

DE-2011-000064



THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

**ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM
(EECBG)**

ASSISTANCE AGREEMENT

Between

PUERTO RICO INFRASTRUCTURE FINANCING AUTHORITY

And

PUERTO RICO DEPARTMENT OF STATE

Contract number 2011-000940

A handwritten signature in black ink, followed by a large checkmark.

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**GOVERNMENT ENERGY PROGRAM
ASSISTANCE AGREEMENT WITH ARRA FUNDS**

**Pursuant to the provisions of the American Recovery and Reinvestment Act of
2009 (ARRA), the Energy Efficiency and Conservation
Block Grant Program (EECBG)**

Contract number 2011-000940

This Memorandum of Understanding (this "Agreement"), dated as of April 29th, 2011, is entered by and between the PUERTO RICO INFRASTRUCTURE FINANCING AUTHORITY ("PRIFA"), a public corporation and instrumentality of the Commonwealth of Puerto Rico, constituting an independent corporate and politic entity, employer identification number 66-0480699, herein represented by its Executive Director, José Basora Fagundo, of legal age, married, engineer, and resident of Trujillo Alto, Puerto Rico, duly authorized to execute this Agreement pursuant to Act Number 8 of March 9, 2009 and; the PUERTO RICO DEPARTMENT OF STATE ("SUBRECIPIENT"), employer identification number 66-0637290, herein represented by the Secretary of State, Hon. Kenneth D. McClintock, of legal age, married, lawyer, and resident of San Juan, Puerto Rico, duly authorized to execute this "Assistance Agreement" pursuant to Act Number 8 of March 9, 2009 and to Act Number 101 of July 12, 2002, 3 PR Stats Ann §53(14) (collectively referred to herein as the "Parties").

WITNESSETH:

WHEREAS, pursuant to Agreement number 2011-132031, the Energy Affairs Administration awarded the SUBRECIPIENT the sum of Six Hundred Thousand Dollars (\$600,000) (the "Grant") under the Energy Efficiency and Conservation Block Grant Program ("EECBG") which was authorized as a funding opportunity under the American Recovery and Reinvestment Act of 2009 ("ARRA"); and

WHEREAS, SUBRECIPIENT will use proceeds of the SUBGRANT for the construction of a building energy retrofit project which includes retrofitting its facilities located in THE DEPARTMENT OF STATE BUILDING in Old San Juan, Puerto Rico, and installing energy efficient air conditioning system to improve energy efficiency and whose contemplated tasks are identified in more detail in **APPENDIX I** to this Agreement (the "Project"); and

WHEREAS, the Agreement signed between the Energy Affairs Administration and the SUBRECIPIENT has an established limited performance period of one (1) year. Said period is from September 30th, 2010 up until September 30th, 2011. SUBRECIPIENT, has requested PRIFA's immediate assistance whereas the funds may be lost if they are not used within the specified time frame; and

WHEREAS, PRIFA and the SUBRECIPIENT, as instrumentalities of the Government of Puerto Rico, are committed to making the uses and receipts of these resources visible to the public through clear, concise and timely reporting and maintaining the highest standards of accountability and transparency in the use of ARRA funds; and

WHEREAS, the Government of Puerto Rico, in line with the goals of ARRA, strives to stimulate economic opportunities and employment through the investment of the ARRA Funds and to avoid unnecessary delays, waste and cost

overruns in the management and execution of works funded through these resources; and

WHEREAS, PRIFA will coordinate all efforts internally and with SUBRECIPIENT as such efforts, endeavors, or activities may be required or desirable to manage the receipt, uses and accountability of ARRA Funds under the SUBGRANT, and to maximize such resources; and

WHEREAS, to advance and facilitate the purposes of ARRA and to assure the expeditious receipt, use and proper accountability of funds under the SUBGRANT, the Parties are entering into this Agreement; *provided, however*, that nothing herein shall be interpreted to supersede or be contrary to ARRA, ARRA Regulations, as this term is defined below, or the SEP.

NOW, THEREFORE, in consideration of the promises and other good and valuable consideration, hereinafter provided, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby enter into this Agreement to set forth the terms and conditions between the Parties, as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

1.1 For purposes of this Agreement, the following words and terms shall have the meanings set forth below:

"Agreement" shall mean this document, together with all Amendments, Appendices issued hereunder from time to time.

"ARRA" shall have the meaning ascribed to this term in the Recitals hereto.

"ARRA Funds" shall mean any funds that are made available from appropriations made under the ARRA. Where the context shall require, it refers to the ARRA Funds used for EECBG.

"ARRA Regulations" shall mean all rules, regulations, guidance, norms, interpretative letters and any other expressions issued, as amended from time to time, by the United States and any of its federal agencies, under or with respect to ARRA and pre-existing programs funded totally or partially with ARRA, having force of law and applicable to Puerto Rico, and any other rule and regulation issued in connection with the Program and applicable to Puerto Rico, as they may be modified from time to time.

"Contractor" shall mean any legal or natural person contracting with SUBRECIPIENT or with PRIFA to execute a task for the Project under EECBG or provide goods or services, payable with ARRA Funds under EECBG, and shall include, where the context so admits, its officers, employees, agents and Subcontractors.

"Effective Date" shall mean the date on which this Agreement is signed by the Parties, or if signed on separate days, the date of the last signature.

"Event of Default" shall mean the events described in Section XIII of this Agreement which shall constitute a breach of this Agreement.

"Grant" shall have the meaning ascribed to this term in the Recitals hereto.

"Payment (s)" shall mean any and all funds requested to SUBRECIPIENT under this Agreement.

"PR-ARRA Website" shall mean the website www.buengobiernopr.com/arra created to comply with ARRA and ARRA Regulations where all ARRA related disclosure for the Puerto Rico will be posted.

"Project" shall have the meaning ascribed to this term in the Recitals hereof.

"SubGrant" shall have the meaning ascribed to this term in the Recitals hereof.

"SUBRECIPIENT" shall mean a subrecipient of DOE under ARRA, in this case the Puerto Rico Department of State.

