cost Principles in 2 CFR Part 200, subpart E), the terms and conditions of the CDBG-DR award, or any costs that would otherwise result in the Grantee charging improper, unauthorized, or otherwise unallowable costs to the award. Additional services beyond this agreement but determined to be necessary to execute CDBG-DR objectives (as determined by reviewing the Grantee's Action Plan and reviewing the project scope, intended outcomes, and impact to the LMI national objective), must be presented a minimum of 30 days in advance of execution and may necessitate an amendment to the Agreement.

¹ Advances are solely for mobilization of Envision Projects

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

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

IX. AMENDMENTS

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

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

X. SUSPENSION or TERMINATION

A. Suspension or Termination for Cause

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

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

The Grantee shall promptly notify the Subrecipient, in writing, of its determination and the reasons for the suspension or termination together with the date on which the suspension or termination shall take effect and any other notifications required under 2 CFR part 200, subpart D. The Grantee agrees that it shall not exercise its right to suspend or terminate this Agreement until it has given written notice to the Subrecipient of the alleged non-compliance and has given the Subrecipient thirty (30) days after the Subrecipient Department's receipt of such notice, to correct and/or cure, the alleged noncompliance.

The Subrecipient may request additional time in writing to correct the alleged non-compliance which may or may not be granted by the Grantee Department. If the non-compliance cannot be corrected and/or cured, the Subrecipient shall, unless the termination or suspension notice directs otherwise, immediately discontinue all activities relating to this Agreement, except as may otherwise be legally required pursuant to a binding commitment to perform.

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

B. Suspension or Termination for Convenience

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

C. Termination Due to Unavailable Funding

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

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

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

- (1) the duty to maintain and provide access to records;
- (2) the duty to monitor and report on the use of any CDBG-DR funds expended or awarded in

compliance with all terms, conditions, and regulations herein;

(3) duty to enforce compliance with the terms of CDBG- DR grants; and (4) duty to monitor, collect and manage Program Income, if applicable.

E. Payment upon Suspension or Termination

1. *Payment upon Suspension or Termination for Cause:* Upon termination, the Grantee retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient must return to the Grantee any improper expenditures no later than thirty (30) business days after the date of termination. The Grantee may, at its sole discretion, allow the Subrecipient to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this Agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations, or requirements.
2. *Payment upon Suspension or Termination For Convenience:* In the matter of suspension or termination for convenience, the Subrecipient shall be entitled to payment/allocations on approved invoices submitted to the VIHFA CDBG-DR Finance Department no later than thirty (30) days from the date of termination contained within the notice, to the extent payment requests represent Eligible Activities satisfactorily completed during the term of this Agreement and otherwise reimbursable under the terms of this Agreement.

F. Period of Transition

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

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

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

A. General Compliance

The Subrecipient shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this Agreement. These Federal Register notices include, but are not limited to, 83 FR 5844 (February 9, 2018), 83 FR 40314 (August 14, 2018), FR-6109-N-03 (September 4, 2019) and FR-6109-N-02 (August 30, 2019).

Notwithstanding the foregoing, (1) the Subrecipient does not assume the any of VIHFA's CDBG-DR Environmental Department's responsibilities for environmental review, decision-making, and action, described in 24 CFR part 58 and (2) the Subrecipient does not assume any of the Grantee Department's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state, and local laws, regulations, and policies that govern the use of the CDBG-DR funds regardless of whether CDBG-DR funds are made available to the Subrecipient on an advance or reimbursement basis.

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

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

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

C. Drug-Free Workplace

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

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

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

1. Financial & Program Management

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

2. Cost Principles

Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 CFR part 200, subpart E. All items of cost listed in 2CFR part 200, subpart E, that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general

policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this agreement, except for the following:

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

E. Financial Management System

1. The Grantee may review the adequacy of the financial management system of the Subrecipient under this Agreement at any time subsequent to the signing of the Agreement. If Grantee determines that the Subrecipient's accounting system under the Agreement does not meet the standards described in this section, additional information to monitor the Agreement may be required by the Grantee upon written notice to the Subrecipient, until such time as the system meets with the Grantee's approval. The Subrecipient will notify Grantee as soon as practicable if the Subrecipient cannot comply with the requirements established in this section of the Agreement.
2. The Subrecipient's financial management system shall be consistent with the standards set forth 24 CFR 85.1 et seq. and 24 CFR 85.20 et seq., and 2 CFR Part 200, Subpart D, Post Federal Award Requirements and Standards for Financial and Program Management, and the requirements for Payment Request in Appendix E, and the requirements for Records and Records Retention in Section XI (F- Documentation and Recordkeeping).
3. The Subrecipient shall maintain accurate, current, and complete reports for disclosure of financial results in a format which conform with generally accepted principles of accounting and reporting:
 - i. Accounting Records: Maintain records that adequately identify the source and application of the CDBG-DR Funds.
 - ii. Internal Control: Maintain effective internal and accounting controls over CDBG- DR Funds provided to the Subrecipient under this Agreement. The Subrecipient shall adequately safeguard all such funds and assure that they are used solely for authorized purposes. The Subrecipient Department's records shall distinguish Grant Funds for its Activities from those to be reimbursed to any Subrecipient .
 - iii. Budget Control: Provide for the comparison of the actual expenditures or outlays with budgeted amounts.
 - iv. Allowable Costs: Implement procedures to determine the reasonableness and acceptability of costs consistent with this Agreement.

- v. Source Documentation: Maintain accounting records that are supported by source documentation (such as purchase orders, invoices, timesheets, and canceled checks).
 - vi. Disbursement Management: Establish procedures to minimize the time elapsed between the receipt of funds from the Grantee and disbursement by the Subrecipient Department.
4. Reversion of Assets: The use and disposition of immovable property, equipment and remaining CDBG-DR Funds under this Agreement shall be in compliance with all CDBG-DR regulations, which include but are not limited to the following:
- a. The Subrecipient shall return to the Grantee any Grant Funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination of this Agreement.
 - b. In all cases in which equipment acquired, in whole or in part, with CDBG- DR Funds is sold, the proceeds shall be reviewed to determine if they are Program Income, as defined in 2 CFR Part 200.80, and prorated to reflect the extent to which CDBG-DR Funds received under this Agreement were used to acquire the equipment. Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to back to the Grantee for the CDBG-DR program or (b) retained by the Subrecipient after compensating the Grantee an amount equal to the current fair market value of the equipment less the percentage of any non-CDBG-DR funds used to acquire the equipment.
 - c. Real property under the Subrecipient’s control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG-DR National Objectives pursuant to 24 CFR 570.208. Under §570.503(b)(7), property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 that is within the subrecipient’s control, the property must either:
 - 1. Be used by the subrecipient to continue to meet one of the program’s national objectives for at least 5 years after the expiration of the subrecipient agreement; or,
 - 2. If a national objective is not met during this time period, the Grantee must be reimbursed for the current fair market value, less any portion of the value attributable to non-CDBG funds. This payment is considered program income to the Grantee. No payment is required after the period specified in paragraph 1. above.

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

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

general conduct of government; or

2. The new use is deemed appropriate (after consultation with affected citizens) but will not meet a national objective.

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

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

F. Documentation and Record Keeping

1. Records to be Maintained

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

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

2. Access to Records

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

The Subrecipient shall comply with the retention and access requirements set forth in 24 CFR 570.506. The VIHFA, HUD, the Comptroller General of the United States, and any of their duly

authorized representatives or agents, shall have access to, and the right to examine, all records, books, documents, and papers of the VIHFA created under this Agreement for the purpose of audits, examinations, and making excerpts and transcriptions.

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

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

3. Record Retention and Transmission of Records to the Grantee

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

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

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

B. All Financial records to include:

- a. Chart of accounts;
- b. Manual on accounting procedures;
- c. Accounting journals and ledgers;
- d. Source documentation (such as purchase orders, invoices, canceled checks);
- e. Procurement files (from solicitation to contract);

- f. Status of reimbursements;
- g. Real property inventory, if applicable;
- h. Bank account records (including revolving loan fund records, if applicable);
- i. Draw down requests;
- j. Payroll records and reports including timesheets or timecards as applicable;
- k. Financial reports;
- l. Audit files; and
- m. Relevant financial correspondence.

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

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

4. Client Data and Other Sensitive Information

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

G. Closeout

The Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.344. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of

records. Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the Subrecipient shall transfer any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds, further, any real property under the Subrecipient Department's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

H. Nondiscrimination

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

1. 24 CFR Part 6

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

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

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

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

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

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

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

6. It shall require that every newly constructed or altered building or facility (other than a privately-owned residential structure, and certain other limited exceptions) complies with any accessibility requirements required by Title III of the Americans with Disabilities Act

of 1990 (42 U.S.C.A. § 12181 et sec.) and shall be responsible for conducting inspections to ensure compliance with these specifications by any contractor or subcontractor.

7. Other statutory requirements as outlined in the HUD Rider, attached hereto as Appendix B will be required to attach all contracts executed pursuant to this Agreement.
8. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with 2 CFR Part 200, subpart F.
9. Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

(ii) General Compliance:

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

(ii) Assurances and Real Property Covenants:

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

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

included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

10. Affirmative Action

(i) Approved Plan The Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR chapter 60. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

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

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

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

I. Insurance & Bonding

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

J. Audits, Inspections, and Monitoring

1. Single Audit

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

2. Inspections and Monitoring

The Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statements as necessary for the Grantee to meet the requirements of 2 CFR part 200. The Subrecipient must submit to monitoring of its activities by the Grantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the

terms and conditions of this agreement. This review must include: (1) reviewing financial and performance reports required by the Grantee; (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a 14 of 24 management decision for audit findings pertaining to this Federal award provided to the Subrecipient from the Grantee as required by 2 CFR§200.521.

4. Corrective Actions

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

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

K. Property Standards

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

L. Federal Funding Accountability and Transparency Act (FFATA)

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

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

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

N. Procurement Standards

1. The Subrecipient must have and use documented procurement procedures, consistent with VI laws and other regulations for the acquisition of property or services required under a Federal award or subaward. The Subrecipient's documented procurement procedures must conform to the procurement standards identified in VIHFA's Procurement Policies and Procedures or utilize their own policy and adopt 2 CFR 200.318 through 2 CFR 200.327 requirements.
2. The Subrecipient shall conduct all procurement transactions in a manner providing for full and open competition and comply with its procurement regulations as certified compliant by VIHFA's procurement department, including the need for cost analysis in advance of procurements and documentation of free and open competition. Additionally, the Subrecipient is required to comply with all applicable Territory laws that may apply to its procurement transactions.
3. Upon request, the Subrecipient shall provide the Grantee with copies of its documentation concerning the selection process for contractors/sub-Subrecipient s, contracts, subcontracts, and job descriptions, prior to selection and/or execution.
4. Utilization of Small, Minority and Women's Owned Enterprises.

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

5. Sole Source Procurement.

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

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

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

O. Labor and Employment

1. Labor Standards

The Subrecipient shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis- Bacon Act, as amended (40 U.S.C. 3141, et seq.), and 29 CFR part 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Subrecipient agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the Grantee for review upon request.

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

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

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

All Contracts executed pursuant to this Agreement shall be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C., 17010. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

Q. Conduct

1. Hatch Act

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

2. Conflict of Interest

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

during or after such person's tenure.

In the procurement of supplies, equipment, construction, and services pursuant to this agreement, the Subrecipient shall comply with the conflict of interest provisions in the Grantee's procurement policies and procedures. In all cases not governed by the conflict of interest provisions in the Grantee's procurement policies and procedures, the Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

3. Lobbying Certification

The Subrecipient hereby certifies that:

- (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (iii) It shall require that the language of paragraph (a) through (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- (iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

R. Religious Activities

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

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

S. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

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

2. Air and Water

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

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

3. Flood Disaster Protection

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

4. Lead-Based Paint

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

5. Historic Preservation

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

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

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

A. Specific Conditions

- (1) Program Risk. Based on the risk posed by the scale and complexity of the CDBG-DR projects and the Subrecipient's risk rating of High, the following conditions are imposed:
 - a. Policies and Procedures
 - (i) The Subrecipient shall develop and maintain policies approved by the Grantee for each activity.
 - (ii) The Subrecipient shall follow the Grantees procedures for CDBG-DR eligible activities; recordkeeping and records management; procurement; financial management practices such as payment requests; technical assistance support; subrecipient oversight.
 - (iii) Within 60 days of the date of this agreement the Subrecipient must update their Procurement and Financial Management Policy and submit it to the Grantee for approval.
 - b. Staffing Capacity
 - (i) Within 90 days of this agreement, ODR will provide VIHFA with an updated staffing analysis form and organizational chart.
 - c. Reimbursement
 - (i) Subrecipient must provide evidence that performance measures and benchmarks have been met along with supporting documentation that justifies payment request.
 - (ii) Payments are reimbursable and based on activity delivery costs.
 - d. Procurement
 - (i) All services intended for procurement must be communicated to the VIHFA procurement department. A list of procurements should be provided to VIHFA procurement at most quarterly.
 - e. Project Eligibility
 - (i) ODR must submit all project applications and notice of funding availability applications to VIHFA for final project approval.
 - f. Communications, Outreach, Citizen Participation
 - (i) ODR must provide a copy of their communications and outreach plan for approval by VIHFA within 120 days. No funds will be reimbursed should ODR procure and/or request communications and outreach assistance without VIHFA approval.
 - (ii) Within 120 days of execution of this grant agreement provide its Citizen Participation Plan with Language Access Plan.
 - g. Consulting
 - (i) Consultants may only be assigned to tasks directly related to the program and are not to be used for administrative expenses. Contracts should be structured based on deliverables, not on a time-and-materials basis. The names of experts contributing to each contract must be disclosed. Additionally, all contracts should include a clause specifying a maximum billing limit ("not to exceed" amount).
 - h. Equipment
 - (i) VIHFA provides equipment such as laptops, computers, cell phones, and phone systems.