"Subcontractor" shall mean any legal or natural person that furnishes goods or services to SUBRECIPIENT'S Contractor(s) under the Project, payable directly or indirectly, with ARRA Funds.

"Task Force" shall mean the group assigned the responsibility of coordinating and conducting oversight in Puerto Rico of the use given to ARRA Funds and its management and that is in charge of monitoring the accountability objectives of ARRA, as provided in Executive Order Number 2009-05 dated February 17, 2009.

1.2 The Recitals to this Agreement are incorporated as an integral part hereto.

1.3 The terms "as directed," "as required" or "as permitted" and similar terms shall refer to the direction, requirement, or permission of PRIFA. The terms "sufficient," "necessary" or "proper" and similar terms shall mean sufficient, necessary or proper in the sole judgment of PRIFA. The terms "approval," "acceptable" or "satisfactory" or similar terms shall mean approved by, or acceptable to, or satisfactory to PRIFA. The terms "include," "included" or "including" and similar terms shall be deemed to be followed by the words "without limitation".

1.4 In this Agreement, unless a contrary intention appears:

(a) Clause headings in this Agreement are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.

(b) A reference to a clause or sub-clause is a reference to a clause or sub-clause of this Agreement.

(c) A reference to an Appendix is a reference to an Annex to this Agreement, and includes such Annex as amended or replaced from time to time by agreement in writing between the Parties.

(d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

(e) A reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Government of Puerto Rico or the United States as amended or replaced from time to time.

ARTICLE II TERM

2.1 **Effective Date.** This Agreement shall become effective on the Effective Date.

2.2 Duration of Term. The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until all ARRA Funds under the SUBGRANT are used in their entirety by SUBRECIPIENT and SUBRECIPIENT has been audited by the governmental entities in charge of auditing the uses of ARRA funds received by SUBRECIPIENT and no further action is required of SUBRECIPIENT pursuant to EECBG and ARRA or as a result of such audits. Notwithstanding the term of this Agreement, SUBRECIPIENT shall obtain permits, pass inspection and complete the Project within the period of eight (8) months from the Effective Date as such period may be extended upon written request by PRIFA .

ARTICLE III GENERAL SCOPE OF OBLIGATIONS

3.1 SUBRECIPIENT has requested PRIFA, and PRIFA will , in good faith and with diligence, undertake the design, construction and operation of the Project, on the terms and conditions set forth in this Agreement and the provisions applicable under ARRA.

3.2 SUBRECIPIENT has delegated in PRIFA the responsibility of selecting the designer, manufacturer, contractor, and installer.

3.3 PRIFA shall not materially change the nature or scope of the Project without the prior written consent of SUBRECIPIENT, which consent shall not be unreasonably withheld or delayed.

3.4 PRIFA shall cooperate in good faith with SUBRECIPIENT in any evaluation, planning, auditing or monitoring activities conducted or authorized by SUBRECIPIENT to verify eligibility of contractors, subcontractors and service providers as well as ARRA compliance and completion of work or tasks authorized under the Project and EECBG.

3.5 To advance and facilitate the duties and obligations of SUBRECIPIENT and PRIFA under the ARRA, assure the expeditious receipt, use and accountability of the SUBGRANT, the Parties are obliged to comply with the provisions of this Agreement and SUBRECIPIENT shall comply with any reasonable additional requests that PRIFA may make to enable the Parties: (i) to carry out their reporting obligations under ARRA; (ii) to ensure that ARRA Funds are being utilized in accordance with ARRA Regulations and any other legal obligations applicable to SUBRECIPIENT and PRIFA; and, (iii) to otherwise carry out its obligations under this Agreement.

ARTICLE IV DUTIES



4.1 PRIFA hereby agrees to designate a person or persons accountable for the Project activities that shall have responsibility and authority to coordinate and review the planning, implementation, and performance of the Project and uses of the SUBGRANT and shall be the contact person for SUBRECIPIENT in all matters related to the Project.

4.2 In the use of SUBGRANT moneys, the Parties shall take all reasonable actions to also avoid unnecessary delays and cost overruns of the Projects.

4.3 PRIFA hereby agrees to ensure to the SUBRECIPIENT that all funds spent proceeding from the SUBGRANT are clearly distinguishable from non-ARRA Funds in all SUBRECIPIENT financial systems, business systems (i.e., grant and contract writing systems), and accounting systems. For any obligation funded by

both ARRA and non-ARRA Funds, PRIFA must record separately the original award amount and the increase to said amount funded by the ARRA Funds.

4.4 The Parties hereby agree to fully cooperate with each other in the exercise of their respective responsibilities under EECBG, ARRA and this Agreement.

4.5 PRIFA shall establish and maintain accurate files and records of all aspects of the Project including backup documentation for invoices submitted by or payment made to Contractors, Subcontractors and vendors for expenditures of funds under the Project. Examples include but are not limited to files, records, books, invoices, documents and payroll. SUBRECIPIENT shall request such documentation to be kept by its Contractors and Subcontractors for expenditures of funds under the SUBGRANT. All records shall be maintained in a readily accessible location and condition for a period of not less than seven (7) years after final payment under this Agreement or until any final audit has been fully completed, whichever is later, unless a longer term is required by law or regulation. The Parties acknowledge that documentation referred above may be requested by the DOE and/or other designated federal agents, from the Office of the Inspector General, the Comptroller General and/or the Department of Justice.

4.6 SUBRECIPIENT may inspect and audit records pertaining to the Project with its own internal resources or with independent qualified contractors of PRIFA.

ARTICLE V PAYMENTS

5.1 The maximum amount of Payments under this Agreement shall not exceed **Six Hundred Thousand Dollars (\$600,000)**.

5.2 Payments. Payments to PRIFA shall be made in compliance with standard practice, methods and procedures used for such type of federal funds. To this end, PRIFA shall be paid on a monthly basis as follows:

- (a) By the tenth (10th) day of each month, PRIFA shall submit to SUBRECIPIENT a written request for Payment ("Request for Payment") for money spent on eligible activities or costs directly related to the Project.
- (b) The Request for Payment shall be accompanied by: (i) a certification, included as **APPENDIX II** to this Agreement, to the effect that PRIFA has kept and will continue to keep, as part of the records available for inspection by SUBRECIPIENT, the Office of the Inspector General, the Office of the Comptroller General or any legally authorized entity to demand access to said records, all invoices submitted to PRIFA related to the Project by contractors, subcontractors and/or vendors and any other proper documentation to justify said request for Payment; and (ii) a similar certification signed by the Designer of the Project to the effect that the work performed or items installed corresponding to the previous Request for Payment were performed to the specifications of the Project Design.
- (c) If the Request for Payment is satisfactory to SUBRECIPIENT, SUBRECIPIENT shall process and issue the Payment within five (5) days of receipt.
- (d) If the Request for Payment is not satisfactory to SUBRECIPIENT, SUBRECIPIENT shall notify to PRIFA within five (5) days of receiving the Request for Payment: (i) that the

Request for Payment is not satisfactory; (ii) the reasons the Payment is not satisfactory and (iii) steps to be taken by PRIFA or additional documentation to be provided by PRIFA needed for SUBRECIPIENT to process the Payment. In such a case, SUBRECIPIENT shall process and issue payment within five (5) days of receipt of additional documentation reasonably requested or receipt of satisfactory proof that PRIFA addressed the issues that made the request for the Payment unsatisfactory to SUBRECIPIENT.

- (e) SUBRECIPIENT shall have no obligation to disburse any portion of the Payment requested until (i) PRIFA submits any additional documentation required for receipt of the Payment as reasonably requested by SUBRECIPIENT; and (ii) the application and additional documentation is in all respects acceptable to SUBRECIPIENT;
- (f) SUBRECIPIENT shall make all disbursements of the Payment pursuant to this Section by check payable to PRIFA sent by hand delivery.

5.3 SUBRECIPIENT reserves the right to modify or to not pay if (i) the actual work or installation of items related to the Project differ from those proposed by PRIFA as per the Project Design approved by SUBRECIPIENT; (ii) if the Project fails inspection by SUBRECIPIENT engineers; and (iii) the documents submitted are found to be inaccurate, fraudulent or otherwise deceitful.

5.4 Payments made by SUBRECIPIENT under this Agreement are budgeted and will be paid from **Account No.**

ARTICLE VI REPORTING DUTIES

6.1 PRIFA hereby agrees to use all funds under the Project in a manner that is transparent to the public and to provide PRIFA, in a clear, accurate and timely manner, all necessary information and documents as may be necessary for the preparation of reports to fulfill reporting requirements under ARRA or any other applicable regulation. All necessary information, including the information listed in **APPENDIX III**, shall be provided by PRIFA to SUBRECIPIENT on a regular basis, as necessary for SUBRECIPIENT to comply with its own reporting requirements related to the funds.



6.2 In accordance with ARRA provisions, PRIFA agrees to provide SUBRECIPIENT with the information for the required reports for EECBG under ARRA, such as, and not limited to, the information included in **APPENDIX III**, a list of all activities for which the funds were expended, a description of the Project or activity, an evaluation of the completion status of the Project or activity, an estimate of the number of jobs retained or created by the Project or activity; and monitoring and oversight visits performed during the reported period. Noncompliance may result in withholding of future payments, suspension or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies. Therefore, both Parties agree to assist each other in ensuring compliance with all reporting requirements.

6.3 All ARRA Regulations in connection with EECBG and the SUBGRANT now in effect and as amended and supplemented from time to time, applicable to SUBRECIPIENT and PRIFA are hereby incorporated by reference.

ARTICLE VII PROCUREMENT DUTIES

7.1 When procuring property and services for the Project, PRIFA will follow the same policies and procedures it uses for procurements from its non-Federal funds which reflect applicable local laws and regulation. PRIFA will ensure that every purchase order or other contract includes any clauses required by ARRA or applicable federal statutes and executive orders and their implementing regulations.

7.2 At a minimum, PRIFA agrees to comply with the following in connection with contract awards to contractors and subcontractors:

- a. PRIFA agrees to provide the SUBRECIPIENT, upon request, a summary of all contracts and orders (and modification to existing contracts and orders) to be paid wholly or partially with the SUBGRANT, including a description of the required products and services to be provided thereunder.
- b. PRIFA agrees to provide appropriate oversight of contracts to ensure outcomes that are consistent with the Project and maintain proper documentation of contracts available for local and federal audits.
- c. PRIFA agrees to ensure proper oversight of contracts other than fixed price in order to mitigate government's risks and deviations from ARRA goals.
- d. When funds from the SUBGRANT are used to contract professional services, PRIFA shall follow applicable Puerto Rico and Federal laws and regulations for such type of contracting while ensuring the goals of ARRA of transparency, accountability, preservation and creation of jobs and overall economic stimulus, are attained.
- e. When contracting, PRIFA shall abide by the ethical principles of Act No. 84 of June 18, 2002.

7.3 PRIFA agrees to include terms and conditions in contracts, contract documents, award documents and related communications necessary for effective implementation of ARRA data collection and accountability requirements, including clauses and provisions necessary to clarify that parties entering into contracts with SUBRECIPIENT are legally obligated to comply with ARRA provisions and ARRA Regulations applicable to them, including providing to PRIFA and/or the SUBRECIPIENT the data that may be required to meet any reporting requirements under ARRA.

7.4 PRIFA agrees to include in its contracts with Contractors and Subcontractors applicable to the prosecution of all work covered by this Agreement and receiving ARRA Funds, the provisions of **ARTICLE VIII**.

7.5 PRIFA acknowledges, and further agrees to include in agreements with Contractors and Subcontractors, that any moneys provided through ARRA constitutes one-time funding.

7.6 To the extent that a Project Design of the Project was procured prior to the Effective Date of this Agreement, PRIFA shall provide SUBRECIPIENT a certification, to the effect that such procurement was done in compliance with the terms of this Agreement and applicable legal requirements. Both the

certification and copy of the Project Design shall be incorporated as **APPENDIX III** to this Agreement.