- Damage to any equipment must be reported to VIHFA IT department. A cost may be imposed based on damage to the equipment.
- (ii) ODR cannot purchase vehicles without VIHFA's approval.

B. Professional Standards

The Subrecipient shall ensure its Contractor/Subcontractor will complete all work in a substantial and workmanlike manner according to standards and practices in the Contractor's/Subcontractor's trade and the work shall conform to all applicable building codes or other codes and regulations which apply to the work to be performed whether or not covered by the specifications and drawings for the work, including any Contractor/Subcontractor registration requirements. Contractor/Subcontractor shall warrant that the final product of contractor's/subcontractor's work shall be fit for the purposes for which it is intended. Contractor/Subcontractor shall warrant against defects in materials and labor for a period of one (1) year from the date of completion and upon acceptance of the work by the Subrecipient Department.

C. Defective Work

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

D. Right to Withhold

If the Work under any Contract, funded through this Agreement, is not performed in accordance with the terms hereof, the Grantee reserves the right to withhold out of any payment due to the Contractor/Subcontractor, such amount as may be deemed ample to protect the VIHFA against loss or to assure payment of claims arising there from, and, at their option, the Subrecipient and the Grantee may apply such sum(s) in such a manner as may be deemed proper to secure their interest or to satisfy such claims. The Contractor/Subcontractor shall be immediately notified in writing in the event that the Subrecipient and the Grantee elect to exercise their right to withhold any amount due to unsatisfactory performance. No such withholding or application shall be made if and while the Contractor gives satisfactory assurance to the Parties that such claims will be paid by the Contractor's insurance carrier, if applicable, in the event that such claim is not successful.

E. Insurance

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

F. Liquidated Damages

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

G. Federal Labor Standards Provision (DAVIS BACON ACT)

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

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

H. No Personal Liability of Individual Representatives

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

I. Prohibited Activity / Fund Use

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

The Subrecipient must ensure that its Contractors and Subcontractors seeking reimbursement have complied with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and that they will not and have not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. The Subrecipient's Contractors and Subcontractors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.

J. Contractors / Subcontractors/Consultants

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

K. Applicability of Provisions Included/Excluded From the Agreement

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

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

L. Subrogation & Assignment

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

M. No Third Party Beneficiary

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

N. No Assignment

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

O. Copyright

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

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

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

P. Delay or Omission

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

Q. Severability

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

R. Guidance

1. Notices

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

To the GRANTEE (HFA):

Attn: Ann Hanley
Mailing Address: 100 Lagoon Complex, Suite 4, St. Croix, VI 00840
E-mail: ahanley@vihfa.gov
Phone: 340-777-4432
Fax:

To the SUBRECIPIENT:

Attn:
Mailing Address:
Email:
Phone:
Fax:

With Copy To:

Dayna Clendinen
Chief Disaster Recovery Officer
Virgin Islands Housing Finance Authority
3202 Demarara Plaza, Suite 200,
St. Thomas, VI 00802
E-mail: dclendinen@vihfa.gov
Phone: 340-777-4432
Facsimile: 340-775-7913

2. Governing Law and Venue

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

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

3. Entire Agreement

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

4. Binding Effect

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

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

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EXHIBIT A

SCOPE OF SERVICES

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

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

Task 1. Program and Project Management Services

Activity: Utilizing internal staff and/or procured professional services, the Subrecipient shall perform all required Program and Project Management services including, but not limited to, the following roles and responsibilities:

*Please note the budget allocations for program staff salary for both CDBG-DR and ODR staff are tied to successful execution of the below responsibilities.

1. Supervise all program staff.
2. Act as point of contact and liaison between VIHFA, Subrecipients, and Contractors.
3. Lead coordination and control over execution of approved Project activities.
4. Assist in the coordination and reporting of overall and specific Project activities and deliverables.
5. Monitor Project status and establish necessary tools for controlling schedule, budget, and scope.
6. Lead and coordinate the implementation of change management, risk management, and quality assurance.
7. Lead and approve program and project monitoring activities to prepare and present reports as required by the VIHFA.
8. Coordinate, and facilitate all program-wide public presentations and meetings, and government or non-government stakeholder meetings; submit to VIHFA for approval.
9. Coordinate, support, and analyze performance measurement of contractors, and report results in coordination with VIHFA.
10. Maintain a complete understanding of all applicable CDBG-DR Administrative and Program policies, requirements, procedures, and guidelines; and identify and fix all necessary corrective actions. Ensure that all such requirements are met throughout Project development, implementation, execution, and closure.
11. Coordinate documentation submissions for ALL approved Projects.
12. Track and report status and performance of ALL approved Projects.
13. Provide, coordinate, or manage technical assistance to technical team (e.g., consultants and employees performing technical work to develop Project). Report all technical assistance provided quarterly to VIHFA. Request Technical Assistance from VIHFA as needed.
14. Review and recommend for payment, all invoices related to professional services including change orders. Submit all invoice documentation using the VIHFA's EmGrants Pro Financial Management System.
15. Monitor and prepare progress reports to communicate the status of the work, pending matters, and the budgetary situation of ALL Projects.
16. Identify, communicate, and resolve delays or situations that affect the scope, budget, or schedule of the Projects.
17. Lead the management of Project development from Project initiation through necessary planning and design.

18. Monitor compliance with regulations, laws, safety codes, standards, policies, management of program resources, and current procedures applicable to the design of construction projects.
19. Prepare and update the Subrecipient Agreement (SRA) Implementation schedule, as needed, identifying key activities, deliverables, and timeframes of performance for Project; submit to VIHFA for awareness and approval.

Task 2. Project Application Review

Activity: The Subrecipient shall assist project subrecipients and potential subrecipients in applying for CDBG-DR funding assistance (project applications). Review applications for eligibility, meeting a national objective, tie to the disaster, supporting documentation and all other necessary components of the project application; submit to VIHFA for final approval.

Deliverable. Project application package, reviewed by Subrecipient program/project staff, and signed off as first level approval. Project application package should include all supporting documentation showing eligibility, tie to the disaster, and national objective (as applicable). Package submitted to VIHFA for final approval.

Task 3. Subrecipient Agreement

Activity:

1. VIHFA will amend all subrecipient agreements prior to November 21, 2023. The Subrecipient agreement amendment will identify ODR as the subrecipient for programmatic and project oversight that they will report to prior to contacting VIHFA as well as defined roles and responsibilities. All subsequent subrecipient agreements will continue to be between VIHFA and the Subrecipient.
2. ODR will enter into direct Project Agreements (PA) with all Subrecipients. The ODR will submit the final PA to VIHFA Compliance and Monitoring to ensure the agreement meets all HUD requirements and VIHFA's Legal Counsel for legal sufficiency. ODR will draft a standard Project Agreement template that will be used with subrecipients and submit to VIHFA for alignment with this agreement and conformity to HUD requirements and regulations. Once approved, ODR is responsible for ensuring the execution of project agreements with subrecipients as well as ensuring all terms of the agreement are in accordance to HUD requirements, laws, and regulations. Any deviation, omission, or failure to follow these guidelines will result in repayment of funds to VIHFA, termination of subrecipient agreement, and/or reallocation of funds to another project.

Deliverable: Subrecipient will provide program and project management to ensure that Subrecipients are following the guidelines, requirements, and deliverables as stated in their subrecipient agreements. Subrecipients will provide VIHFA with the final executed SRA with all supporting documentation and exhibits.

Task 4: Project Design

Activity: The Subrecipient shall complete the Architecture and Engineering (A&E) Design Services Request for Proposal (RFP) Package for the procurement of the professional services needed under Task 4 below.

The Subrecipient shall follow and comply with the provisions of the procurement policy and procedures their organization is following and applicable regulations for the procurement of A&E Design services. The Subrecipient may request technical assistance from the VIHFA.

The Scope of Work (SOW) of the RFP must be in compliance with the approved Project(s). Once the A&E Design Services RFP package is complete, prior to solicitation the Subrecipient must submit the RFP package to VIHFA Procurement Division for review.

Deliverable: RFP package documentation and RFP announcement publication. After completion of RFP process, execute A&E/Project Design Contract.

Task 5. Architecture and Engineering Services/Project Design Development

Activity: Utilizing internal staff and/or procured professional services, Subrecipient shall perform all required Architecture and/or Engineering Design services including, and not limited to, the following responsibilities:

1. Provide the A&E Design services as described below. It is suggested that this is taken in two planning phases.
 - a) Planning Phase I
 - (i) Conceptual Design/Space planning
 - (ii) Necessity and Feasibility Review
 - (iii) Environmental Review
 - (iv) Cost Estimates
 - b) Planning Phase II- Planning Phase II shall not be initiated until completion of the Environmental Review and receipt of HUD's AUGF.
 - (i) Studies needed to complete the Design/Build project Statement of Work, drawings, specifications, and corresponding documents such as, geotechnical studies, LBP / ACM, etc.
 - (ii) Development of Design documents for Design/Build project.
2. Subrecipient must ensure professional, architectural, or engineering services are performed by licensed professionals with the proper qualifications, skills, and experience necessary to perform such services, according to applicable federal and local rules and regulations.
3. Lead and complete the conceptual/schematic design of the Project in sufficient detail to complete the Design/Build procurement package documents, with the ultimate purpose of completing its construction.
4. Participate in the identification of current best practices and cost-effective solutions required to be considered in construction documentation.
5. Services are to be provided in compliance with HUD Regulations including Section 3 and Minority- and Women-Owned Business Enterprises (M/WBE) best faith efforts.
6. Coordinate and perform necessary field studies.
7. Prepare, coordinate, and manage required permitting documentation.
8. Coordinate and prepare necessary cost estimates to determine reasonable costs of the Project.
9. Coordinate and prepare Design/Build procurement documentation of the Project, in compliance with 2 C.F.R. § 200.318 through §200.327.
10. If necessary, participate in the supervision of construction activities.
11. Prepare and implement work plan for environmental review performance in coordination with Environmental Professional(s) as soon as the Project reaches sufficient level of development to identify Project elements and activities to begin the assessment as established in 24 C.F.R. Part 58.
12. Coordinate and perform delivery of conceptual/schematic design documentation to VIHFA for review. The design documentation to be delivered to VIHFA shall include drawings, plans, specifications, permit documentation, studies, cost estimate, and any other document required upon request.
13. Apply the most recent federal and local construction codes pertinent to the Project.
14. Manage changes and risks associated to changes in policies, regulations, and construction codes applicable to the Project.

15. If necessary, prepare presentations to VIHFA regarding the Project.

The Subrecipient shall prepare all necessary documents for Project(s) development and implementation, including the following: drawings, specifications, property acquisition drawings and documentation, technical studies, and analyses, required permits and endorsements, cost estimates, construction schedule, and necessary Design/Build procurement documentation.

During the performance of this task(s), the Subrecipient shall perform all necessary deliveries to VIHFA of construction documents at established benchmarks for revision and to demonstrate progress of the work.

After the revision of each delivery, the Subrecipient may receive comments from VIHFA that may result in required revisions of the documentation. VIHFA expects to receive all necessary progress deliveries with a compliance certification of applicable codes and regulations and the progress accomplished, prepared by the architect/engineer in charge of the design of each project.

Deliverable: Before design activities commence, the Subrecipient shall submit an Implementation Plan indicating the established timeframe for each of the deliverables, and for each design phase. Once established, VIHFA expects submission of Design/Build RFP documents (including independent construction/cost estimates or ICE).

Task 6. Environmental Review and Clearance

Activity: The Subrecipient shall coordinate and prepare all necessary information to request the completion the Environmental Review for the Project(s) in compliance with 24 C.F.R. Part 58 regulation to VIHFA. The Project shall not be initiated until completion of the Environmental Review and after receiving HUD's Authorization for Use of Grant Funds (AUGF).

Task 7. Design Build/Procurement

Activity: Upon completion of the Environmental Review, receipt of HUD's AUGF, the Subrecipient shall complete the Design/Build Request for Proposal (RFP) Package necessary for the procurement of the Design/Build services. The Design/Build contractor shall complete the design process commenced during Task 3, as applicable, and will be responsible for the building of the design and acquiring the necessary permits for construction.

The Subrecipient shall follow and comply with the provisions of their procurement policy and procedures and applicable regulations for the procurement of Design/Build services. The Subrecipient may request technical assistance from the VIHFA for the Design/Build RFP process.

The SOW of the RFP must be in compliance with the approved Project(s). The Subrecipient may submit the SOW to VIHFA for validation in terms of compliance with the approved Project. Once the Design/Build RFP package is complete, the Subrecipient may submit the RFP package to VIHFA for review.

Deliverable: RFP package documentation and RFP announcement publication.

Task 8. Construction Management and Inspection Services

Activity: Utilizing internal staff and/or contracted professional services, the Subrecipient shall provide appropriate construction inspection services for all construction Projects.

The Subrecipient may acquire professional services to perform construction inspection services for the Projects. To acquire professional services the Subrecipient shall comply with procurement processes in compliance with their procurement procedures (including provisions of 2 C.F.R. §§ 200.318-200.327).