ARTICLE VIII LEGAL COMPLIANCE

8.1 PRIFA shall, at all times, observe and comply with the provisions of all United States and Puerto Rico laws, regulations, applicable local ordinances and ARRA Regulations, including guidance or any other regulations issued by the DOE and the PRIFA for the implementation of ARRA in Puerto Rico, that are applicable to the receipt or use of SUBGRANT. Particular legal requirements not expressly included in this Agreement (including in its Appendices) and applicable to the Project in connection with the SUBGRANT shall also be complied with by the Parties, Contractors and Subcontractors and shall be considered incorporated herein by reference.

8.2 Authority of the U.S. Comptroller General. The Parties acknowledges that, the U.S. Comptroller General and his representatives have the authority and rights prescribed under ARRA with respect to contracts funded with moneys made available under ARRA and the use of ARRA funds, to: (1) examine any records of the Parties or any of its contractors, or any Government of Puerto Rico or local agency administering this Agreement, that directly pertain to, and involve transactions relating to, the Agreement and SUBRECIPIENT; and (2) interview the SUBRECIPIENT or any of its contractors, or any employees of PRIFA regarding the EECBG, this Agreement, the Project and/or any related activities. The U.S. Comptroller General may audit, review and report on uses of ARRA funds and post such reports in the Internet. Nothing in ARRA shall be interpreted to limit or restrict in any way any existing authority of the U.S. Comptroller General or the Comptroller of Puerto Rico.

8.3 Prohibited uses of funds. Pursuant to Section 1604 of ARRA, no casino or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by ARRA may be funded with ARRA funds.

8.4 Avoid Delays. PRIFA acknowledges and agrees that one of the ARRA Requirements is that projects avoid all unnecessary delays, waste and costs overruns. PRIFA shall manage the Project consistently with this requirement.

8.5 Buy American. PRIFA, as an entity of the Government of Puerto Rico, acknowledges that Section 1605 of ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects funded with ARRA moneys be manufactured in the United States ("Buy American"). Pursuant thereto, PRIFA agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of PRIFA and federal agencies. PRIFA may obtain written waivers provided the conditions stated in Section 1605(b) of ARRA are complied with, namely: (1) applying these Buy-American requirements are inconsistent with the public interest; or (ii) iron, steel and the relevant manufactured goods are not produced in sufficient and reasonably available quantities and of satisfactory quality; or (iii) inclusion on iron, steel and manufactured goods produced in the United States will increase the cost of the overall project by more than twenty-five percent (25%); and (iv) the Buy-American Requirements can be applied in a manner consistent with U.S. obligations under international agreements.



8.6 Davis-Bacon. Section 1606 of ARRA requires that all laborers and mechanics PRIFA employed by contractors and subcontractors in projects funded or assisted in whole or in part with funds from ARRA shall be paid wages at rates not less than the wage rates prevailing in similar projects in the locality in accordance with the Davis-Bacon Act.

8.7 Lobbying Restrictions. No Federal appropriated funds have been paid or will be paid, by or on behalf of PRIFA and/or any applicable Government of Puerto Rico grantee, to any person for influencing or attempting to influence an officer or employee of the applicable federal 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. 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 the applicable Federal Sponsor, 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, PRIFA shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. PRIFA 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 PRIFA's contractors and subcontractors shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance is placed by the federal agencies when transactions are made or entered into with recipients. Submission of this certification is a prerequisite for making or entering into such transactions 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.

8.8 Federal False Claims Act. PRIFA shall not: (i) knowingly file, or cause to be filed before the Government of the United States a false claim for payment; (ii) knowingly make, use, or cause to be made or use, a false record or statement to get a false claim paid or approved by the government; (iii) conspire to defraud the Government of the United States by getting a false claim allowed or paid; (iv) falsely certify to the United States the type or amount of property to be used; (v) certify receipt of property on a document without completely knowing that the information is true; (vi) knowingly buy Government of the United States property from an unauthorized officer of the Government of the United States; or (vii) knowingly make, use, or cause to be made or used a false record to avoid or decrease an obligation to pay or transmit property to the Government of the United States.

8.9 Federal False Claims Act Referrals. PRIFA shall promptly refer to the Task Force of the Government of Puerto Rico, with a copy to the Executive Director of PRIFA, any credible evidence that an officer, principal, employee, agent, contractor, subcontractor, or any other person has taken any action for which such person could be subject to liability under the Federal False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA Funds.

8.10 Section 1553 of ARRA. PRIFA shall also comply with Section 1553 of ARRA which requires that an employee of any non-federal employer receiving ARRA Funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Recovery Accountability and Transparency Board, an inspector general, the Comptroller General of the United States, a member of Congress, a Puerto Rico or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee, (or such other person working for the employer who has authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency or their representatives, information that the employee reasonably believes is evidence of: (1) gross mismanagement of an agency contract or grant relating to ARRA Funds; (2) a gross waste of ARRA Funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA Funds; (4) an abuse of authority related to the implementation or use of ARRA Funds, or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued in connection with ARRA Funds.

8.11 No Previous Crimes. PRIFA shall require to its contractors to certify and guaranty that at the execution of the Contract related to the execution of the Project, the Contractor, its partners, associates, officers, principals, employees, agents subsidiaries and parent company have not been convicted, or that it has no knowledge of being the subject of any investigation in either a civil or a criminal procedure in a state or federal court or administrative body in Puerto Rico, any state of the United States, the federal Government of the United States or internationally, for criminal charges related to the public treasury, the public trust, a public function, or a fault that involves public funds or property. It is expressly acknowledged that this certification is an essential condition of said Contract. If the certification is not correct in its entirety or in any of its parts, it shall constitute sufficient cause for PRIFA to terminate the Contract immediately, without prior notice, and the Contractor will have to reimburse PRIFA any amount of money received under the Agreement.



If the status of the Contractor with regards to the charges previously mentioned changes at any time during the term of the Contract, it shall notify PRIFA immediately. Failure to comply with this responsibility constitutes a violation of this clause, and shall result in the remedies mentioned in the previous paragraph.

The foregoing Contract shall include a clause to the effects that it can be dissolved in case probable cause for arrest against Contractor is determined by the commission of related to the public treasury, against public function; or which involves public funds or property in the in a state or federal court.

In the case that there is still no determination of probable cause for arrest, allegation of guilt, nor accusation against a Contractor, but expressions have been made or admissions of crime of such Contractor, PRIFA, will have to refer the matter to the Secretary of Justice, whom in turn, will make the determinations and recommendations pertinent to such contractor.

Contractor can not be banned from receiving federal funds, contracts or assistance and is not in the Excluded Parties List System of the U.S. Government (<https://www.epls.gov/>).

8.12 Pursuant to ARRA, PRIFA shall provide to SUBRECIPIENT all information and documents related to this Agreement in a clear, accurate and timely manner in order for SUBRECIPIENT to fulfill its reporting requirements under ARRA.

8.13 In addition to any other job posting PRIFA may usually utilize, SUBRECIPIENT will, and will cause its contractors and subcontractors to, post in the website www.puertoricotrabajo.com all positions for which they intend to hire workers as result of the Project.

8.14 The Parties also agree to comply with the requirements listed in the Appendices hereto, which are incorporated by reference.

ARTICLE IX CONTRACTORS AND SUBCONTRACTORS

9.1 PRIFA shall bind each Contractor and shall cause Contractor to bind each Subcontractor to the applicable terms of ARRA, and shall take reasonable steps to ensure that such commitments are included in each contract with such Contractors and Subcontractors, including all clauses of Article VIII of this Agreement and of this Article IX.

9.2 PRIFA shall also require that: (i) any Contractor engaged by it exercises due diligence in the performance of the services for which it was hired; (ii) any Subcontractor shall be a licensed professional, as applicable, with experience in the performance of the work subcontracted to it; (iii) regional firms from as many areas of Puerto Rico as possible shall be used as often as practicable for the performance of any contracted and subcontracted services with ARRA Funds; and, (iv) Contractors shall make available to the PRIFA and/or SUBRECIPIENT, upon request, all certifications required under Puerto Rico Law and regulations. PRIFA shall also cause Contractors to ensure Subcontractors are informed of their duty to comply with all applicable laws and regulations for contracting with the Commonwealth of Puerto Rico and applicable terms and conditions for the projects being paid with ARRA Funds.

9.3 PRIFA shall be responsible for withholding from Contractors and consultants, as applicable, withholding taxes and delivery of such taxes to the Department of the Treasury on a monthly basis.

9.5 PRIFA agrees to contractually require each Contractor, to include in their respective contracts with Subcontractors who will fulfill obligations payable with the SUBGRANT, to: (i) provide PRIFA such information and documents as PRIFA or SUBRECIPIENT may reasonably request related to the use of ARRA Funds; (ii) consent to any reporting and publication, in any form or media, including in the PR-ARRA Website, by SUBRECIPIENT or PRIFA of such information regarding the Contractor or Subcontractor, the task in which the Contractor or Subcontractor is involved, or regarding any contract or grant or other arrangement with PRIFA, compensated in whole or in part with ARRA Funds, to which such Contractor or Subcontractor is a party to; and, (iii) agree and acknowledge that each Contractor's and Subcontractor's accounting systems may be subject to inspections by local and federal auditors in connection with the use of ARRA Funds, in each of the instances listed in (i)-(iii), by PRIFA, SUBRECIPIENT or the applicable local or federal agency as they may determine necessary or advisable in order to ensure compliance with, or verify such compliance, by PRIFA and SUBRECIPIENT under ARRA, or which may be necessary or advisable in order for PRIFA and SUBRECIPIENT to discharge their obligations under ARRA .

ARTICLE X CERTIFICATION

10.1 PRIFA shall provide SUBRECIPIENT any required certification regarding the proper use of the funds under the SUBGRANT as may be required from SUBRECIPIENT under the EECBG or under ARRA.

10.2 The undersigned certifies, to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of PRIFA, 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.
- b. 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents or contracts at all tiers and that all Contractors and Subcontractors 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.



ARTICLE XI INDEMNIFICATION

11.1 PRIFA shall indemnify and save harmless SUBRECIPIENT and its officers, agents and employees ("Indemnified Persons") from, and, if requested, shall defend the Indemnified Persons against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person or loss of or damage to property, arising directly or indirectly from (1) injury to or death of persons, including but not limited to employees of SUBRECIPIENT, PRIFA, or any third party; (2) injury to property or other interests of SUBRECIPIENT, PRIFA, or any third party; (3) violation of local, state, or federal common law, statute, or regulation, including but not limited to environmental laws or regulations; or (4) strict liability imposed by any law or regulation; so long as such injury, violation, strict liability, or shortfall arises as a result of PRIFA's performance or failure to perform with respect to the Project, however caused, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on SUBRECIPIENT or any other Indemnified Persons, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the negligence of SUBRECIPIENT or any other Indemnified Person and

is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on PRIFA, its contractors, subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Indemnified Person's costs of investigating any claims against any of the Indemnified Persons.

PRIFA agrees to include in all contracts with Contractors, and to contractually require from them, to include in their respective contracts with Subcontractors, who will fulfill obligations payable with the SUBGRANT, a full release for the benefit of PRIFA from any and all claims that may arise from the the Project.

11.2 PRIFA acknowledges that any claims, demands, losses, damages, costs, expenses, and legal liability that arise out of, result from, or are in any way connected with the release or spill of any hazardous material or waste as a result of the work performed in connection with the Project are expressly within the scope of this indemnity, and that the costs, expenses, and legal liability for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remedial work, penalties, and fines arising from strict liability, or violation of any local, state, or federal law or regulation, attorney's fees, disbursements, and other response costs incurred as a result of such releases or spills are expressly within the scope of this indemnity.

11.3 SUBRECIPIENT's payment obligations under this Agreement shall be limited to the Cash Payment Advances provided for in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall SUBRECIPIENT be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with the Project and this Agreement or SUBRECIPIENT's performance or nonperformance of its obligations under this Agreement.