The Subrecipient shall comply with at least the following roles and responsibilities for construction inspection services:

1. Services shall be provided by a professional engineer or architect licensed in the US Virgin Islands.
2. Supervise all construction activities to be performed as a part of each Project.
3. Attend preconstruction meetings and participate in recurrent construction meetings.
4. Serve as the field/construction Point of Contact
5. Provide daily and regular correspondence with the Construction Contractors.
6. Coordinate Project schedules with Construction Contractor(s) and other required participants.
7. Maintain necessary written communication with Project Manager(s) and the Subrecipient as well as VIHFA as needed.
8. Inspect progress and construction methods to ensure construction work meets contract requirements.
9. Communicate and resolve field problems with Construction Contractor, Program Manager, and any other affected parties.
10. Coordinate necessary activities to perform required materials testing.
11. Coordinate testing results evaluation with Architect and/ or Engineer to ensure compliance with Project requirements.
12. Aid in the coordination of inspection activities with required agencies as required by permits or endorsements.
13. Prepare and submit necessary digital daily and monthly reports to at least document weather conditions, on-site construction personnel, hours worked, construction equipment used, detailed description of construction activities observed, photos, and documentation of any field decisions.
14. Ensure compliance with all permits and endorsements of construction projects.
15. Measure and document Project quantities, maintain digital record, and log of all quantities for all projects.
16. Review and recommend Contractor invoices and change order requests (cost estimates). Coordinate review and approval of such documentation as needed by the Project staff, Architect and/or Engineer.
17. Review Contractor quality control documentation.
18. Coordinate survey and staking needs for the Project.
19. Supervise compliance with HUD requirements, including Davis Bacon Act. This may require conducting wage interviews with individual employees and providing reporting documentation to the Oversight Manager.
20. Prepare necessary Project closeout documentation.
21. Prepare punch list with, among other necessary items, list of deficiencies that need to be corrected.
22. Monitor Project safety in compliance with OSHA and USVI relations.
23. Monitor and report on environmental requirements established the VIHFA Environmental Dept approved for the Project.

If necessary, the Subrecipient shall perform the procurement for construction inspection services of the Project(s). The Subrecipient is responsible for coordinating construction inspection services to ensure this service is contracted prior to construction start. Construction inspection services shall comply with all applicable laws and regulations.

Deliverable: Appropriate construction inspection services capacity is in place with construction activities. Submit evidence and credentials of the selected inspector(s) to VIHFA.

Task 9. Construction

Activity: Utilizing internal staff and/or contracted professional services, Subrecipient shall perform all required services required to procure, contract, implement, monitor, supervise, inspect, and complete the construction of VIHFA Projects in accordance to established requirements and in compliance with applicable laws and regulations, including all established CDBG-DR compliance requirements. The deliverable for this should show project completion or construction certification. VIHFA will only make payment based on progress.

Task 10. Reporting

Activity:

1. The Subrecipient will be responsible to submit monthly reports and quarterly reports to the our reporting system and ODR@vihfa.gov to inform status of tasks, work progress, construction schedule analysis, and financial status by project. Each report must be prepared in compliance with VIHFA's reporting requirements.
2. The Subrecipient is responsible for obtaining monthly reports from all subrecipients on all projects, reviewing project statuses, performance measures and milestones met, identifying deficiencies, and requesting corrective action, and submit them to VIHFA.
3. Labor Compliance Reporting- The Subrecipient shall review and collect weekly certified payrolls and monthly Section 3 reports and submit to VIHFA monthly for review.

Deliverable: Monthly reports for all projects, quarterly reports for all projects, Certified Payrolls reviewed, and Section 3 reports.

Task 11. Invoicing

Activity: The Subrecipient will be responsible for submitting monthly invoices for reimbursement of costs of internal staff or contracted services. Each invoice must be prepared in compliance with VIHFA's invoicing requirements. The VIHFA will not reimburse the Subrecipient for work performed by internal staff or contracted services without evidence of signed payroll certifications related to the Project.

The Subrecipient must then submit a Request for Reimbursement, uploaded to VIHFA's Financial Management System (System). The Subrecipient will be required to set up an account through the System and provide all required information, including information related to dedicated bank accounts. They will also be required to ensure that all project subrecipients have also followed this process.

A key area of focus for HUD is ensuring that CDBG-DR projects are reimbursement based and that contractors who undertake work are paid for services provided. HUD requires all documented costs to be incurred and completed at the time of invoice submission. As such, VIHFA cannot request CDBG-DR reimbursement for work that the Subrecipient undertook until it has obtained proof that the work was performed, completed and all required information is uploaded to VIHFA databases.

Deliverable: Fully reviewed payment invoice package with supporting documentation, accuracy, and eligible costs and submitted to VIHFA to reimbursement.

Task 12: Notice of Funding Availability (NOFA)

Activity: Subrecipient must advise VIHFA as to when they will have a NOFA and must provide all required elements (what it is and process to do it), criteria, and evaluation process for conducting the NOFA. Upon selection of awardees of the NOFA. During NOFA application review process, Subrecipient must also request documentation for capacity assessments to be performed. Once an application has passed first level review and

approval, Subrecipient must submit capacity assessment documentation for the Grantee to perform the assessment. Upon completion of assessment, Grantee will provide Subrecipient with Capacity Assessment results and final application approval.

Deliverable: Full NOFA package per Subrecipient approved applicant that includes NOFA Application, Applicant Supporting Documentation, and Evaluation Documents along with Capacity Assessment Documentation.

Task 13: Communications and Outreach: Citizen Participation Plan

Activity: Subrecipient must have a Citizen Participation Plan that includes a language access plan, affirmative marketing plan, and Equal opportunity. Subrecipient can adopt Grantee's plan.

Deliverable: Citizen Participation Plan.

Task 14. Closeout

Activity: Once final completion of the activities established herein is obtained, the Subrecipient shall submit to VIHFA all required documentation necessary for Project and SRA closeout in compliance with VIHFA 's requirements.

Deliverable: The Subrecipient is responsible for submitting an SRA Closeout Binder.

Task 15. Homeowner Reconstruction and Rehabilitation Program (EnVision)

Activity: The Subrecipient shall provide program and project management for the completion of reconstruction or rehabilitation of 494 Homes by 2026.

Deliverable: The Subrecipient shall complete the reconstruction and rehabilitation of 494 Homes by August 31, 2026 and provide documentation of project completion for each home completed.

Task 16: Rental Reconstruction and Rehabilitation Program (EnVision)

Activity: The Subrecipient shall provide program and project management and complete the reconstruction or rehabilitation of 84 homes by end of year 2025.

Delivery: The Subrecipient shall complete the reconstruction and rehabilitation of 84 Homes by December 31, 2025 and provide documentation of project completion for each home completed.

Task 17: Public and Affordable Housing

Activity: The Subrecipient shall provide program and project management. The Subrecipient shall complete the rehabilitation, reconstruction, and new construction of affordable housing units across several affordable housing projects and provide documentation showing that LMI households have occupied the units.

Deliverable: The Subrecipient will complete the reconstruction and rehabilitation of at least 394 affordable housing units and provide documentation of occupancy by LMI households by September 30, 2026.

Task 18: New Housing and Infrastructure Construction

Activity: The Subrecipient shall provide program and project management. The Subrecipient shall complete the new construction of new housing which includes turnkey homes (43) and homeowner owned lots (25) that promotes first time homeownership among LMI households.

Deliverable: The Subrecipient will complete the new construction of at least 68 new homes and provide documentation/evidence of occupancy by LMI households that are first time homebuyers by August 31, 2026.

Task 19: Public Services and Public Facilities

Activity: Public Services- The Subrecipient shall provide program and project management in the execution of public services for vulnerable populations in the territory.

Deliverable: The Subrecipient shall provide documentation and evidence that 3 public services provided assistance to at least 306 beneficiaries considered as “limited clientele”.

Activity: Public Facilities: The Subrecipient shall provide program and project management in the execution of the new construction, reconstruction, and/or rehabilitation of public facilities for vulnerable populations in the territory.

Deliverable: The Subrecipient shall provide documentation and evidence that at least 7 facilities were reconstructed or rehabilitated and as a result assistance was provided to beneficiaries by September 2026.

Task 20: Economic Revitalization

Activity: The Subrecipient shall provide program and project management in the delivery of on the job training programs with construction certifications in various related occupations and workforce development training to train LMI individuals in the Territory on various occupations and skills needed in CDBG-DR recovery projects.

Deliverable: The Subrecipient shall provide evidence/documentation (i.e., basic level certifications, on the job training) that 640 LMI Individuals enrolled and completed On the Job Training; and provide evidence that 100 LMI Individuals enrolled in and completed the ICC certification(s) for workforce development training.

Activity: The Subrecipient shall provide program and project management in the execution of building renovations and public improvements as part of neighborhood revitalization in the Territory.

Deliverable: The Subrecipient shall provide evidence/documentation of public improvements to 10 properties (building façade) and building renovations by May 2026.

Activity: The Subrecipient shall provide program and project management in the execution of assisting small businesses rebuild their businesses affected by the storms and in turn creating and/or retaining employment for LMI Individuals in the Territory.

Deliverable: Evidence of the creation and/or retention of at least 25 LMI jobs among small businesses in the territory.

Task 21: Non Federal Match

Activity: Develop and implement procedures, including financial controls, to ensure that all Match Program activities are monitored, guidance is provided to its Match Program recipients, and to enhance its tracking of payments made with CDBG-DR funds and payments made with FEMA funds to ensure that payments are not made for the same invoices, match requirements are not exceeded before closeout, and a thorough review is conducted for award increases and cost reasonableness.

Delivery: The Subrecipient shall provide an updated Non Federal Match Procedures and tracking process for all match payments.

Activity: Create Project Agreements with each Subrecipient/Applicant whose applications have been approved for the 10% match. Included in the agreement, the requirement to submit monthly status reports for ongoing projects and enforce its projects agreement requirement to submit monthly status reports.

Deliverable: Provide Grantee with executed Project Agreements for all projects.

Activity: Revise the policies and procedures to include requirements to document its basis for activities' meeting the national objective, including the rationale for the service area used and a list of acceptable documents to support that the area was primarily residential for the low- and moderate- income area benefit national objective; develop procedures to guide staff in reporting performance outcomes in the monthly and quarterly reports.

Deliverable: Updated policy and procedures; monthly and quarterly reports.

Task 22: Infrastructure

Activity: The Subrecipient shall provide program and project management in the commissioning of four (4) power generation units which will enable the commercial use of the four (4) units and benefit the territory, erosion control and stabilization of potable water tanks, and the construction of waste management convenience centers. Further, the Subrecipient shall provide program and project management for any future infrastructure projects that will meet an urgent need in the territory and/or benefit LMI Individuals and Households in the territory.

Delivery: The Subrecipient shall: 1. provide evidence and documentation of the completion of the Randolph Harley Power Generation Project through evidence of the final commissioning of 4 power generation units and commercial use. 2. Provide evidence and documentation of the completion of construction of 8 waste management convenience centers. 3. Provide evidence and documentation of the completion of construction and erosion control of Tanks 3 and 4 as well as Donoe potable water tanks.

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

1. **Project Name:** Office of Disaster Recovery CDBG-DR Programmatic Oversight
2. **Project Award Amount:** \$18,137,668.75
3. **Period of Performance:** November 20, 2023 to August 31, 2026

4. **National Objectives**

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

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

1. Benefiting Low-Moderate Income Individual to include the subcategories of Low-Moderate Housing (LMH); Limited Clientele (LMC); Low-Moderate Job Creation and Retention (LMJ); and Low-Moderate Area (LMA).
 - 70% of funds must be used on LMI.
2. Urgent Need- Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available.

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

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

*Quarters are based on Calendar Years beginning January and NOT Fiscal Years.

Task (Task # corresponds with Scope of Work)	Key Activity	Performance Goal	Key Performance Indicators	Source Verification	Estimated Start	Estimated Completion
Task 15: Homeowner Reconstruction and Rehabilitation Program (EnVision)	494 Homes in Active Construction	200 Homes in Active Construction Annually by January 2026 Have 94 Homes in Active Construction by June 2026	50 homes in active construction per quarter 24 homes in active construction per quarter	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	1/01/2024 9/01/2025	1/31/2026 6/30/2026
	Completion of 494 Rehab and Reconstruct Applicant Homes	Reconstruct or Rehab 494 Homes by 2026	200 homes completed by the end of 4 th Qtr. 2024	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	1/01/2024	1/31/2025
			200 homes completed at the end of 4 th Qtr. 2025		1/01/2025	1/31/2026
	Increase Program Draw Down Rate	Increase amount of funds drawn down by the end of 2024 by 60% Increase amount of funds drawn down by the end of 2025 25%	30% of funds drawn down Semiannually by end of 2024; 12% of funds drawn down semiannually by end of 2025	Payment Request Packages; ODR Financial Reports; Quarterly Performance Reports	10/1/2023	9/30/2026
Task 16: Rental Reconstruction and Rehabilitation Program (EnVision)	Rental Homes in Active Construction	Have 84 Homes in Active Construction	24 Homes Bi-Annually 2024 18 Homes Bi-Annually 2025	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	10/01/2023 10/01/2024	10/01/2024 8/01/2025
	Rehab and Reconstruct Applicant Homes	Reconstruct/Rehab 48 Rental Homes Completed by Year 4	12 homes every 4 months	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	10/01/2023	10/01/2024
		Reconstruct or Rehab 36 Rental Homes Completed by 2025	9 homes every 4 months		10/01/2024	8/01/2025
	Increase Program Draw Down Rate	Draw Down Funds 60% of fund by the end of 2024 By 2025 25%	30% Semiannually 12.5% Semi annually	Payment Request Packages; ODR Financial Reports; Quarterly Performance Reports	01/01/2024 01/01/2025	12/31/2024 12/31/2025
Task 17: Public and	Walter IM Hodge:					

*Quarters are based on Calendar Years beginning January and NOT Fiscal Years.