ARTICLE XII INSURANCE

12.1 Without limiting PRIFA's liability under this Agreement, PRIFA shall maintain and require any contractor or subcontractor, from the date hereof until the date of completion of the Project, from a company or companies lawfully authorized to do business in the Commonwealth of Puerto Rico, adequate insurance and amounts of insurance. In all such policies, SUBRECIPIENT and the Commonwealth of Puerto Rico shall be named as additional insured. PRIFA shall provide that such policies are primary insurance to any other insurance available to the additional insured, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to limits of liability.

12.2 All policies shall be endorsed to provide at least thirty (30) days' advance written notice to PRIFA and SUBRECIPIENT of cancellation of policy for any reason, nonrenewal or reduction in coverage and specific notice mailed to PRIFA's address for notices pursuant to Clause 14.8.

12.3 Within fifteen (15) days from the date hereof, PRIFA shall furnish to SUBRECIPIENT certificates of insurance, and additional insured policy endorsements, in form and with insurers satisfactory to SUBRECIPIENT, evidencing all coverage and shall furnish complete copies of policies promptly upon SUBRECIPIENT's request. Failure to maintain insurance shall constitute a

material breach of this Agreement and may result in the cancelation of the Cash Payment Advance.

12.4 PRIFA shall be responsible for obtaining Workers' Compensation coverage as required by the Workmen's Accident Compensation Act of the Commonwealth of Puerto Rico.

ARTICLE XIII EVENTS OF DEFAULT AND REMEDIES

13.1 The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Agreement:

- a. *False Claims.* Any statement, representation or warranty contained in this Agreement or in any other document submitted to SUBRECIPIENT under this Agreement is found by SUBRECIPIENT to be false or misleading.
- b. *Failure to Provide Insurance.* PRIFA or if applicable, the Contractor responsible for carrying out the Project, fails to provide or maintain in effect any policy of insurance required in Article XII.
- c. *Failure to Perform.* PRIFA fails to perform or breaches any provision or covenant of this Agreement to be observed by PRIFA as and when performance or observance is due and such failure or breach continues for a period of ten (10) days after receipt of written notice from SUBRECIPIENT.
- d. *Failure to Comply with the laws.* PRIFA fails to abide by any applicable Federal Law provision, guidance or regulation.

13.2 Upon and during the continuance of an Event of Default and after any applicable cure period has elapsed, SUBRECIPIENT may do any of the following, individually or in combination with each other or any other remedy:

- a. *Termination.* SUBRECIPIENT may terminate this Agreement by giving a written termination notice to PRIFA. On the date specified in such notice this Agreement shall terminate and all rights of PRIFA hereunder shall be extinguished. The termination of this Agreement shall not operate to discharge any liability which has been incurred by PRIFA under this Agreement prior to the effective date of such termination. For the avoidance of doubt, SUBRECIPIENT shall not be required to pay any Cash Payment Advance to the PRIFA if the Agreement is terminated because the Project fails to meet all the requirements of the Regulation and this Agreement.
- b. *Withholding of the Cash Payment Advance.* SUBRECIPIENT may withhold all or any portion of the Cash Payment Advance not yet disbursed hereunder, regardless of whether PRIFA has previously submitted a request for such advance payment or whether SUBRECIPIENT has approved the disbursement of the Cash Payment Advance requested in any application. Any Cash Payment Advance withheld pursuant to this Section and subsequently disbursed to PRIFA after cure of applicable Events of Default shall be disbursed without interest.
- c. *Return of the Cash Payment Advance.* SUBRECIPIENT may demand the immediate return of any previously disbursed Cash Payment Advance that has been claimed or expended by PRIFA in breach of the terms of this Agreement, together with interest thereon from the date of disbursement at a 4% rate per annum.

13.3 Remedies Nonexclusive. Each of the remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The remedies contained herein are in addition to all other remedies available to SUBRECIPIENT at law or in equity by

statute or otherwise and the exercise of any such remedy shall not preclude or in any way be deemed to waive any other remedy.

ARTICLE XIV MISCELLANEOUS

14.1 No Third Party Rights. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation, other than the Parties hereto, any right, remedy or claim, legal or equitable, under or by reason of this Agreement, and all its provisions are intended to be and are for the sole and exclusive benefit of the Parties hereto.

14.2 Effect of Partial Invalidity. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

14.3 Effect of Covenants. All covenants, stipulations, obligations and agreements of SUBRECIPIENT and PRIFA contained in this Agreement are subject to law and the existing agreements and other legal obligations of SUBRECIPIENT and PRIFA, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time and upon any officer, board, body or commission to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

14.4 Governing Law. This Agreement shall be governed by applicable laws of the United States and the laws of the Commonwealth of Puerto Rico.

14.5 Other. At the execution of this Agreement, PRIFA and SUBRECIPIENT recognize that their acts in connection with use and reporting requirements of the SUBGRANT have taken into consideration the PRIFA's obligation to manage the flow of funds and reporting requirements under ARRA.

14.6 Additional Documents. PRIFA hereby agrees to diligently cooperate with all requests made by SUBRECIPIENT to immediately execute any and all documents and provide all information that may be required by SUBRECIPIENT to comply with applicable laws and regulations.

14.7 Notice Provisions. All notices, documents and other communications to be delivered pursuant to this Agreement between PRIFA and SUBRECIPIENT shall be directed:

If to the PRIFA:



Attention: Executive Director
Puerto Rico Infrastructure Financing Authority
Capital Center, 16th Floor
Arterial Chardón
San Juan, Puerto Rico 00918

Email : jdiaz@afi.gobierno.pr
Facsimile: 787-763-4415

If to Subrecipient:

Attention: Secretary of State
Puerto Rico Department of State
San José Street, San Francisco Corner
San Juan, Puerto Rico 00902

14.8 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same document.

THEREFORE, in consideration of the above, PRIFA and the SUBRECIPIENT confirm and approve hereto all such acts.

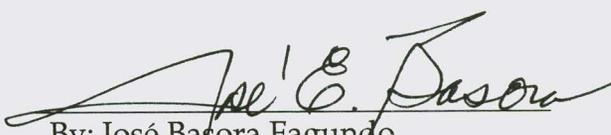
IN WITNESS WHEREOF the SUBRECIPIENT has approved this Agreement and executes it through its Secretary and PRIFA has approved this Agreement and executes it through its Executive Director, all as of the date and year first above written.

Puerto Rico Department of State

Puerto Rico Infrastructure Financing Authority



By: **Kenneth D. McClintock**
Title: Secretary for the
Department of State



By: **José Basora Fagundo**
Title: Executive Director

10/30 TR
10/30
JCB

APPENDIX I

The terms used in this Appendix I to the Agreement shall have the same meaning as in the Agreement.

THE PROJECT

a. The Project shall generally consist of retrofitting the facilities of the Department of State located in Old San Juan to improve energy efficiency. Said Project shall consist of:

- 1 Inspection of the building by PRIFA's AUTHORIZED REPRESENTATIVE to study its condition and determine its needs to become energy efficient (the "Inspection"), copy of the initial report is incorporated as part of this **APPENDIX I**
- 2 Develop a plan to make the Department of State Building facilities energy efficient (the "Plan")
- 3 Procure a Design of the Work to be Performed, including Drawings and Specifications (the "Project Design")
- 4 Procure a Basic Project Schedule, including principal tasks to be performed per month with an approximate cost of invoicing per month (the "Project Schedule")
- 5 Procure a Payment Schedule (the "Payment Schedule")
- 6 PRIFA shall review and approve the Project Design, the Project Schedule and the Payment Schedule before any work can be performed
- 7 Contracting qualified third party contractors to perform the work
- 8 Supervising that the work shall be done in accordance to the approved Plan and Project Design

b. Prior to the execution of this Agreement, PRIFA has already taken steps 1-2, whose implementation and payment with SUBGRANT funds shall be subject to PRIFA's approval.

Handwritten signature and checkmark.

APPENDIX II

RECORDKEEPING CERTIFICATION

The terms used in this Appendix III to the Agreement shall have the same meaning as in the Agreement.

The undersigned, _____, of legal age, _____(marital status), executive and resident of _____, Puerto Rico, in his capacity as _____ of the PUERTO RICO INFRASTRUCTURE FINANCING AUTHORITY ("PRIFA"), hereby certifies:

1. That my personal circumstances are as above stated.
2. That I am duly authorized to provide this certification.
3. That PRIFA has reviewed invoices from contractors, subcontractors and vendors for the work performed for the month of _____, 2011 in relation to the Project.
4. That to the best judgment and belief of PRIFA said invoices accurately reflect the work performed or items installed.
5. That the work for which the invoices were submitted was in accordance to the Project Design.
6. That all invoices, relevant communications, files, records, checks, books, payments, payroll and any other relevant backup documentation directly related to the Project submitted by or payment made to Contractors, Subcontractors and vendors for expenditures of funds under the Project have been received, reviewed and will be maintained in a readily accessible location and condition for a period of not less than seven (7) years after final payment under this Agreement or until any final audit has been fully completed, whichever is later.
7. The above is true to the best of my knowledge and belief.

In San Juan, Puerto Rico, this ____ day of _____ 201_.

By:

APPENDIX III

Reporting Requirements

Per Article VI, PRIFA, agrees to provide SUBRECIPIENT the following information:

- (a) **Information required under Section 1512 of ARRA**
- (b) **Information to submit reports and comply with requirements specific to the SUBGRANT awarded to SUBRECIPIENT**
- (c) **Information to comply and submit reports pursuant to other ARRA Regulations, including Federal OMB Implementing Guidelines**

As of the date of the Agreement, the minimum reporting requirements are contained in the OMB Implementing Guidance M-09-21 dated June 22, 2009. These requirements are explained in the *Puerto Rico Implementation Guidelines 09-02*. PRIFA should review these requirements and monitor subsequent updates to these guidelines and other ARRA Regulations.

Handwritten signature and checkmark.

APPENDIX IV

ADDITIONAL PROVISIONS/CONTRACTOR CERTIFICATIONS

1. The terms used in this Annex V to the Agreement shall have the same meaning as in the Agreement.
2. The Parties agree and acknowledge that this Agreement shall be filed for registration with the Office of the Comptroller of Puerto Rico and that the PRIFA shall not be entitled to a disbursement of funds until the registration of the Agreement with the Office of the Comptroller. SUBRECIPIENT shall provide to the PRIFA a certificate of the filing of the Agreement with the Office of the Comptroller. The PRIFA acknowledges and agrees that it shall be a requirement for the disbursement of funds by SUBRECIPIENT under the Agreement that PRIFA certify in all Cash Payment Advances requests as to the accuracy of the information provided therein.
3. PRIFA agrees to provide to SUBRECIPIENT all reports and information required by SUBRECIPIENT regarding compliance with the terms and conditions of the Agreement. PRIFA shall submit a final report detailing all acts performed in compliance with the Agreement upon request from SUBRECIPIENT.
4. PRIFA acknowledges the confidential nature of the non-public information of SUBRECIPIENT regarding its financial and information technology processes and of the operation of SUBRECIPIENT and the government agencies that function in coordination with the SUBRECIPIENT. PRIFA agrees to maintain and protect the confidential nature of all information that it receives from SUBRECIPIENT that is marked as non-public information of SUBRECIPIENT.
5. All communications between the Parties to the Agreement, as well as all reports, information and materials regarding the Agreement and PRIFA's and its agent's compliance with the Agreement, shall be the exclusive property of SUBRECIPIENT and shall not be used by PRIFA for purposes unrelated to the Agreement without SUBRECIPIENT's prior approval. All reports and information generated by PRIFA and its agents under the Agreement shall be delivered to SUBRECIPIENT without cost.
6. PRIFA shall provide all information regarding compliance with the Agreement to those persons and agents who may need it to ensure full compliance by PRIFA with its obligations under the Agreement provided, however, that PRIFA shall require all such persons and agents to assume the obligation to protect the confidential nature of any information provided to them under the Agreement.
7. PRIFA agrees to abide by all federal and Puerto Rico laws and regulations applicable to the Agreement and the compliance therewith, including, without limitation, the obligation to make all contributions and retentions that may be required under the Internal Revenue Code, the Puerto Rico Income Tax Code and any other applicable laws and regulations.
8. PRIFA shall not transfer or assign in any manner its rights and obligations under the Agreement without the prior written approval of SUBRECIPIENT. If PRIFA violates the terms of this clause, SUBRECIPIENT may terminate the Agreement.