Affordable Housing	Active Construction	20 Buildings in Active Construction by 4 th quarter 2023	20 buildings in construction by 12/31/2023	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	09/01/2022	12/31/2023
	Complete Rehabilitation of Rental Bldgs./Units 224 unites/20 Bldgs.	Completion of 20 buildings by November 2024	Phase 1: 5 buildings end of quarter November 2023	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	10/01/2023	10/30/2023
			Phase 2: 2 buildings completed each quarter by 4 th quarter 2023		05/08/2023	12/31/2023
			Phase 3: 2 buildings completed at end of 4 th quarter 2023 and 1 Community Center Completed by end of 1 st quarter 2024		10/01/2023	3/1/2024
			Phase 4: 3 buildings every quarter ending 3 rd quarter 2024 for a total of 7 buildings		07/2023	11/01/2024
	LMI Beneficiaries Occupying Rehabbed Units.	224 LMI Households Occupying Units	100% occupancy of units per completed phase	Rent Rolls, Beneficiary Report, Monthly Status Reports, Quarterly Performance Reports	10/01/2023	12/31/2024
	Done Redevelopment					
	Active Construction	84 Units in Active Construction by June 2024	42 Units in active construction by March 2024 and the remaining 42 units in active construction by June 2024	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	10/01/2023	6/30/2024
	Complete new construction of Rental Units	Completion of 84 new construction affordable housing units by 2026	Completion of 22 Units every 6 months until June 2026	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	10/01/2023	6/30/2026
	LMI Beneficiaries Occupying Units.	84 LMI households Occupying the units by September 2026	Occupancy of 22 units every seven months until 9/2026	Rent Rolls; Beneficiary Report; Monthly Status Reports; Quarterly Performance Reports	10/01/2023	9/15/2026
	Ross Taarmenberg Mixed Use					
	Active Construction	100% of Project will be in active construction in by the end of 2024	25% of project in active construction quarterly by end of 4 th quarter 2024	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	11/01/2023	12/31/2024

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	New Construction of 8 Affordable housing Units	By June 2026- 100% of project completed	30% completed by 4 th Qtr. 2024; 45% completed by end of 4 th Qtr. 2025; 25% completed by 4 th Qtr. 2026	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	11/01/2023	6/30/2026
	LMI Households Occupying Units	8 Units on the third floor Occupied by 8 LMI Households	4 LMI Households occupied by May 20206; 4 LMI Households occupied by July 2026	Rent Rolls, Beneficiary Report, Monthly Status Reports, Quarterly Performance Reports	11/01/2023	6/30/2026
	Kronegade Inn					
	Units in Active Construction	18 renovated units in active construction by June 2024	50% of units in active construction quarterly until June 2024.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	11/01/2023	6/30/2024
	Units Completely Renovated	18 renovated units will be completed by June 2026	3 unit renovations completed quarterly until June 2026	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	1/01/2024	6/30/2026
Task 18: New Housing and Infrastructure Construction	Turnkey Homes in Active Construction	43 homes in active construction by end of June 2024	23 homes in active construction by end of 1 st Qtr. 2024; 20 homes in active construction by end of 2 nd Qtr. 2024	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	10/1/2023	6/30/2024
	Turnkey Homes Completed	43 turnkey homes completed by June 2026	15% of homes completed quarterly between 3 rd Qtr. 2024 to 3 rd Qtr. 2025 10% of homes completed quarterly between 4 th Qtr. 2025 to 3 rd Qtr. 2026	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	6/1/2024	6/30/2026
	Own a Lot Build A Home- Construct 25 homes for LMI Households	25 Homes in active construction by January 2024 25 homes completed by June 2026	12 homes in active construction semiannually; 1 remaining home in active construction by June 2025 30% completed semiannually by end of March 2025; 20% completed semiannually thereafter.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	01/01/2024 4/01/2024	6/30/2025 6/30/2026

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Public Services							
Task 19: Public Services and Public Facilities	LMI (Limited Clientele) Individuals Receiving Public Services	Serve at least 306 LMI Individuals through public service programs	38 outreached to monthly	Outreach and Intake Reports, Monthly Status Reports, Quarterly Performance, Evidence of Communication Plan, and advertisements	12/01/2023	08/01/2024	
	Public Facilities						
	Projects (7) in Active Construction or Rehab	7 public facilities projects in active construction March 2024	4 public facilities projects in active construction quarterly	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	10/01/2023	3/31/2024	
	Public Facilities Projects New Construction Completed	1 Public facility new construction completed by July 2025	10% completed by end of 1 st Qtr. 2024 and 15% per quarter thereafter.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	1/01/2024	7/31/2025	
	Public Facilities Projects Rehabs Completed	6 Public Facility Rehab projects completed by December 2024	50% completed by end of 2 nd Qtr. 2024, remaining 50% complete by completion date.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	1/01/2024	12/31/2024	
	Neighborhood Revitalization: Building Façade	Complete public improvements of 10 properties (building façade) and building renovations by June 2025	2 properties completed quarterly	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	01/01/2024	06/30/2025	
	Small Business Entrepreneur Grant	8 Businesses affected by the storm will receive CDBG-DR assistance in rebuilding their businesses which in turn will create and/or retain employment for LMI Individuals.	Projects will show 20% percent completion quarterly	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	01/01/2024	3/30/2025	
	Small Business Technical Assistance Grant	4 Technical Assistance Small Business Providers will provide assistance to	10% LMI Individuals created and/or retained semi-annually.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	01/01/2024	6/30/2025	
			25% of Small Businesses that apply for technical assistance will enroll and complete	Referral/Inquiry Reports, Enrollment reports, Completion	01/01/2024	4/30/2025	

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	Small Businesses and Microbusiness Enterprises affected by the storm in rebuilding their business and creating or retaining employment for LMI Individuals	training quarterly.	Reports, Monthly Status Reports, Quarterly Reports.	
	Trained 100 LMI Individuals in the Territory via ICC Training Certification on job trades, skills, etc. needed for recovery projects	Enroll classes of 20 individuals every quarter. Completion of training w/ Certificate of Completion for 40 individuals every 6 months; and 20 Completions the 3 rd Qtr 2026.	Enrollment reports, Certificates of Completion, Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	06/30/2026
	Complete and Accurate payment packages that include supporting documentation within 30 days of application approval for Completed projects.	Enrollment and Completion Reports every quarter	Payment Request Packages, Project Agreements, Monthly Status Reports, Quarterly Performance Reports	6/30/2026
Task 21: Non Federal Match	Complete and Accurate payment packages that include supporting documentation of verification of activities meeting HUD national objectives, eligibility requirements, and payment disbursement by FEMA.	Submittal of complete and accurate payment packages with all supporting documentation within 30 days of application approval for Completed projects. Submittal of complete and accurate payment packages with all supporting documentation within 60 days of application approval for Current projects.	10/01/2023	6/30/2026
	Waste Management Convenience Center in Active Construction	All Convenience Centers in Active Construction by end of 1 st Qtr. 2024.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports	3/31/2024
Task 22: Infrastructure	Completion of Waste Management Convenience Centers Completed	2024- 4 Convenience Centers completed quarterly at 30%, 60%, 90%, and 10% 2025- 3 Convenience Centers completed quarterly at 30%, 60%, 90%, and 10% 2026 – 1 Convenience Center completed quarterly at 30%, 60%, 90%, and 10% completion intervals	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	6/30/2026
	100% of the construction to prevent erosion of the	10% project completion monthly of erosion control.	Monthly Status Reports, Quarterly	3/31/2026

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	Completion	potable water tanks 3 and 4 and Donoe.		Performance Reports, Site Inspection Reports; Project Closeout Report		
Randolph Hartley Power Generation	Commercial Use of the 4 units – Commissioning of the 4 power generation units	100% commissioning of each unit by end of year 2023.	Monthly Status Reports, Quarterly Performance Reports, Site Inspection Reports; Project Closeout Report	10/01/2023	12/31/2023	

Reporting Benchmarks

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

4th Reporting Month (Jan 2024 for Reporting Period Dec 2023): Subrecipient must have submitted for reimbursement 5% of CDBG-DR Funds.

10th Reporting Month (July 2024 for Reporting for Jan-Jun 2024): Subrecipient must have submitted for reimbursement totaling to date 30% of CDBG-DR Funds.

17th Reporting Month (Jan 2025 for Reporting months July- Dec 2024): Subrecipient must have submitted for reimbursement totaling to date 50% of CDBG-DR Funds.

24th Reporting Month (July 2025 for Jan- Jun 2025) - Subrecipient must have submitted for reimbursement totaling to date 70% of CDBG-DR Funds.

31st Reporting Month (Jan 2026 for Jul- Dec 2025) - Subrecipient must have submitted for reimbursement totaling to date 85% of CDBG-DR Funds.

38th Reporting Month (July 2026 for Jan 2026- Jun 2026)- Subrecipient must have submitted for reimbursement totaling to date 95% of CDBG-DR Funds.

6. Budget

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

A. Budget Table

Table 1. Budget Allocations

BUDGET CATEGORY	Allocations					
	Housing	Public Services and Facilities	Infrastructure	Local Match	Economic Revitalization	CDBG-DR Budget
Project Cost (Activity Delivery Costs)						
Program Staff - CDBG-DR Team Salary	\$ 5,229,000.00	\$ 1,296,000.00	\$ 1,173,000.00	\$ 1,122,000.00	\$ 600,000.00	\$ 9,420,000.00
Program Staff - CDBG-DR Team Fringe	\$ 2,457,630.00	\$ 609,120.00	\$ 551,310.00	\$ 527,340.00	\$ 282,000.00	\$ 4,427,400.00
Program Staff - ODR Team Salary	\$ 247,924.58	\$ 123,962.29	\$ 275,141.25	\$ 74,362.50	\$ 22,234.39	\$ 743,625.00
Program Staff - ODR Team Fringe	\$ 166,556.25	\$ 10,575.00	\$ 79,312.50	\$ 21,150.00	\$ 71,910.00	\$ 349,503.75
						\$ 14,940,528.75
Project Cost (Activity Delivery Cost)						\$ -

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Marketing / Ad Placements / Communications	\$ 24,570.00	\$ 3,510.00	\$ 3,510.00	\$ -	\$ 3,510.00	\$ 35,100.00
Office Supplies/ Materials/ Equipment	\$ 111,300.00	\$ 15,900.00	\$ 23,850.00	\$ 3,975.00	\$ 3,975.00	\$ 159,000.00
Training	\$ 135,240.00	\$ 13,524.00	\$ 19,320.00	\$ 19,320.00	\$ 5,796.00	\$ 193,200.00
Recovery Coordination Travel	\$ 152,250.00	\$ 21,750.00	\$ 32,625.00	\$ 5,437.50	\$ 5,437.50	\$ 217,500.00
Licensing / Software	\$ 18,468.00	\$ 18,468.00	\$ 18,468.00	\$ 18,468.00	\$ 18,468.00	\$ 92,340.00
Contracted / Consulting Labor ~.5% of remaining DR funding (ADC directly attributable to ODR/DR consultants and contractors providing project level support)	\$ 1,750,000.00	\$ 250,000.00	\$ 375,000.00	\$ 62,500.00	\$ 62,500.00	\$ 2,500,000.00
Subtotal Project Cost (Activity Delivery Cost)						\$ 3,197,140.00
TOTAL						18,137,668.75

Table 2. Grant Allocations

BUDGET CATEGORY/GRANT NUMBER	Grant Award Amount	Grant Allocations						CDBG-DR Budget
		Housing	Public Services and Facilities	Infrastructure	Local Match	Economic Revitalization		
Project Cost (Direct) -B-17-DM-78-0001 25%		\$ 242,684,000.00						
Program Staff - CDBG-DR and ODR Team Salary		\$ 1,369,231.14	\$ 354,990.57	\$ 362,035.31	\$ 299,090.63	\$ 155,558.60	\$ 2,540,906.25	
Program Staff - CDBG-DR and ODR Team Fringe		\$ 656,046.56	\$ 154,923.75	\$ 157,655.63	\$ 137,122.50	\$ 88,477.50	\$ 1,194,225.94	
							\$ 3,735,132.19	
Project Cost (Direct) B-18-DP-78-0001 50%		\$ 779,217,000.00						
Program Staff - CDBG-DR and ODR Team Salary		\$ 2,738,462.29	\$ 709,981.14	\$ 724,070.63	\$ 598,181.25	\$ 311,117.19	\$ 5,081,812.50	
Program Staff - CDBG-DR and ODR Team Fringe		\$ 1,312,093.13	\$ 309,847.50	\$ 315,311.25	\$ 274,245.00	\$ 176,955.00	\$ 2,388,451.88	
							\$ 7,470,264.38	
Project Cost (Direct) B-19-DP-78-0001 25%		\$ 53,588,884.00						
Program Staff - CDBG-DR and ODR Team Salary		\$ 1,369,231.14	\$ 354,990.57	\$ 362,035.31	\$ 299,090.63	\$ 155,558.60	\$ 2,540,906.25	
Program Staff - CDBG-DR and ODR Team Fringe		\$ 656,046.56	\$ 154,923.75	\$ 157,655.63	\$ 137,122.50	\$ 88,477.50	\$ 1,194,225.94	
							\$ 3,735,132.19	
Project Cost (Activity Delivery Cost) B-17-DM-78-0001 25%								
Marketing / Ad Placements / Communications		\$ 6,142.50	\$ 877.50	\$ 877.50	\$ -	\$ 877.50	\$ 8,775.00	
Office Supplies/ Materials/ Equipment		\$ 27,825.00	\$ 3,975.00	\$ 5,962.50	\$ 993.75	\$ 993.75	\$ 39,750.00	
Training		\$ 33,810.00	\$ 3,381.00	\$ 4,830.00	\$ 4,830.00	\$ 1,449.00	\$ 48,300.00	
Recovery Coordination Travel		\$ 38,062.50	\$ 5,437.50	\$ 8,156.25	\$ 1,359.38	\$ 1,359.38	\$ 54,375.00	
Licensing / Software		\$ 4,617.00	\$ 4,617.00	\$ 4,617.00	\$ 4,617.00	\$ 4,617.00	\$ 23,085.00	
Contracted / Consulting Labor ~.5% of remaining DR funding (ADC directly attributable to ODR/DR consultants and contractors providing project level support)		\$ 437,500.00	\$ 62,500.00	\$ 93,750.00	\$ 15,625.00	\$ 15,625.00	\$ 625,000.00	
Project Cost (Activity Delivery Cost) B-18-DP-78-0001 50%								
Marketing / Ad Placements / Communications		\$ 12,285.00	\$ 1,755.00	\$ 1,755.00	\$ -	\$ 1,755.00	\$ 17,550.00	
Office Supplies/ Materials/ Equipment		\$ 55,650.00	\$ 7,950.00	\$ 11,925.00	\$ 1,987.50	\$ 1,987.50	\$ 79,500.00	
Training		\$ 67,620.00	\$ 6,762.00	\$ 9,660.00	\$ 9,660.00	\$ 2,898.00	\$ 96,600.00	
Recovery Coordination Travel		\$ 76,125.00	\$ 10,875.00	\$ 16,312.50	\$ 2,718.75	\$ 2,718.75	\$ 108,750.00	
Licensing / Software		\$ 9,234.00	\$ 9,234.00	\$ 9,234.00	\$ 9,234.00	\$ 9,234.00	\$ 46,170.00	
Contracted / Consulting Labor ~.5% of remaining DR funding (ADC directly attributable to ODR/DR consultants and contractors providing project level support)		\$ 875,000.00	\$ 125,000.00	\$ 187,500.00	\$ 31,250.00	\$ 31,250.00	\$ 1,250,000.00	
Project Cost (Activity Delivery Cost) B-19-DP-78-0001 25%								

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Marketing / Ad Placements / Communications		\$ 6,142.50	\$ 877.50	\$ 877.50	\$ -	\$ 877.50	\$ 8,775.00
Office Supplies/ Materials/ Equipment		\$ 27,825.00	\$ 3,975.00	\$ 5,962.50	\$ 993.75	\$ 993.75	\$ 39,750.00
Training		\$ 33,810.00	\$ 3,381.00	\$ 4,830.00	\$ 4,830.00	\$ 1,449.00	\$ 48,300.00
Recovery Coordination Travel		\$ 38,062.50	\$ 5,437.50	\$ 8,156.25	\$ 1,359.38	\$ 1,359.38	\$ 54,375.00
Licensing / Software		\$ 4,617.00	\$ 4,617.00	\$ 4,617.00	\$ 4,617.00	\$ 4,617.00	\$ 23,085.00
Contracted / Consulting Labor ~.5% of remaining DR funding (ADC directly attributable to ODR/DR consultants and contractors providing project level support)		\$ 437,500.00	\$ 62,500.00	\$ 93,750.00	\$ 15,625.00	\$ 15,625.00	\$ 625,000.00
Subtotal Project Cost (Activity Delivery Cost)							\$ 3,197,140.00
TOTAL							18,137,668.75

Activity Delivery Cost Definitions

Program Staff: CDBG-DR Team Salary	Salaries of staff for the time devoted to the implementation and carrying out of CDBG-DR program/project activities. The percentage of time spent on Housing, Infrastructure and Local Match is greater than PS&F and Economic Revitalization.
Program Staff - ODR Team Salary	The ODR Team salary is based on an estimated time (percentage) spent on completing eligible CDBG-DR activity. The percentage of time spent on Housing, Infrastructure and Local Match is greater than PS&F and Economic Revitalization.
Marketing / Ad Placements / Communications	Marketing and outreach activities to applicants, subrecipients, contractors, and the community on project status, upcoming project related activities and overall carrying out of CDBG-DR activities.
Office Supplies/ Materials/ Equipment	Each CDBG-DR employee was provided with a VIHFA CDBG-DR issued laptop to perform work to carry out CDBG-DR eligible activities. The amounts are for general equipment, materials, and office supplies that will be needed to carry out CDBG-DR activities (i.e., printers).
Training	Based upon VIHFA CDBG-DR historical data, the average training cost is \$2800. More training will be required for administering the Infrastructure, Housing and Local Match program.
Recovery Coordination Travel	The travel amounts are for interisland and occasional stateside travel related to administering and carrying out each CDBG-DR program and projects.
Licensing / Software	The cost of a Microsoft E5 user license is \$57 per user per month.
Contracted / Consulting Labor ~.5% of remaining DR funding (ADC directly attributable to ODR/DR consultants and contractors providing project level support)	Cost is directly attributable to ODR consultants and contractors providing project level support in carrying out CDBG-DR eligible projects.

7. Performance and Timeline Requirements

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

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Subrecipient: VI Public Finance Authority, Office of Disaster Recovery

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

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

EXHIBIT C

HUD GENERAL PROVISIONS (“HUD RIDER”)

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

1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then, upon the application of either Party, the Agreement shall forthwith be amended in writing to make such insertion or correction.

2. STATUTORY AND REGULATORY COMPLIANCE

Contractor/Subcontractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2017 (Pub. L. 115-56) and the Bipartisan Budget Act of 2018 (“BBA”), (Pub. L. 115-123), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

3. BREACH OF CONTRACT TERMS

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

4. REPORTING REQUIREMENTS

The Contractor/Subcontractor shall complete and submit all reports, in such form and according to such schedule, as may be required by VIHFA. The Contractor/Subcontractor shall cooperate with all VIHFA efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507.

5. ACCESS TO RECORDS

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records

of the Subcontractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies, and transcriptions.

6. MAINTENANCE/RETENTION OF RECORDS

All records connected with this contract will be maintained in a central location and will be maintained for a period of at least three (3) years following the date of final payment and close-out of all pending matters related to this contract.

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

The Contractor/Subcontractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

8. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

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

9. ENERGY EFFICIENCY

The Contractor/Subcontractor shall comply with mandatory standards and policies relating to energy efficiency issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

10. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Contractor/Subcontractor shall comply with the provisions of Title VI of the Civil Rights Act of

1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

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

12. SECTION 504 OF THE REHABILITATION ACT OF 1973

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

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

13. AGE DISCRIMINATION ACT OF 1975

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

14. DEBARMENT, SUSPENSION, AND INELIGIBILITY

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

15. CONFLICTS OF INTEREST

The Contractor/Subcontractor shall notify VIHFA as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 24 C.F.R. § 570.489 (g) and (h); 24 C.F.R. 570.611. The Contractor/Subcontractor shall explain the actual or potential conflict in writing in sufficient detail so that the State is able to assess such actual or potential conflict. The Contractor/Subcontractor shall provide VIHFA any additional information necessary for VIHFA to fully assess and address such actual or potential conflict of interest. The Contractor/Subcontractor shall accept any reasonable conflict mitigation strategy employed by VIHFA, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

16. SUBCONTRACTING

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

- a. Placing unreasonable requirements on firms in order for them to qualify to do business,
- b. Requiring unnecessary experience and excessive bonding,
- c. Noncompetitive pricing practices between firms or between affiliated companies,
- d. Noncompetitive awards to consultants that are on retainer contracts,
- e. Organizational conflicts of interest,
- f. Specifying only a *brand name* product instead of allowing an *equal* product to be offered and describing the performance of other relevant requirements of the procurement, and
- g. Any arbitrary action in the procurement process.

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

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

17. ASSIGNABILITY

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

18. INDEMNIFICATION

The Contractor/Subcontractor shall indemnify, defend, and hold harmless VIHFA and its agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Contractor/Subcontractor in the performance of the services called for in this contract.

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

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

covering work under this contract to ensure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

21. DAVIS-BACON ACT

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

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

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

22. TERMINATION FOR CAUSE

If, through any cause, the Contractor/Subcontractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor/Subcontractor shall violate any of the covenants, agreements, or stipulations of this contract, VIHFA shall thereupon have the right to terminate this contract by giving written notice to the Contractor/Subcontractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor/Subcontractor under this contract shall, at the option of VIHFA, become VIHFA's property and the Contractor/Subcontractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor/Subcontractor shall not be relieved of liability to VIHFA for damages sustained by VIHFA by virtue of any breach of the contract by the Contractor/Subcontractor, and VIHFA may withhold any payments to the Contractor/Subcontractor for the purpose of set-off until such time as the exact amount of damages due to VIHFA from the Subcontractor is determined.

23. TERMINATION FOR CONVENIENCE

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

24. SECTION 503 OF THE REHABILITATION ACT OF 1973

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

Equal Opportunity for Workers With Disabilities

A. The Contractor/Subcontractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor/Subcontractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

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

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

C. In the event of the Contractor/Subcontractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

D. The Contractor/Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's/Subcontractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor/Subcontractor must ensure that applicants and

employees with disabilities are informed of the contents of the notice (e.g., the Contractor/Subcontractor may have the notice read to a visually disabled individual or may lower the posted notice so that it might be read by a person in a wheelchair).

E. The Contractor/Subcontractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor/Subcontractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

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

25. EXECUTIVE ORDER 11246

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

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

A. The Contractor/Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor/Subcontractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The Contractor/Subcontractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor/Subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

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

D. The Contractor/Subcontractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for

employment.

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

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

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

H. Contractor/Subcontractor shall incorporate the provisions of A through G above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor so that such provisions shall be binding on such contractor/subcontractor. The Contractor/Subcontractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor/Subcontractor may request the United States to enter into such litigation to protect the interests of the United States.

26. CERTIFICATION OF NONSEGREGATED FACILITIES

The Contractor/Subcontractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor/Subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

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

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

subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

27. CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS

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

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

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the EPA pursuant to 40 C.F.R. Part 15, as amended.
- B. Agreement by the Subcontractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

28. LOBBYING

The Contractor/Subcontractor certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor/Subcontractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress,

an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor/Subcontractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

29. BONDING REQUIREMENTS

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

- (1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- (2) *A performance bond on the part of the Contractor/Subcontractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's/Subcontractor's obligations under such contract.
- (3) *A payment bond on the part of the Contractor/Subcontractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

30. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

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

B. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which 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 Contractor/Subcontractor agrees to send to each labor organization or representative of workers with which the Contractor/Subcontractor has a collective bargaining agreement or other

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

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

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

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

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

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

31. FAIR HOUSING ACT

Contractor/Subcontractor shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person 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. Please visit http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11868.pdf for more information.

32. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

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

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

33. PROCUREMENT

The Uniform Guidance procurement requirements (2 C.F.R. Part 200, Subpart D) went into effect on July 1, 2018. These requirements are applicable to CDBG-DR funded projects, or as provided by 83 Federal Register 5844 VI A(1)(b)(2) permits a state grantee to elect to follow its own procurement policy. These policies and procedures ensure that Federal dollars are spent fairly and encourage open competition at the best level of service and price. Standards for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services are outlined in Title 31, Chapter 23, Sections 231-251 of the Virgin Islands Code and Title 31, Chapter 23, of the Virgin Islands Regulations.

34. CHANGE ORDERS TO CONTRACTS

Change orders are issued when the initial agreed upon pricing or work to be completed requires modification. First, the contractor must complete a Change Order Request Form. This form and supporting documentation must be delivered to the Project Manager for review. Each change order must have a cost analysis. Once the Project Manager approves the change order, it is returned to the contractor for execution. Change orders are only invoiced on the final draw and categorized as "change order." The amount listed on the invoice must match the previously approved amount and must be cost reasonable. The Project Manager is responsible for verifying cost reasonableness. Verification documentation for cost reasonableness becomes an attachment to the change order.

35. ENVIRONMENTAL REVIEW

Every project undertaken with Federal funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 C.F.R. Part 58- ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any Federal funds can be accessed for program-eligible activities.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The HUD environmental review is designed to produce

program-specific environmental review procedures in a program that can vary greatly in terms of scope of work.

36. LEAD BASED PAINT

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

37. ENVIRONMENTAL REVIEW RECORD

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

38. FLOOD INSURANCE REQUIREMENTS

Grantees and Subrecipient s of Federal funding must ensure that procedures and mechanisms are put into place to monitor compliance with all flood insurance requirements as found in the Flood Disaster Protection Act of 1973, 24 C.F.R. § 570.605- NATIONAL FLOOD INSURANCE PROGRAM and 24 C.F.R. § 570.202- ELIGIBLE REHABILITATION AND PRESERVATION ACTIVITIES.

39. DUPLICATION OF BENEFITS

CDBG-DR funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance and FEMA funds. The Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. § 5121 et seq., established the requirements for Duplication of Benefits (DOB) analysis.

40. ANTI-FRAUD, WASTE AND ABUSE CHECKS

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

41. AFFIRMATIVELY FURTHERING FAIR HOUSING

The Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601, et seq., dictates that grantees are required to administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Per the regulations of 24 C.F.R. § 570.601 and in accordance with Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et seq., for each community receiving a grant under Subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's Assessment of Fair

Housing (AFH) plan, conducted in accordance with the requirements of 24 C.F.R. § §§ 5.150-5.180 (Affirmatively Furthering Fair Housing) and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

42. DRUG FREE WORKPLACE

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

43. TIMELY DISTRIBUTION OF FUNDS

The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 8, 2017 (Appropriations Act), as amended, requires that funds provided under the Act be expended within two (2) years of the date that HUD obligates funds to a grantee unless otherwise authorized via waiver of this requirement by the Office of Management and Budget (OMB). The OMB waived the two (2) year expenditure requirement under 83 Fed. Reg. 40314 (Aug. 14, 2018); however, the provision to expend one hundred percent (100%) of the total allocation of CDBG-DR funds on eligible activities within six (6) years of HUD's initial obligation of funds remains in effect. The six (6) year expenditure period commences with the initial obligation of funds provided under 83 Fed. Reg. 5844 (Feb. 14, 2018). Additionally, per 83 Fed. Reg. 5844, the provisions at 24 C.F.R. §§ 570.494 and 570.902, regarding timely distribution and expenditure of funds, are waived and an alternative requirement was established.

Furthermore, consistent with 31 U.S.C § 1555 and OMB Circular No. A-11 (2017), if the Secretary of HUD or the President of the United States determines that the purposes for which the appropriation was made have been carried out and no disbursement has been made against the appropriation for two (2) consecutive fiscal years, any remaining unobligated balance shall be canceled and will be made unavailable for obligation or expenditure for any purpose.

44. PROPERTY MANAGEMENT AND DISTRIBUTION

Regulations governing property management and distribution of real property, equipment, financial obligations and return of un-obligated cash post program closeout can be found in 24 C.F.R. § 570.506, 2 C.F.R. § 200.310, 2

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

45. LIMITED ENGLISH PROFICIENCY

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

46. PERSONALLY IDENTIFIABLE INFORMATION

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

47. UNIFORM RELOCATION ACT

CDBG-DR funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA or Uniform Act), as amended. 49 C.F.R. § Part 24 requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for- one replacement of lower-income units demolished or converted to other uses.

48. RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN. Per Section 104(d) of the Housing and Community Development Act of 1974 § 42.325

A. Certification.

(1) As part of its consolidated plan under 24 CFR Part 91, the Subrecipient must certify that it has in effect and is following a residential anti-displacement and relocation assistance plan.

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

B. Plan contents.

(1) The plan shall indicate the steps that will be taken consistent with other goals and objectives of the program, as provided in Parts 92 and 570 of this title, to minimize the displacement of families and individuals from their homes and neighborhoods as a result of any assisted activities.

(2) The plan shall provide for relocation assistance in accordance with § 42.350.

49. COMPLAINTS AND APPEALS

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

50. MONITORING

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

51. PROCUREMENT OF RECOVERED MATERIALS

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

EXHIBIT D
GENERAL CONTRACT CONDITIONS

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

A. INDEPENDENT CONTRACTOR

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

B. HOLD/HARMLESS/INDEMNITY CONTRACTORS/SUBCONTRACTORS

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

C. MECHANIC’S LIEN

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

D. WORKER’S COMPENSATION

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

E. PRELIMINARY INSPECTION

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

F. FINAL INSPECTION

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

conducted by WMA and/or VIHFA (upon VIHFA's request to also conduct a final inspection).

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

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

H. INSURANCE & BONDING

Agency shall require a Contractor to maintain liability insurance for protection against claims for damages because of bodily injury or death, claims for damages, to property which may arise out of or result from the Contractor's operation under a contract whether such operations be by the Contractor or by any Subcontractor or anyone directly or indirectly employed by any of them. This specific coverage amount for each project shall be identified in the ensuing contract for each specific project and the Contractor shall, upon request, present the Agency with a certificate of such insurance.

I. AFFIRMATIVE ACTION PLAN

In order to comply with Section 3 and Executive Order 11246, the U.S. Department of Housing and Urban Development requires that all contractors develop and implement an Affirmative Action Plan. This plan is a series of forms and statements, which shows specific steps taken by the contractor to promote Equal Opportunity and the utilization of area residents and business in the implementation of this Contract. This plan must be submitted to the Agency and VIHFA.

J. SAFETY

Agency shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages or property, either on or off the worksite, which occur as a result of its performance of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by 29 CFR 1926, shall be observed and the Agency shall take or cause to be taken such additional safety and health measures as the Agency may determine to be reasonably necessary.

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

K. SECTION 106 COMPLIANCE

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

L. CONTRACTOR'S REPRESENTATIONS

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

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

In the event the Contractor, or sub-contractor, misrepresents its eligibility to receive contract awards using federal funds, Agency agrees that said contractor or sub-contractor shall not be entitled to any payment for any work performed under this Contract and that it shall require the contractor or sub-contractor to promptly reimburse any progress payments heretofore made. Nevertheless, this provision does not discharge Agency or VIHFA from their respective due diligence and undertaking its own independent search under "SAMS" to determine a Contractor's or sub-contractor's eligibility to receive contract awards using federal funds.

M. FALSE CLAIMS

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

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

EXHIBIT E
NON- CONFLICT OF INTEREST: SUBRECIPIENT

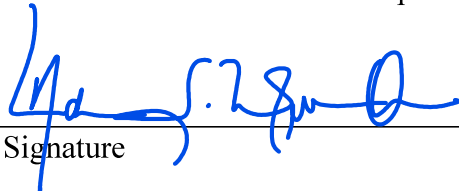
Subrecipient Non-Conflict of Interest Certification

By signing this form, the Subrecipient certifies that:

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

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

Name and Title of Authorized Representative



Signature

11/17/2023

Date

Adrienne L. Williams-Octalien

Print Name

Director

Title

Appendix B

Housing HUD Assessment 2019-2023

HUD Monitoring- Housing Assessments 2019-2023

April 2019 – 1 Finding

Finding #3: Contracts do not include all federal Requirements.

Condition: The three executed contracts do not include all of the provisions at 24 CFR 570.487, omitting provisions regarding affirmatively furthering fair housing or items specific to the Federal Register Notice such as the Stafford Act duplication of benefits requirement.

Criteria: The CDBG regulations at 24 CFR 570.489(g) require that contracts include all federal requirements, including those identified at 24 CFR 570.487.

Cause: The grantee was not aware of all of the provisions of 24 CFR 570.487.

Effect: Failure to include pertinent, mandatory provisions in contracts may result in contractors' noncompliance with applicable Federal requirements, which could ultimately result in the VIHFA disbursing funds for ineligible expenditures or other forms of noncompliance.

Corrective Action: To address this deficiency, within 60 days of the issuance of this monitoring report, VIHFA must revise the three executed contracts to include all of the provisions at 24 CFR 570.487, inclusive of the provisions regarding affirmatively furthering fair housing and items specific to the Federal Register Notice, such as the Stafford Act duplication of benefits requirement.

Status: The three contracts were updated to include provisions of 24 CFR 570.487 and all subsequent contracts. This finding has been closed as of 2020.

March 2021- 4 Findings

Finding 1: VIHFA's Lottery process did not comply with its procurement policy and procedures

Condition: The grantee conducted a procurement for contractors using a Mini Bid method for 30 homeowner repair projects. The Mini Bid was a lottery process that was not consistent with the VIHFA procurement policy and procedures.

Criteria: The *Federal Register* Notice (83 FR 5844) and the grantee's procurement policies (2 CFR 200.317). The *Federal Register* Notice states that "until grant closeout, all grantees shall adhere to the controls, processes, and procedures described in the grantee's financial controls and procurement processes documentation submitted [to HUD] unless amended with HUD's approval."

Cause: The EnVIsion program was launched in April 2019; however, the procurement and construction processes have been slow. As a result, the grantee used the lottery to try to accelerate the process of assigning homes to contractors without ensuring it was consistent with the agency's procurement rules.

Effect: In addition to not complying with its own procurement policies and procedures, the grantee is unable to document fair and open competition, nor prove that a fair and reasonable price was paid for goods and services for contracts assigned via a lottery from a PQP.

Corrective Action: To address this deficiency, within 60 days of receipt of the letter, the grantee is requested to provide supporting documentation to demonstrate that VIHFA followed the

process with fair and open competition and determined it paid reasonable and necessary costs for the lottery- assigned contracts (per assisted unit). If the grantee does not submit this documentation or if after submission and review by HUD it is determined that it is not reasonable and/or did not meet procurement requirements, VIHFA may be required to reimburse all the payments VIHFA made to the contractors from the lottery process to the CDBG-DR program from non-federal funds (\$96,221.27 from non-Federal funds) and cancel the remaining in unpaid obligations for lottery contracts. VIHFA must also provide a plan to HUD on how it will assign the units to other contractors to ensure the assistance is not further delayed.

Status: Partially closed. This Finding falls in two categories: Envision and Procurement.

- **Envision Finding- closed as of September 2023. Procurement Finding- In progress. We are drafting a response regarding the cancellation of the contracts.**

Finding 5: Lack of internal controls for processing of advance payments to contractors

Condition: The reviewer found that the grantee is processing advance payments to construction contractors in the EnVIision program without clear procedures in place to ensure all costs are adequately supported. The grantee is issuing mobilization payments for the smaller contractors as advances to facilitate smaller and local contractors' participation in the program. However, the grantee's procedures do not address whether the contractors need to submit documentation for these costs before the next invoice is paid. During interviews with Finance and EnVIision staff, no one could affirm that documentation of these costs was being requested. The EnVIision staff indicated that they did not review these invoices, but rather the Planning and Construction division staff from VIHFA completed the review. (The construction manager may also have a role in reviewing these invoices, but that role is not specified in the procedures).

Criteria: 2 CFR 200.303 Internal Controls

Cause: The main cause is the lack of a clear management process for the EnVIision program to ensure consistency across all the different offices within VIHFA that work in the program. A second cause is the lack of procedures for advances and the subsequent payments to contractors that received them.

Effect: The grantee will have unsupported and possibly ineligible program costs.

Corrective Action: To address this deficiency, within 60 days of receipt of the letter, the grantee is requested to take the following actions: 1) Draft and incorporate into its financial procedures a process for advances, including those for contractors under the EnVIision program that ensure all costs are adequately documented, 2) Submit to HUD a revised process for the review of contractor invoices for the EnVIision Program that includes responsible staff and timelines, and 3) Review all advances paid thus far to ensure these are adequately documented and supported.

Status: Partially Closed- This Finding falls into two categories: Envision and Finance. Corrective Actions 1 and 3 are Envision Findings; Corrective Action 2 is a Finance Finding.

- **Corrective Actions 1 and 3 are closed as of September 2023.**
- **Corrective Action 2- This Finding remains open- The Authority updated and implemented their processes for advance contractor payments to streamline efforts. A training was provided to subrecipients and staff in January of 2023. Submittal for closure on 1/2024.**

Finding 7: Inconsistent Duplication of Benefits documentation

Condition: As part of the eligibility review of the EnVIision program costs, the reviewer looked at the DOB documentation and calculation to determine how the final award was determined. The reviewer found that while all files had the external data verification print screen from FEMA (and in some cases Small Business Administration (SBA) that showed whether the person had received FEMA and/or SBA assistance, only two out of the three cases reviewed had the DOB calculation worksheet included in the documentation. The reviewer noted that Appendix D of the agreement signed with the participant is supposed to contain the DOB calculation as part of the award, but it was not attached in one of the agreements reviewed. The cases reviewed showed one case had withdrawn from the SBA assistance process, and while there were no cases with loans declined, but the SBA documentation was not provided for all cases. The issue of DOB documentation was a concern in the April 2020 monitoring review. The reviewer provided extra time for the grantee to submit the missing documentation for DOB, but it was not provided. One of the consultants working with the grantee assists in the DOB documentation and calculation process. The reviewer also noted that approximately half of the 794 active EnVIision cases had DOB gaps. The reviewer flagged that one of the applicant agreements had not been signed by VIHFA's Executive Director.

Criteria: *Federal Register* Notice 84 FR 28836 (Section IV. Basic Duplication of Benefits Calculation Framework) published June 20, 2019.

Cause: The grantee lacks a quality assurance/control process to ensure all required documents are included and executed.

Effect: If award determinations are not adequately documented, including the DOB Calculation, this could lead to possible repayment of funds.

Corrective Action: To address this deficiency, within 60 days of receipt of the letter, the grantee is requested to take the following actions: 1) Develop and submit to HUD a quality control/assurance process in the DOB procedures for EnVIision and which staff is responsible for it 2) Submit the missing DOB documentation and calculation for case #HRR-00731.

Status: A QA/QC process was created and submitted to HUD. The missing documentation and calculation for case #HRR-00731 were submitted to HUD. This Finding has been closed as of 2021.

September 2021-

Finding 3: Failure to ensure subrecipient compliance with the applicable HUD requirements, policies, and procedures: Federal Register notice page 5860, section 26, published February 9, 2018.

Condition: VIHFA has allowed subrecipients to follow their own procurement policies and is required to ensure they meet the requirements in the Federal Register. VIHFA has an agreement with the VIHA for the redevelopment of Donoe public housing units. The Agreement is for the redevelopment of 84 units and is for \$29 million. VIHA conducted a procurement for the development of the project. The grantee submitted "Exhibit I – Estate Donoe Sources and Uses" showing a total project cost for the redevelopment project of approximately \$54 million, which is approximately \$640,000 per unit of public housing. However, the sources and uses document did not include the \$29M from CDBG-DR, so the total project costs may be higher than reflected. During the written agreements review, VIHFA was asked for the cost or price evaluation performed by VIHA for Donoe and did not produce the requested information.

Corrective Action:

Within 90 days of this letter, the grantee is required to submit the current (as of September 2022) cost per-unit for public housing at Donoe and provide a description of the grantee's controls for assuring that construction costs for Donoe are reasonable and consistent with market costs at the time and place of construction. Since Donoe's Rental Assistance Demonstration project closed in June 2022 (after the last document submission to HUD), VIHFA's reasonableness analysis must consider and submit all sources and uses of funding by amount. Costs that are not found to be reasonable or supported may result in repayment to the CDBG-DR program from non-federal funds.

Status: Partially Closed. The hard costs explanation has been accepted by HUD; they are now requesting Soft Costs breakdown. VIHFA and ODR are currently working on this Finding for closure.

Finding 7: Lack of Complete Environmental Review Record (ERR)

Condition: ERRs reviewed lack detailed project descriptions, sufficient source information and documentation, adequate documentation of project status, and whether mitigation requirements have been satisfied. The ERRs reviewed as part of this monitoring consistently lack information or documentation required by HUD regulations at 24 CFR 58.38.

a) Insufficient project description: The Tier 2 Site Specific Environmental Review Forms (Tier 2 review forms) completed for HRRP consistently lack details about the specific activities or work included in the proposed project scope that is being reviewed. The Tier 2 review forms provide a generic description of the activities covered by the relevant program but lack sufficient information about the specific proposed activities to be completed at each housing unit. According to the HRRP Policies and Procedures document, Tier 2 reviews are performed based on a project scope, which is defined from the Estimated Cost of Repair (ECR) report developed during the initial inspection and damage assessment for each housing unit. However, ECR's were not referenced or attached to any of the Tier 2 review forms included in this monitoring. Also, ECRs were not included in the ERRs for all projects with completed Tier 2 reviews. For example, no ECR was included in the ERR for project numbers: VI-HRR-0005, VI-HRR-00227, VI-HRR-00237, VI-HRR-00416, VI-HRR-00504, VI-HRR-01040, VI-HRR-01102, and VI-HRR-01473. In addition, it is not clear from the ECRs, which specific activities or repairs were finally approved as part of the project scope.

b) Insufficient source information or documentation in figures and maps: The ERRs examined as part of this monitoring generally include maps/documentation to show the location of project sites with respect to flood zones, coastal zones, and coastal barriers. However, in many cases, the figures lack a complete reference to the source of information depicted. For example, the maps showing the project location with respect to the limits of the Coastal Zone consistently lack references to the specific database, program, web location, GIS layer, or source for the data being depicted. A similar situation, although less frequent, was observed with the maps showing the location of the project with respect to flood zones. Specific ERRs where the Flood Zones Maps do not provide the source information include the following projects: VI-HRR-00029, VI-HRR-00227, VI-HRR-00425, and VI-HRR-00841. In addition, although the Tier 1 EAs indicate that National Wetland Inventory (NWI) Maps would be used to evaluate whether wetlands are located within the proposed project site, the Tier 2 review forms and the ERRs included in this monitoring consistently lack NWI Maps.

c) Mitigation compliance documentation not included in ERR: The ERRs reviewed in this monitoring generally lack documentation evidencing whether the mitigation requirements defined in the Tier 1 EAs and Tier 2 reviews (e.g., inspections and abatement for mold, lead-based paint, and asbestos; management and disposal of solid and hazardous waste; green building standards; and elevation of structures in the floodplain; among others) were satisfied. Also, the ERRs do not include information regarding the status of the project in terms of its planning or construction stages. Although a spreadsheet with some information regarding progress in HRRP project implementation was included in documents provided by VIHFA, the information in the spreadsheet was not always consistent with the rest of the information available in the ERRs. Therefore, it was not possible to determine whether any of the above-referenced mitigation requirements should have been already satisfied.

Criteria: VIHFA is subject to the following requirements: 1) 24 CFR 58.32 - Project Aggregation, 24 CFR 55 - Floodplain Management and Protection of Wetlands, 2) 24 CFR 58.18 - Responsibilities of States assuming HUD environmental responsibilities, 3) 24 CFR 58.38(b) requires that the ERR shall contain verifiable source documents and relevant base data used or cited, 4) 24 CFR 58.32 requires a complete project description, properly aggregating all proposed project components or activities, and 5) 24 CFR 58.18(a)(1) requires REs to monitor compliance with the conditions established during the environmental review.

Cause: Lack of sufficiently detailed environmental review procedures for HRRP and the grantee not following existing procedures for the completion of environmental reviews. VIHFA's Environmental Review Procedures Manual and HRRP Policies and Procedures document do not specifically require that Tier 2 review forms must include a narrative with the project description 16

as defined from the ECRs; that ECRs must be referenced in or attached to the Tier 2 reviews; that all maps and documents used to support the determinations of the environmental reviews must include source information; or that the ERRs must include documentation of compliance with environmental mitigation requirements. VIHFA's documents referenced above do not indicate how changes in the project scope between the initial ECR and the approved ECR would be addressed in the Tier 2 environmental review, including re-evaluation of original reviews, if necessary.

Effect: ERR deficiencies are not being identified and corrected through VIHFA's QA/QC procedures. The reviewer cites two examples:

a) While VIHFA developed an Environmental Review Procedures Manual for CDBG-DR, which indicates that the environmental review must aggregate and describe each of the related activities comprising the project and that the effect of all those activities must be evaluated together.

b) HRRP Policies and Procedures document indicating that the project description for the HRRP Tier 2 environmental reviews would be based on the Estimated Cost of Repairs (ECR) Report. The final approvals of the ECRs are not always issued prior to completing the Tier 2 environmental reviews.

Incomplete project descriptions and documentation in the ERR may lead to incorrect determinations of compliance with the related laws and authorities at 24 CFR 58.5 and 24 CFR 58.6. An incomplete ERR may also limit the public's ability to examine the project's environmental review and obtain information about its potential environmental effects, as

required by 24 CFR 58.38. An incomplete ERR could also result in noncompliance with the National Environmental Policy Act (NEPA), environmental harm or risk to residents at assisted properties, and in activities being determined ineligible for HUD funding if choice-limiting actions occur prior to the proper completion of the appropriate level of environmental review.

Corrective Actions: To address this deficiency, within 90 days of this report, the grantee is requested to take the following action(s):

1) For all future environmental reviews, VIHFA must provide complete project descriptions, including details about the project site and property, and adequate supporting documents in all Tier 2 environmental reviews, and ensure that any changes in project scope after the initial ECR are documented in detail in the ERR. The grantee should provide at least two ERRs for HUD's review that illustrate compliance with the actions described in this corrective action.

Status: The Tier 2 Environmental reviews process and documentation were updated. Two examples were submitted to HUD. This part of the Finding was closed in 2023.

2) VIHFA must revise and submit for HUD-OEE review the CDBG-DR Environmental Review Procedures Manual and the HRRP Policies and Procedures document to address the issues identified above, including additional clarification on:

a. How to use the information from the ECR to develop a complete project description for Tier 2 environmental review purposes.

b. How changes in a project description or scope would be documented and addressed as part of the Tier 2 environmental review process, including re-evaluation of original reviews if necessary.

c. How to evaluate and document in the Tier 2 review form whether a proposed project meets the definition of substantial improvements and whether the project complies with any related flood management and elevation requirements.

d. How to include or cite verifiable and best available sources of information in the maps and reference documents used to complete the Tier 2 review.

e. How to ensure that the documentation and completion of the Tier 2 review is consistent with the requirements and procedures established in the Tier 1 environmental review.

f. How to document in the ERR the status of the project development/implementation and whether any required mitigation measures have or should have been implemented.

g. Details about the internal quality assurance and quality control measures would be implemented to ensure that the completion of Tier 2 environmental reviews satisfies all applicable documentation and procedural requirements.

Status: This correction was made, and the updated Environmental Procedures Manual was submitted to HUD for closure. This part of the Finding was closed in 2023.

3) The grantee must ensure that established quality assurance and control procedures for environmental reviews are adequately implemented. The Field Environmental Officer will periodically request access to the ERRs to ensure compliance. Within 120 days from the date of this monitoring report, VIHFA must submit to HUD two complete HRRP ERRs to evidence compliance with these corrective actions.

Status: This corrective action was completed. HUD is awaiting the SOP to close the entire Finding. VIHFA and ODR have since worked together to update the and submitting corrective action for closure on 3/29/2024.

HUD recommends using HEROS to manage the environmental reviews and maintain the complete an ERR for a project in a single file or document, rather than in multiple documents stored in different data management systems. This would avoid issues related to incompleteness of the ERRs, and problems accessing and reviewing a complete ERR.

Finding 8: Tiered Environmental Review

Condition: The monitoring revealed the following issues or deficiencies in the tiered environmental review process for HRRP:

1) Tier 2 review forms not included in the Tier 1 EAs - As stated above, to satisfy the requirements of HUD's regulations at 24 CFR 58, as well as the requirements of NEPA at 40 CFR 1500 - 1508, VIHFA completed a broad level HRRP Tier 1 EA for each of the main U.S. Virgin Islands, namely St. Thomas, St. John, and St. Croix. HUD regulations at 24 CFR 58.15 state that for tiered environmental reviews, the broad level (Tier 1) review should establish the policy, standard, or process to be followed in the site-specific (Tier 2) review. The Tier 1 EAs reference a Tier 2 Site-Specific Checklist for individual property compliance documentation. However, the 18 Tier 1 EAs did not include the review forms that would be used to document compliance at the Tier 2 level (i.e., the Tier 2 review forms or site-specific checklists). It appears that the Tier 2 review forms were developed after the Tier 1 EAs had been completed and approved. Although the Tier 1 EAs were later revised (as discussed in more detail below), the revised versions did not include the Tier 2 review forms.

2) Three versions of each of the Tier 1 EAs and the Tier 2 review forms have been used since the inception of HRRP - The three HRRP Tier 1 EAs were initially completed and approved by VIHFA on November 27, 2019. The corresponding Notification of Finding of No Significant Impact was published on December 4, 2019. However, for reasons not entirely clear to HUD, the three Tier 1 EAs were modified twice after the implementation of HRRP. Versions 2 and 3 of the Tier 1 EAs were completed and approved by VIHFA on February 22, 2020, and December 14, 2020, respectively. Similarly, VIHFA's files indicate that three different versions of the Tier 2 review forms have been used to complete the environmental review of HRRP projects. The different versions of the Tier 2 review forms are not dated. Therefore, HUD could not determine when VIHFA began using each of the versions. HUD could not locate documentation in VIHFA's files describing or explaining the specific changes or differences between the versions of the Tier 1 EAs and the Tier 2 review forms or the significance of those differences.

HUD conducted a general comparison of the Tier 1 EAs and Tier 2 review forms and found that some of the differences between the versions include: changes in the criteria used to determine whether a housing unit is eligible for reconstruction; changes in the order in which rehabilitation and reconstruction projects would be implemented; removal of screening for potential sources of contamination and changes to the mold, asbestos, and lead-based paint testing and inspection procedures to document compliance with the Contamination and Toxic Substances environmental review factor; inclusion of coordination with the Virgin Islands Department of Planning and Natural Resources (DPNR) Floodplain Manager to document compliance with the Floodplain Management environmental compliance review factor; changes in the proposed procedures for the management of solid waste; and changes in the

criteria and process used to document compliance with the Historic Preservation and Wetland Protection environmental compliance review factors.

3) Inconsistencies in the compliance criteria for environmental review factors at the different levels of the tiered review - The above-described comparison also revealed that some of the compliance criteria established in the Tier 1 EAs and the Tier 2 review forms for the same environmental review factor are not consistent or aligned with each other. The following are examples of this situation:

a. Flood Insurance - The Tier 1 EAs require reviewing flood maps to determine whether the site is in a floodplain, while the Tier 2 review forms require assessing whether the project involves financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property.

b. Contamination and Toxic Substances - The Tier 1 EAs indicate that all houses will undergo a pre-construction inspection for the potential presence of lead and asbestos, while the Tier 2 review forms indicate that the year of construction will be used to determine whether lead and asbestos inspections are needed.

c. Floodplain Management - The Tier 1 EAs indicate that reconstruction projects will be sent to the FEMA Floodplain Manager at the DPNR for review, while the Tier 2 review forms do not mention any coordination with the Floodplain Manager.

d. Historic Preservation - The Tier 1 EAs indicate that the scope of the project will be used to determine which Allowance of the National Historic Preservation Act Programmatic Agreement applies to the project, while the Tier 2 review forms do not require documenting which allowance applies.

e. Wetlands Protection - The Tier 1 EAs require evaluating all sites using the National Wetland Inventory Maps, while the Tier 2 review forms require assessing whether the project would involve new construction as defined in Executive Order 11990, expansion of a building's footprint, or ground disturbance.

1. Re-evaluation of the Tier 1 EAs - HUD regulations at 24 CFR 58.47 establishes that an RE must re-evaluate the environmental findings of a completed EA to determine if they are still valid when substantial changes in the nature, magnitude, or extent of the project are proposed, and where there are new circumstances and environmental conditions which may affect the project or have a bearing on its impact. As described above, the changes made to Tier 1 EAs and the Tier 2 review forms affected the environmental review process, scope, criteria, and policies described in the original Tier 1 EAs. Therefore, VIHFA should have completed a re-evaluation of the compliance factors and mitigation measures in the Tier 1 EAs in accordance with the provisions of 24 CFR 58.47. However, no re-evaluation of the Tier 1 EAs was completed to assess whether the changes in the different versions of the Tier 1 EAs and Tier 2 review forms described above affected the validity of the findings and determinations of the original Tier 1 EAs.

Criteria: VIHFA is subject to the following requirements: 24 CFR 58.15 – Tiering, 24 CFR 58.47 - Re-evaluation of Environmental Assessments and Other Environmental Findings.

Cause: Lack of understanding of the requirements and procedures established in 24 CFR 58.15 and 24 CFR 58.47. Lack of complete administrative policies and procedures for the management and amendment of environmental documents.

Effect: The HRRP Tier 1 EAs were completed to satisfy the requirements of HUD's regulations at 24 CFR 58 and the requirements of NEPA at 40 CFR 1500 - 1508. HUD regulations at 24 CFR 58.15 state that for tiered environmental reviews, the broad level (Tier 1) review should establish the policy, standard, or process to be followed in the site-specific (Tier 2) review. Not including the Tier 2 review forms as appendices to the Tier 1 EAs is contrary to HUD's regulatory requirements and may have limited the public's ability to review and provide comments on the environmental compliance criteria, standards, and process established in the Tier 2 review forms. Also, the Tier 2 review forms should be designed to ensure uniform and consistent review of HRRP projects in accordance with the criteria and determinations established in the Tier 1 EAs. However, the changes to the Tier 1 EAs and the Tier 2 review forms have resulted in inconsistent or unaligned compliance documentation criteria for the same environmental review factor at the different levels of the tiered review. In addition, the compliance criteria for some environmental review factors in the Tier 2 review forms do not adequately address the requirements established in HUD regulations.

These documentation issues may have resulted in the inappropriate evaluation of HRRP projects and inaccurate determinations of compliance with the requirements of the laws and authorities listed at 24 CFR 58.5 and 24 CFR 58.6. Failure to re-evaluate the changes made to the Tier 1 EA and Tier 2 review forms may have also resulted in noncompliance with HUD's regulatory environmental review procedures, as well as potential harm to the environment and the occupants of the housing units.

Corrective Actions: To address this deficiency, within 90 days of this report, the grantee is requested to take the following action(s):

- 1) VIHFA must revise all of the Tier 1 EAs to incorporate the Tier 2 review forms as appendices;
- 2) Revise the Tier 1 EAs to include a summary of the changes made to the different versions of the Tier 1 EAs and Tier 2 review forms since they were initially approved;
- 3) Revise the Tier 1 EAs and the Tier 2 review forms to ensure that the compliance criteria established for the various review factors at both levels of review are consistent with each other, and with the provisions of the CDBG-DR Environmental Review Procedures Manual and the HRRP Policies and Procedures document (referenced above). VIHFA must also revise the Tier 1 EAs and the Tier 2 review forms to ensure they correctly address or incorporate the environmental review requirements established by HUD's regulations, and the laws and authorities listed in 24 CFR 58.5 and 24 CFR 58.6;
- 4) Since the changes made to Tier 1 EAs and the Tier 2 review forms affected the environmental review process, scope, criteria, and policies described in the original Tier 1 EAs, VIHFA must complete a re-evaluation of the Tier 1 EAs, in accordance with the provisions of 24 CFR 58.47. The re-evaluation should also address the revisions required in Corrective Actions 1 and 2 above for this Finding;
- 5) VIHFA must expand the HRRP Policies and Procedures document to provide a detailed description of the process, including identification of verifiable data to be used and the considerations needed to accurately complete the environmental factors compliance determinations of the Tier 2 review forms. Future amendments to the Tier 1 EAs and Tier 2 review forms must be done through a re-evaluation that includes re-evaluating compliance and mitigation factors and documents the findings through a Memo of Re-Evaluation; and

6) The revised Tier 1 EAs and Tier 2 review forms and the corresponding re-evaluation documentation must be submitted to HUD-OEE within 90 days from receipt of this report.

Status: The corrective actions were taken and submitted to HUD. This Finding was closed in 2023.

Finding 9: Noncompliance with 24 CFR 55.20 - *Decision Making Process* and 83 FR 5844 - *Elevation Requirements*

Condition: The 8-Step Decision Making Process for Floodplain Management that was performed at the Tier 1 EA level for HRRP does not meet the requirements of 24 CFR 55.20 – *Decision making process* or the elevation requirements established in Paragraph B.32.e of Section VI of the 2017 disaster CDBG-DR *Federal Register* notice (83 FR 5844, published on February 9, 2018).

The 8-Step Decision Making Process (8-Step Process) for HRRP does not meet the regulatory requirements of 24 CFR 55.20(a-h) or the elevation requirements of 83 FR 5844.

1) Step 1 of the 8-Step Process is to determine if the proposed action is in a 100-year floodplain. An analysis of what proposed projects are within the 100-year floodplain was not performed. That information is the pre-cursor to Step 2 (the Early Notice discussed below) and informs the analysis in steps 3-6, and the Final Notice.

2) The Early Notice (Step 2) and Final Notice (Step 7) do not include the location of the proposed actions (i.e., which island), the total or estimated number of acres in the 100-year floodplain, and does not include the phone number for the public to contact the RE. These public notices are considered legal documents and must contain this information.

3) The findings of the analysis performed for Steps 3 - 6 do not fully consider the evaluation criteria for determining if there is a practicable alternative for reconstructing housing in the 100-year floodplain. There is no discussion of potential adverse impacts to the floodplain, its functions and values, or the occupants of the floodplain. The rejection of the one alternative considered, to build outside of the floodplain, does not discuss land use trends, socioeconomic impacts, etc., or any existing trend information to support the finding of no practicable alternative.

4) The proposed mitigation in the 8-Step Process analysis in Step 5 identified elevation as a mitigation measure in an “*attempt to move them out of the floodplain.*” Additionally, if elevation is not feasible, then the best alternative flood mitigation plan would be determined. Elevation for new construction, reconstruction, and substantially improved rehabilitation is a requirement of the grant as per 83 FR 5844. This grant requirement is not specified in the 8-Step Process analysis. Furthermore, there is no explanation for when elevation would be appropriate, such as if the project meets the substantial improvement threshold. No other appropriate mitigation measures are discussed to inform what the best alternative flood mitigation plan would be and in what circumstances they would be appropriate.

Criteria: VIHFA is subject to the following requirements: Executive Order 11990, Floodplain Management, 24 CFR §58.5(b) - *Floodplain management and wetland protection*, 24 CFR §55.20 - *Decision making process*, 83 FR 5844

Cause: The 8-step decision making process was performed at the broad level review (Tier 1 EAs) of the tiered review for HRRP without any data to support the number of acres in the 100-year floodplain. The assumption was that a determination if a property was in the 100-year

floodplain (Step 1) would be made during the site-specific review, and compliance and mitigation would be in accordance with that finding.

The cause of noncompliance with the 83 FR 5844 and 24 CFR 55 requirements for reconstruction and substantial improvement is a result of no established program policy to meet the *Federal Register* notice elevation requirements. Section 4.8, Special Flood Hazard Area of the HRRP Policy and Procedure, references that DPNR sets the elevation standards, and the Program will abide by the decision of the DPNR. The form for a consultation with DPNR includes consideration of elevation as a mitigation measure but leaves the decision to DPNR. Neither the HRRP Policy and Procedure, the 8-Step Process, nor the DPNR consultation form have criteria for substantial improvement or a procedure for making that determination.

Effect: 1) The 8-Step Process notices issued by VIHFA did not meet the requirements of HUD regulations at 24 CFR 55.20. The analysis of impacts begins with determining the floodplain acreage within the proposed project area. That is the first step in the decision-making process that informs the public notices and the analysis of whether there is a practicable alternative to development in a floodplain. Any adverse impacts, and the extent of those impacts are informed by that data. The Early Notice is intended to seek public and agency input on the proposed activities in the 100-year floodplain to involve the affected and interested public and agencies in the decision-making process. As a result of not identifying the floodplain acreage or providing floodplain maps or links to maps, the public notice process was not satisfied, because the public and agencies did not have information on floodplain acreage and location, and if they would be impacted by the proposed action. This circumvented an informed opportunity for public comment.

2) Further, there was no informed analysis of how the proposed action of reconstruction in the 100-year floodplain would impact the floodplain, and if the mitigation measures would be adequate to minimize adverse impacts to the floodplain and the homeowner. Elevation typically minimizes adverse impacts to homeowners and improves floodplain functions. Elevation was considered optional, with no threshold stated in the tiered environmental review or the 8-Step Process for when it is required. 83 FR 5844 mandates that newly constructed, reconstructed, or homes that meet the definition of substantial improvement (cost of improvements are $\geq 50\%$ than the cost to restore the house to pre-disaster conditions) must be elevated 2 feet above base flood level elevation. This elevation requirement should have been a mitigation measure specifically applied to reconstruction, or substantial improvement in the 100-year floodplain. Failure to meet the notice elevation requirement and establish the threshold results in an adverse impact to the occupants affected by flooding and continued impairment of the floodplain function.

3) The proposed action is implemented after the completion of the 8-Step Process with the Responsible Entity (RE)'s continuing responsibility to ensure that mitigation measures identified in Step 7 are implemented. The Final Notice included optional mitigation measures, such as dry or wet floodproofing, construction of a flood barrier, and interior modification or retrofit as determined in consultation with the DPNR FEMA Floodplain Manager. These mitigation measures were not evaluated in the 8-Step Process, and there is no established threshold stated in the tiered environmental review or the 8-Step Process for when these mitigation measures or consultation will be applied. These options were carried forward to the Tier 2 site-specific review checklist. VIHFA consults with DPNR on proposed activities in the 100-year floodplain regardless of the project activity, i.e., minor rehabilitation, substantial improvement, reconstruction, or new construction. 23

DPNR recommends mitigation measures, but there were instances in the file review where the mitigation measures were not implemented because they were not deemed feasible by the construction manager. Mitigation measures are recommended but are not required for projects that do not meet the definition of substantial improvement. Because there is no discussion of when mitigation measures apply, it is assumed that it applies to every project in the 100-year floodplain. Therefore, not applying mitigation is not compliant with VIHFA's established policy. For example, in File No VI-HRR-001473 for a rehabilitation project in the 100-year floodplain, the DPNR recommended that a swale should be built to prevent flooding of the property. However, the construction manager advised that the lot size was too small to build a swale. The mitigation was then determined infeasible, but there was no other option to address floodplain management. A threshold for when mitigation measures apply would establish the appropriateness of mitigation as opposed to whether it is infeasible.

4) VIHFA considered projects within the 100-year floodplain as compliant with the 24 CFR 55 because the 8-step process was performed. However, the 8-step process is incomplete because it did not satisfy the criteria of the decision-making process or implement the elevation requirements. A result of not including the elevation requirements or defining when they apply is that the Tier 1 EAs and Tier 2 review forms do not distinguish in the Floodplain Management compliance factor if the proposed project requires elevation due to the project activity of new construction, reconstruction, or if it meets the definition of substantial improvement. The Tier 2 review forms include 24 CFR 55 criteria that are irrelevant to the HRRP activities.

Corrective Actions: To address this deficiency, within 90 days of receipt of the letter, the grantee is requested to take the following actions:

1) The 8-Step Decision Making Process must be revised and completed for the properties within the 100-year floodplain to comply with 24 CFR 55.20. The estimated acreage of eligible applicants for each island within the 100-year floodplain must be determined and incorporated into an amended Final Notice and analysis document. The notices should be re-published in appropriate local printed news medium to include location and acreage so that it applies to previously approved and eligible project applicants;

2) The HRRP Program Policy, the 8-Step Process, and the Tier 1 EAs and Tier 2 review forms must be amended to incorporate the federal elevation requirements for new construction, reconstruction, and rehabilitation projects that meet the substantial improvement threshold. Substantial improvement must be defined as part of the process, with the Program Policy and Procedures and Tier 1 EAs establishing the process for determining substantial improvement. The Tier 2 review forms must also be amended to require that a substantial improvement determination be made. It is also recommended that 24 CFR 55 criteria that are not within the HRRP scope, i.e., functionally dependent uses, critical actions, be removed from the Tier 2 review forms so that emphasis is only on relevant criteria; and

3) Completed Tier 2 review forms for rehabilitation projects within the 100-year floodplain must be re-evaluated to determine if they meet the substantial improvement definition. The same evaluation must be performed for reconstruction projects within the 100-year floodplain. If reconstruction or substantial improvement projects are within the 100-year floodplain, then the grant and construction status must be determined to assess the extent of noncompliance and if the project remains eligible for funding.

Status: The corrective actions were taken and submitted to HUD. This Finding has been closed as of 2023.

Finding 10: Noncompliance with 24 CFR §58.5(i)(2)(i) requirement that all properties be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances that could affect the health and safety of occupants

Condition: The grantee is not determining and documenting compliance with 24 CFR 58.5(i)(2)(i).

- 1) The regulatory requirement to screen for hazardous materials, contaminants, and toxic materials was eliminated from the Tier 1 EAs and Tier 2 review forms that were revised on December 11, 2020.
- 2) The original and second versions of the tiered EAs included the screening requirement, but the screening methods were revised, and there was no evidence that screening occurred, and no source documentation was provided in the individual ERRs that were reviewed.
- 3) The three versions of the Tier 1 EAs specify that screening will occur at the initial site inspections to determine if the home requires contamination and mitigation measures. This will apply to the on-site visit to establish if there are contaminants or toxic substances (RECs) on the property that may be indicators of contaminants. RECs are not limited to mold, asbestos, and lead but include other potential contaminants such as leaking underground or above-ground storage tanks, distressed vegetation, stained soil or pavements, faulty septic systems, etc. The Tier 1 EAs, Tier 2 review forms, and ECR's provide no process or checklist for these contamination screenings.
- 4) Version 2 of the Tier 2 review forms asks if "*based on the findings in the inspection report, does this home require contamination and toxic substances mitigation measures?*" These boxes are not checked in any of the files reviewed, and there is no documentation in the ERR that would give an indication of required mitigation.

Criteria: VIHFA is subject to the following requirements: 24 CFR §58.5(i)(2)(i) and 24 CFR 58.38 - Environmental Review Record.

Cause: There are three versions of the Tier 1 EAs and Tier 2 review forms, with the original and second versions recognizing that contamination screening and on-site inspections are required to determine compliance, but the Tier 2 review forms do not have any evidence that screenings or on-site investigations occurred. Version 3 of the Tier 1 EAs eliminates references to screening for contamination and toxic substances but requires compliance screening to be done "*during the Site-Specific Damage Assessment, identified site specific environmental concerns will be addressed at the Tier II level.*" "*Site specific environmental concerns*" to be screened are not detailed in the Tier 2 review forms, and the responsibility for who performs these inspections is not specified in either the Tier 1 EAs or Tier 2 review forms. If it is the responsibility of the Construction Managers during the initial inspection, it is not specified in the HRRP Policies and Procedures. Site damage assessments are performed by the construction managers as part of the initial inspection, as per the HRRP Policies and Procedures, but there is no inspection requirement for RECs other than mold, lead, or asbestos during the initial inspection. There is inconsistency in the method of determining compliance in the Tier 1 EAs and Tier 2 review forms and no defined policy and procedure or checklist to document potential RECs.

Effect: Failure to screen and mitigate for contamination as part of the environmental review could result in placing occupants and property within harm's way. The regulation is concerned with protecting the health and safety of occupants from harmful on or off-site pollutants and

protecting the intended utilization of property. Further, properties where mitigation is not feasible are ineligible for funding as determined through compliance screening.

Corrective Actions: To address this deficiency, within 90 days of receipt of the letter, the grantee is requested to take the following actions:

- 1) Provide source documentation for the completed Tier 2 review forms to support compliance determinations. If screening for Superfund, the Resource Conservation and Recovery Act (RCRA), or other known contaminated sites has not occurred, NEPAssist or similar database must be used to map locations for all completed reviews to determine if any project sites are located within the ASTM E1527-13 established search distances. Properties with contaminated sites within that radius must be further screened, and documentation must be included in the respective ERRs to support the findings;
- 2) Provide source documentation to demonstrate partial compliance with the Contamination and Toxic Substances factor for projects without a completed Tier 2 environmental review. Partial compliance can be determined at the Tier 1 EA level if NEPAssist or similar GIS tools and data are available to make a broad level compliance determination of the properties. If not, the Tier 2 review form must be amended to screen for contamination, and the Tier 1 EA must explain the process and sources for making the compliance determinations;
- 3) Develop a field reconnaissance checklist to determine if the site is likely contaminated by recording any RECs; and
- 4) Establish who will perform the field reconnaissance and document findings through revisions to the HRRP Policies and Procedures.

Status: The corrective actions were taken and submitted to HUD. This Finding has been closed as of 2023.

August 2022- No Housing related assessments or Findings

July 2023- No Housing related assessments or Findings.