9. PRIFA agrees not to discriminate against any person or entity based on the person's race, color, sex, religion, economic condition, political affiliation, age, social origin, national origin, disability, health condition, civil state or any other form that would violate federal and Puerto Rico laws and regulations or the Constitutions of the United States and Puerto Rico.

10. Any person convicted of crimes against public funds, the public trust or related to the misuse of public property or funds shall be prohibited from entering into an agreement with PRIFA to receive funds under the Agreement as provided by Act No. 458 of December 29, 2000, as amended.

12. PRIFA agrees to require to its contractors to certify and guaranty that at the execution of the Contract related to the execution of the Project, the Contractor, its partners, associates, officers, principals, employees, agents subsidiaries and parent company have not been convicted, or that it has no knowledge of being the subject of any investigation in either a civil or a criminal procedure in a state or federal court or administrative body in Puerto Rico, any state of the United States, the federal Government of the United States or internationally, for criminal charges related to the public treasury, the public trust, a public function, or a fault that involves public funds or property. It is expressly acknowledged that this certification is an essential condition of said Contract. If the certification is not correct in its entirety or in any of its parts, it shall constitute sufficient cause for PRIFA to terminate the Contract immediately, without prior notice, and the Contractor will have to reimburse PRIFA any amount of money received under the Agreement.



If the status of the Contractor with regards to the charges previously mentioned changes at any time during the term of the contract, it shall notify PRIFA immediately. Failure to comply with this responsibility constitutes a violation of this clause, and shall result in the remedies mentioned in the previous paragraph. PRIFA also has the continuing duty to notify SUBRECIPIENT regarding any changes to the foregoing certification.

The foregoing Contract shall include a clause to the effects that it can be dissolved in case probable cause for arrest against Contractor is determined by the commission of related to the public treasury, against public function; or which involves public funds or property in the in a state or federal court.

In the case that there is still no determination of probable cause for arrest, allegation of guilt, nor accusation against a Contractor, but expressions have been made or admissions of crime of such Contractor, PRIFA, will have to refer the matter to the Secretary of Justice, whom in turn, will make the determinations and recommendations pertinent to such contractor.

11. PRIFA shall require that all Contractors and Subcontractors that shall receive funds under the Agreement shall not have any debts outstanding to the Government of Puerto Rico, or if a debt is outstanding, the Contractor and/or Subcontractor has a validly agreed upon payment plan, and that the Contractor or Subcontractors provide to PRIFA the following certificates valid and update prior to the disbursement of funds by PRIFA to such Contractor and/or Subcontractor:

- a. Certificate of filing income tax returns with Puerto Rico Treasury Department for the prior five (5) years.
- b. Certificate of no debt for real property taxes or for any other tax under Puerto Rico law.
- c. Certificate of no debt with the Puerto Rico Department of Labor.

- d. Certificate of no debt for Worker's Compensation Insurance.
- e. Certificate of no debt for child support under Puerto Rico law or the law of any other state of the Union.
- f. Certificate from the Contractor and/or Subcontractor of compliance with Act No. 428 of September 22, 2004.
- g. Certificate of Merchant

12. The PRIFA acknowledges and agrees that it shall require from Contractors and/or Subcontractors to certify in all Draw Down Forms as to the accuracy of the information provided therein and a certificate that shall read as follows:



"No public servant or employee of PRIFA is a party or has an economic interest in the proceeds from the Agreement and if a public servant or employee is a party or has an economic interest in the proceeds from the Agreement such public servant or employee has procured and obtained a waiver from the Government Ethics Office pursuant to Act No. 12 of July 24, 1985, as amended. The only consideration for the Agreement has been the terms agreed upon in the Agreement and all acts have been performed in full compliance with the terms thereof"

13. PRIFA acknowledges and agrees that it shall require all Contractors and Subcontractors to comply with Act No. 458 of December 29, 2000, as amended, and Act No. 84 of June 18, 2002, regarding the Code of Ethics of Contractors, Service Providers and Applicants for Economic Incentives from the Agencies of the Government of Puerto Rico and with the Puerto Rico Government Ethics Act.



14. PRIFA acknowledges and agrees that no government employee shall receive payment or compensation in addition to their salary from their agency of employment as a result of services provided under the Agreement.

15. PRIFA acknowledges and agrees that the Agreement does not make PRIFA, or its officers and employees, officers, agents, employees or representatives of SUBRECIPIENT.

APPENDIX V

Project Design and Certification of Compliance for procurement and/or work done before the effective date of the Agreement

The terms used in this Appendix VI to the Agreement shall have the same meaning as in the Agreement.

The undersigned, _____, of legal age, _____ (marital status), executive and resident of _____, Puerto Rico, in his capacity as _____ of the PUERTO RICO INFRASTRUCTURE FINANCING AUTHORITY ("PRIFA"), hereby certify:

1. That my personal circumstances are as above stated.
2. That I am duly authorized to provide this certification.
3. That PRIFA has procured and obtained a Project Design for the Project.
4. That in procuring the Project Design, PRIFA complied with
 - (i) the procurement requirements to which it is subject under Puerto Rico and/or Federal Laws;
 - (ii) the ethical principles of Act No. 84 of June 18, 2002; and
 - (iii) the provisions of this Agreement.
7. The above is true to the best of my knowledge and belief.

In San Juan, Puerto Rico, this ____ day of _____ 201_.

By: