February 23, 2015

TO: Town Council
FROM: Gary Crosby, Town Planner
RE: Agenda item

I hereby request to be put on the March 9th Town Council agenda under new business for the following:

**Agenda Item:** Prudence Island Well Pump Generator – CDBG-DR Grant Contract Agreement

**Council Action Requested:** Approval for Council President to sign the contract on behalf of the Town.

In 2014, the Town applied for and received approval from the RI Division of Planning – Office of Housing and Community Development for a $45,000 grant from the Hurricane Sandy CDBG – Disaster Recovery program to fund the purchase and installation of a new generator at the Indian Spring Well House on Prudence Island. For your review, attached please find the contract agreement that must be signed by the Town for this project to proceed. I hereby request the Council vote to grant approval to sign the contract for this important public safety project.
Contract #: 13/27/DR-02

RHODE ISLAND COMMUNITY DEVELOPMENT BLOCK GRANT

PART I: CONTRACT AGREEMENT SIGNATORY SHEET

This Contract Agreement is entered into as of ________________ by the State of Rhode Island, Division of Planning, Office of Housing and Community Development (hereinafter referred to as “OHCD”) and the Town of Portsmouth hereinafter referred to as the “Contractor.” The Contractor agrees to the provisions of this Contract Agreement and the Rhode Island Community Development Block Grant Program Action Plan. The Contractor shall in a satisfactory manner, to be determined in the sole and exclusive discretion of the OHCD, perform all obligations and duties as contained in this contract and Addenda. This Contract Agreement consists of this signatory sheet, general terms and conditions, scope of work (program activities and special conditions), program budget, certifications/assurances and the Residential Antidisplacement and Relocation Assistance Plan. This Contract is authorized by Title I of the Housing and Community Development Act of 1974, P.L. 93-383, as amended. The grant is subject to the regulations of the Department of Housing and Urban Development, 24 CFR Part 570, in effect and as may be amended from time to time.

Contractor: Town of Portsmouth
DUNS #: ________________ Tax ID #: ________________

Contract Amount: $45,000

Contract Term: 01/01/2015 - 06/30/2016

Source of Payment: Hurricane Sandy CDBG - Disaster Recovery - CFDA# 14.269
HUD Grant# B-13-DS-44-0001

Method of Payment: Reimbursement, Upon Request Approved by OHCD

Funding: It is expressly understood that in no event will the total compensation and reimbursement exceed $45,000, unless otherwise mutually agreed upon by amendment.

APPROVAL BY:

Authorized Official
State of R.I., Div. of Planning
Date: ________________

Authorized Official
Contractor
Date: ________________

Names and Signatures of Persons Authorized to Request Payment on Behalf of Contractor:

1. ______________________  ______________________
   (Names)  (Signatures)

2. ______________________  ______________________
   (Names)  (Signatures)
PART II: CONTRACT AGREEMENT GENERAL TERMS AND CONDITIONS

A. Legal Authority and Capacity

The Contractor certifies that it possesses the legal authority to accept grant funds under the Rhode Island Community Development Block Grant Program and to execute the program described in this Contract Agreement by signing Part I: Contract Agreement Signatory Sheet.

The Contractor certifies it has the local administrative capacity to carry out disaster recovery activities in a timely manner, and in accordance with applicable federal and State rules and regulations. If the Contractor currently lacks this capacity, it will take necessary steps to assure it is obtained prior to obligating or expending funds awarded.

B. Waivers, Amendments, Modifications

No conditions or provisions of this Contract agreement may be waived unless approved by OHCD in writing. OHCD may, from time to time, permit changes in the scope of work or approved budget of the Contract to be performed hereunder. Such changes which are mutually agreed upon in writing by and between OHCD and the Contractor shall be made part of the Contract.

C. Integration Clause

The OHCD and the Contractor agree that this grant agreement is the full and complete agreement between the two parties and that there are no agreements or understandings between the parties other than those covered herein.

D. Assignability

The Contractor shall not assign any interest to this Contract and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of OHCD. Notice of any such proposed assignment or transfer shall be furnished promptly to OHCD.

The Contractor may implement activities through sub-recipients, but retains all responsibilities under this contract.

E. Community Development Block Grant Program

The Contractor agrees to comply with the requirements of Title I of the Housing and Community Development Act of 1974, P.L. 93-383, as amended. The Contractor additionally agrees to comply with regulations promulgated relative to the HCDA and any policies/procedures established by OHCD regarding this contract/program. This Contract is subject to the regulations of the Department of Housing and Urban Development, 24 CFR Part 570, as published for effect and as may be amended from time to time.
F. **Conflict of Interest**

No elected or appointed State or municipal official (officer or member) shall, while serving as such, have any financial interest, direct or indirect, or engage in any business employment transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his/her duties or employment in the public interest and of his/her responsibilities as prescribed in Title 36, Chapter 4, of the General Laws of Rhode Island. No member of, or Delegate to, the Congress of the United State of America shall be admitted to any share or part thereof or to any benefit that may arise herefrom.

The Contractor agrees to fully comply with CDBG Conflict of Interest provisions outlined at 24 CFR Part 570.489(h) "Conflict of Interest" and 24 CFR Part 85.36(b)(3) "Code of Conduct," as stated below. Conflict of Interest requirements must be extended to all sub-recipients under this agreement.

- **24 CFR 570.489** - In general, no person (who is an employee, agent, consultant, official or elected/appointed official of the State, unit of general local government or of any designed public agencies or sub-recipients which are receiving CDBG funds) who exercise or have exercised any function or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision making process or gain inside information with regard to such activities may obtain a financial interest or benefit from the activity, or have any interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or one year thereafter. Any requests for "exception" from this requirement, in accordance with the regulations, must be submitted in writing by the Contractor to the OHCD prior to the obligation of funds. As indicated, this regulation applies to the Contractor as well as sub-recipient entities funded.

- **24 CFR Part 85.36** - In general, the Contractor must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the recipient or sub-recipient shall participate in the selection, or in the award or administration of a contract support by Federal funds if a conflict of interest, real or apparent, would be involved.

G. **Interest of Contractor**

The Contractor covenants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Contractor further covenants that in performance of this Contract no person having any such interest shall be employed.

H. **Discrimination Prohibited**

No person in the United States shall on the grounds of race, creed, color, national origin, gender identity, sex or sexual orientation be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the performance of the Contract.
I.  

**Discrimination in Employment Prohibited**

The Contractor agrees to comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 USDA 794); American with Disabilities Act of 1990 (42 USDA 12101 et seq.); Title IX of the Education Amendments of 1972 (20 USDA 1681 et deq.); The Food Stamp Act, and the Age Discrimination Act of 1975, the United States Dept. of Health and Human Services Regulations found in 45 CFR, Parts 80 and 84; The United States Dept. of Education Implementing Regulations (34 CFR, Parts 104 and 106); and the United States Dept. of Agriculture, Food and Nutrition Services (7 CFR 272.6).

The Contractor agrees to comply with all other provisions applicable to law, including but not limited to the Governor's Executive Order No. 96-14, which prohibits discrimination on the basis of sexual orientation, and RIGL 28-5-5 and 28-5-41.1, relating to gender identity or expression.

The Contractor will take affirmative action and not discriminate against any employee in the performance of this contract, or against any applicant for employment in the performance of this contract. The Contractor will not discriminate on the basis of race, creed, color, national origin, (limited English proficiency persons), age, sex, sexual orientation, disability, religion, political beliefs, in acceptance for or provision of services, employment, or treatment in education or other programs or activities. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The Contractor also agrees to comply with the requirements of the RI Dept. of Human Services for safeguarding of client and/or beneficiary information.

Failure to comply with this item may be a basis for rescinding of this agreement.

J.  

**Access to Records**

The Contractor agrees to make such accessible and to maintain all fiscal and activity records relating to this agreement to OHCD and to duly authorized officials of the State and Federal government. OHCD and duly authorized officials of the State and Federal Government have the right to examine any pertinent documents, papers, records and books of the Contractor and of persons or organizations the Contractor may contract with, which involves transactions related to this Contract. This contract and all sub-contracts of such are covered by all State and federal rules/regulations regarding access to public information, including, but not limited to, the Freedom of Information Act and RIGL 38-2 entitled "Access to Public Records."

K.  

**Records Retention**

The Contractor agrees to retain all documents, papers, records and books that are pertinent to this Contract for a period of five years from the date the State closes out its Hurricane Sandy CDBG Disaster Recovery Grant with the U.S. Department of HUD, or until all audit findings have been resolved, whichever is later. The State will notify the
Contractor in writing, of the effective date by which all records may be disposed.

L. **Default**

If there is any question as to local compliance with applicable federal/State rules or regulations, all/some activity under this Contract may be suspended by OHCD until the matter is resolved to the satisfaction of OHCD. If OHCD believes the Contractor has failed to comply with the terms of the Contract agreement, or has failed to use the Contract for only those purposes set forth herein, OHCD may:

After notice to the Contractor, immediately suspend the Contract and withhold further payment or prohibit the Contractor from incurring additional obligations of contract funds, pending corrective action by OHCD or a decision to terminate in accordance with the following:

a) OHCD may terminate the grant in whole, or in part, at any time before the final grant payment is made. OHCD shall promptly notify the Contractor in writing of the determination to terminate, the reason for such termination, and the effective date of the termination. Payments made to the Contractor from the United States or Rhode Island Treasury Department with the approval of OHCD or recoveries by OHCD shall be in accordance with the legal rights and liabilities of the parties.

b) The Contractor and OHCD may terminate this Contract agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof and the cause for the termination. The other party must receive such notice at least ten (10) days before the effective date of termination. OHCD shall be liable only for work performed or services provided under this Contract Agreement prior to the effective date of termination.

M **Termination of Agreement**

OHCD may terminate this Contract, in whole or in part, if it determines that such termination is a necessary to assure the protection of public funds. In order to take into account any changes in funding levels because of executive or legislative actions or because of any fiscal limitations not presently anticipated, OHCD may reduce or eliminate any line item(s). Notwithstanding the above, Contractor shall not be relieved of liability of the OHCD for damages sustained by OHCD by virtue of any breach of the agreement by the Contractor, and OHCD may withhold payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due to OHCD from the Contractor is determined.

N. **Copyright**

No reports, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor.
O. **Governing Law**

This Contract is deemed executed and delivered in the City of Providence, State of Rhode Island, and all questions arising out of or under this Contract shall be governed by the Laws of the State of Rhode Island.

P. **Severability Clause**

Each article of this agreement and each part of each section is hereby declared to be an independent section. If any article or section is held to be void, ineffective or unconstitutional for any cause, it shall not be deemed to affect any other article or section thereof; and all other parts shall continue in full force and effect.

Q. **Legal Liability**

The Contractor agrees to hold the State harmless from any legal liability associated with activities funded by OHCD, either through annual award, loan guarantee or program income. The Contractor will indemnify and hold the State of Rhode Island, the Department and its officials harmless against any claims for injury or damage of any kind to persons or property occurring or arising during the period of this agreement.

R. **Reporting**

The Contractor will provide to OHCD community development regular progress reports (on provided forms) and on the schedule provided by OHCD, for each contract which contains unexpended/undrawn funds. In addition, within 90 days of the final drawdown of funds or 30 days of the final expenditure of funds by the Contractor, whichever is earlier, under each contract the Contractor must submit to OHCD a Close-out Certification and Report.

S. **Extensions**

If a project/activity cannot be completed within eighteen months of this award, the Contractor must request an extension in writing within 30 days prior to the expiration. The letter should include an explanation of any delays experienced or anticipated, the current status of the project(s), and a schedule for completion. Requests for contract extensions must be signed by the Chief Executive Officer. Failure to submit this request may result in the withholding of payments relative to awards made herein.

T. **Competitive Bids**

All bidding must be conducted in a manner to promote open and free competition. The Contractor agrees to comply with procurement standards set forth in 24 CFR 85.36(b). Evidence of competitive bids and/or cost reasonableness in procurement must be retained in accordance with Section K, Records Retention. The Contractor must observe state and local procurement requirements and cost thresholds for competitive bidding if these are more restrictive than the federal regulation specifies.
U. **Audits**

The Contractor shall perform an annual audit in accordance with OMB Circular A-133 and with "Government Auditing Standards" as published by the Comptroller General of the United States. If the Contractor falls below the OMB Circular A-133 threshold in federal expenditures, it should notify OHCD in writing of the total amount of federal expenditures for the audit period.

V. **Drug Free Workplace**

The Contractor agrees to comply with the requirements of the Governor's Executive Order No. 89-14 and the Federal Anti-Drug Abuse Act of 1988.

Furthermore, the Contractor agrees to submit to the State any report on forms which may from time-to-time be required to determine the Contractor's compliance with this policy.

The Contractor acknowledges that a violation of the drug-free workplace policy may, at the State's option, result in termination of this agreement.

W. **Pro-Children Act of 1994**

The Contractor hereby agrees to abide by the State's Tobacco Smoke programs as set forth in Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local government, by federal grant, contract, loan or loan guarantee.

X. **Monitoring**

The Contractor agrees to conduct in-office and on-site monitoring of sub-recipients to assure compliance with federal and State rules and regulations, contract terms and conditions and State policies in implementation of funded CDBG activities. All sub-recipients must be monitored at least once during activity implementation. Documentation of such reviews and compliance must be maintained in the Contractor's CDBG files for review by State/federal officials.

Y. **Historic Preservation**

Section 106 of the National Historic Preservation Act (36 CFR 800) directs municipalities to consult with the Rhode Island Historical Preservation and Heritage Commission ("RIHPHC") on any programs to be funded by a Community Development Block Grant during the program planning stage so that any potential effects to significant historical resources can be properly addressed. To comply with Section 106, the Contractor agrees to submit information to RIHPHC on specific properties where development activities are proposed, so that RIHPHC can determine whether significant historic resources might be affected. The Section 106 regulations require that this review be completed and documented before any CDBG funds are obligated. The Contractor must also consult with the Tribal Historic Preservation Office, as necessary.
PART III: CONTRACTUAL AGREEMENT SCOPE OF WORK

GENERAL DESCRIPTION OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (INCLUDING CONTRACTOR ACTIVITIES) AND ANTICIPATED ACCOMPLISHMENTS

ATTACHMENT A: Description of Program Activities & Performance Projections
ATTACHMENT B: Program Budget
ATTACHMENT C: Certifications/Assurances
ATTACHMENT D: Certifications/Assurances – Disaster Recovery
ATTACHMENT E: Residential Antidisplacement and Relocation Assistance Plan
ATTACHMENT F: Subrogation and Assignment Agreement
ATTACHMENT G: Maintenance Agreement for Public Facilities and Infrastructure Activities

Description of Special Conditions:

1. The Contractor may not obligate any funds for an activity until all requirements of the Environmental Review procedures for Title I, Community Development Block Grant Program (24 CFR Part 58) and the National Environmental Policy Act - Regulations (40 CFR 1500-1508) are satisfied.
   
   CDBG reimbursement of costs incurred prior to the completion of the environmental review process and receipt of Release of Funds by the Office of Housing and Community Development (for applicable activities) is not permitted.

2. The Contractor agrees to comply with statements and certifications assured to by the State of Rhode Island to the U.S. Department of Housing and Urban Development.

3. The Contractor shall sign and return to the Office of Housing and Community Development (OHCD), the Residential Antidisplacement and Relocation Assistance Plan. This document is included as Attachment E, and shall be returned with the contract.

4. Reporting - In accordance with procedures developed (and on a format provided) by OHCD, the Contractor shall submit progress reports detailing financial and beneficiary accomplishment data relative to the award made herein. At completion, the Contractor will submit a Completion Certification and Report, detailing final accomplishment and required information.

5. Fair Housing - The Contractor shall submit its plan of activities to affirmatively further fair housing along with the first required report.

6. National Objective/Eligibility - Adequate documentation must be maintained to demonstrate compliance with the National Objective and Eligibility categories noted on Attachments A and B, Program Activities and Program Budget for each funded activity, the details of which are outlined at 24 CFR Part 570. The primary National Objective is to predominately benefit low and moderate income persons. If an activity is unable to meet the National Objective/Eligibility category indicated in accordance with the regulations, the community must not obligate CDBG funds to such. Any activity determined to be in non-compliance with National Objective/Eligibility requirements will
be designated “ineligible for CDBG assistance”; funds will be returned by the Contractor and/or deobligated by the State, as necessary. If an activity does not complete and fully document compliance, any/all funds expended must be returned to the State. The interpretation of compliance with National Objectives and Eligibility Requirements is at the sole discretion of OHCD.

7. Lead Requirements - The Contractor is advised that all housing acquisition and rehabilitation activities funded with resources awarded herein are subject to the federal (24 CFR Part 35) and State (Rules and Regulation for Lead Poisoning Prevention R 23-24.6-PB) lead paint requirements. In situations where both regulations are applicable, the stricter will apply. Adherence to these regulations should be clearly documented in the local files. The Contractor will comply with all State and federal laws, rules and regulations related to Lead Based Paint Hazards.

8. Debarred Contractors - Prior to awarding any contract, the Town of Portsmouth must verify and document that Contractors selected are not included on System for Award Management (SAM) List of Parties Excluded From Federal Procurement and Nonprocurement programs. Documentation must be maintained to demonstrate Contractors have been reviewed. Documentation must be maintained to demonstrate contractors have been reviewed. The Contractor further certifies it is not a party excluded from federal procurement and nonprocurement programs.

9. The term of this contract is 01/01/2015 through 06/30/2016. The Contractor may request extensions to this contract through 06/30/2016. Any activity that does not meet the Performance Projections in Attachment A may be subject to deobligation and/or recapture, unless a corrective action plan is approved by OHCD and successfully implemented by the Contractor. The granting of a contract extension and/or any determination to deobligate/recapture are at the sole discretion of OHCD.

10. The State has adopted the following minimum standards for continued affordability (lien term) relative any unit acquired or rehabilitated with CDBG resources.

<table>
<thead>
<tr>
<th>CDBG Assistance:</th>
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<td>Under $15,000</td>
<td>5    years</td>
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<tr>
<td>$15,000 - $40,000</td>
<td>10   years</td>
</tr>
<tr>
<td>Over $40,000</td>
<td>15   years</td>
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</table>

11. Disclosure Pursuant to the False Claims Act – The Contractor shall promptly refer to an appropriate Federal Inspector General any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the 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 activities supported under this agreement.

12. Disclosure of Fraud, Waste, and Mismanagement to State Authorities – The Contractor shall promptly refer to OHCD any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has committed a criminal or civil violation of State or Federal laws and regulations in connection with the activities funded under this agreement.
13. Drug Free Workplace – The Contractor agrees to comply with the requirements of the Governor’s Executive Order No. 89-14 and the Federal Anti-Drug Abuse Act of 1988. The Contractor hereby agrees to abide by Exhibit 8 – the State’s Drug Free Workplace Policy. Furthermore, the Contractor agrees to submit to the OHCD any report or forms which may from time be required to determine the Contractor’s compliance with this policy.

The Contractor acknowledges that a violation of the Drug-Free Workplace Policy may, at OHCD’s option, result in termination of this agreement.
ATTACHMENT A

DESCRIPTION OF PROGRAM ACTIVITIES & PERFORMANCE PROJECTIONS

Town of Portsmouth

Description of Program Activities

Funds ($45,000) are awarded for the following activities:

1. Prudence Island Well Pump Power ($45,000)

Purchase and installation of a fixed generator at Indian Spring Well House (located off Homestead Ave.) with capacity based on the results of a 2013 Army Corps of Engineers assessment. The generator is necessary to meet residents’ critical need for potable water. Prudence Island, accessible only by boat, was without power for five days after both Hurricane Sandy and Winter Storm Nemo. The water district has three active wells that serve 100-120 year-round residents. Residents were forced to rely on a water tank and a low capacity generator at a single well. The other two wells remained off-line until power was restored, requiring residents to limit water use.

The Town must maintain adequate documentation to demonstrate compliance with the Low Moderate Income Area Benefit National Objective for all costs incurred. Any cost unable to document compliance with the National Objective requirements will be deemed ineligible for CDBG assistance.

For any projects with funds designated in the Activity Delivery line item, staff time specifically dedicated to the delivery of those activities may be reimbursed, if supporting documentation (timesheets) are maintained in the Contractor’s project files. Overhead and general administrative costs do not qualify as Activity Delivery Costs. Refer to HUD Notice CPD 13-07.

Performance Projections

This award is subject to strict expenditure deadlines and ultimately de-obligation by HUD and the U.S. Treasury. The Contractor will take all reasonable actions necessary to meet the following projections:

1. Prudence Island Well Pump Power

- Procure general contractor by 4/1/2015
- 100% Construction Completion by 7/1/2015
- Final request for payment and Closeout by 10/1/2015
ATTACHMENT B - Program Budget
Town of Portsmouth

**Prudence Island Well Pump Power**

<table>
<thead>
<tr>
<th>USES</th>
<th>CDBG National Objective</th>
<th>LMI Area Benefit</th>
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| **TOTAL CDBG-DR AWARD** | $45,000 |

- - - - -
ATTACHMENT C

RHODE ISLAND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

CERTIFICATIONS/ASSURANCES

The Town of Portsmouth hereby certifies and assures that:

1. It possesses the legal authority to make application for a grant under this program and to execute the program as approved. It also possesses the necessary administrative capacity to carry out the funded activities.

2. It consents to assume the status of a responsible official under the National Environmental Policy Act of 1969 and under other provisions of law which further the purpose of said Act. It shall also comply with 24 CFR Part 58 as an entity assuming HUD’s responsibility under the environmental review process.

3. It will comply with the regulations, policies, guidelines and requirements of OMB Circular A-102, revised and OMB Circular A-87, which specify financial/cost management principles.

4. It will administer and enforce the labor standards requirements set forth in the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Fair Labor Standards Act, and the Copeland "Anti-Kickback Act."

5. It will comply with the residential anti-displacement and relocation assistance plan adopted by the State.

6. Its programs will be conducted and administered in conformity with Public Law 88-352 (Title VI Civil Rights Act of 1964, 42 USC 2000d et. seq. and implementing regulations at 24 CFR Part 1) and Public Law 90-284 (Fair Housing Act (42 USC 3601-3620), and that it will affirmatively further fair housing.

7. It has provided opportunities for citizen participation, hearings, and access to information with respect to its community development program in accordance with the requirements of the Application Handbook and will comply with the citizens' participation plan of the State of Rhode Island and it will comply with applicable provision of Section 102 of the Reform Act of 1989.

8. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with Community Development Block Grant funds by assessing any amounts against properties owned and occupied by persons of low and moderate income, including any fee charged for assessment made as a condition of obtaining access to such public improvements, unless (i) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than this title; or (ii) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Contractor certifies that it lacks sufficient funds to comply with the requirements of clause (i).
9. It will comply with:

A. Section 109 of the Housing and Community Development Act of 1974, as amended (Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Act), which 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.

B. Executive Order #11063 (Equal Opportunity in Housing), as amended by Executive Order #12259 and #12892, directing entities to take appropriate action to promote the abandonment of discriminatory practices with respect to property or facilities provided with Federal assistance in the sale, leasing, rental, or other disposition of such property or facilities.

C. Executive Order #11246 (Equal Employment Opportunity), as amended by Executive Order #11375, #11478 and #12086, which prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin.

10. It will comply with the provisions of the Hatch Act, placing limitations on political activities.


12. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24. It will also comply with all State and federal laws, rules and regulations relate to the exercise of the power of eminent domain.

13. It will give the Department of Housing and Urban Development, the State of Rhode Island and the Comptroller General access to and the right to examine all records, papers, documents and other materials related to the contract.

14. It will comply with the flood insurance purchase requirements of Section 202 (a) of the Flood Disaster Protection Act of 1973 and implementing regulations at 44 CFR Parts 59-79.

15. The activities proposed under this program are consistent with national program objectives to give maximum feasible priority to activities which benefit low and moderate income families and individuals, aid in the prevention of slums and blight, or address other community development needs having a particular urgency because existing conditions pose a serious threat to health or welfare and no other financial resources are available to meet such needs.

16. The activities proposed under this program are consistent with State program objectives, as identified in the State's Hurricane Sandy CDBG Disaster Recovery Action Plan.

17. It will comply with subsection 104(d) of the Housing and Community Development Act and adopt and enforce a policy prohibiting the use of excessive force by law enforcement
agencies against individuals engaged in non-violent civil rights demonstrations; and will
enforce state and local laws against physically barring entrance to or from a facility or
location which is the subject of such non-violent civil rights demonstrations.

18. It will comply with all applicable laws, requirements and criteria prescribed by OHCD in
the administration of this program.

19. Its notification inspection, testing and abatement procedures concerning lead-based paint
will comply with the requirements of 24 CFR Part 35 et al (Federal Requirements for
Notification, Evaluation and Reduction of Lead Based Paint Hazards in Property and
Housing Receiving Federal Assistance) and R23-24.6-PB (State Rules and Regulations
for Lead Poisoning Prevention). Documentation of compliance is to be maintained in the
Contractor's files.

20. It will comply with State and federal audit requirements (ie. OMB Circular(s) A-133 (A-
128 revised)).

21. It shall comply with Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act
and HUD's implementing regulations (24 CFR Parts 8 and 100, respectively), which
prohibit discrimination based on disability and establish requirements for program
accessibility and physical accessibility in connection with housing programs. The
Contractor must maintain records on the disability status of program participants and
beneficiaries and inform persons with impairments of the programs being carried out.

22. The Contractor hereby certifies that it is not a "Party Excluded from Federal Procurement
and NonProcurement Programs." The Contractor will maintain documentation in local
files that all contractors/subcontractors used in implementation of the funded program
have been verified they are not a "Party Excluded from Federal Procurement and
NonProcurement Programs."

Date: ___________________  Contractor Signature: _________________________________

Title: ________________________________
ATTACHMENT D

RHODE ISLAND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

CERTIFICATIONS/ASSURANCES - Disaster Recovery

Special Contract Conditions:

1. The Contractor must use Community Development Block Grant (CDBG) funds as provided by Public Law 113-2, Disaster Relief Appropriations Act, 2013 (approved January 29, 2013). The Contractor certifies that funds will be used solely for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas for which the President declared a major disaster in the aftermath of Hurricane Sandy, pursuant to the Stafford Act.

2. The Contractor is required to expend the funds obligated in this contract by the end of the Contract Term (Part I). Unexpended funds will be deobligated and returned to OHCD.

3. The Contractor must comply with all Notice requirements, waivers and alternative requirements previously and subsequently issued by the U.S. Department of Housing and Urban Development with respect to this grant. These include the March 5, 2013 Federal Register Notice "Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy (Pub. L. 113-2)" (Docket No. FR-5696-N-01), the April 19, 2013 Federal Register Notice, “Clarifying Guidance, Waivers, and Alternative Requirements for Hurricane Sandy Grantees in Receipt of Community Development Block Grant Disaster Recovery Funds” (Docket No. FR-5710-N-01), the November 18, 2013 Federal Register Notice, “Second Allocation, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response to Hurricane Sandy” (Docket No. FR-5696-N-06), and other applicable notices.

4. The Contractor must comply with all applicable requirements of the Housing and Community Development Act of 1974, as amended, and the Cranston-Gonzalez National Affordable Housing Act, as amended, and other statutes, regulations, notices, and Office of Management and Budget (OMB) circulars, except as provided for in conditions 1 and 3, above. The Contractor is advised to pay particular attention to: regulations at 24 CFR Part 58 pertaining to environmental review requirements; labor standards requirements of 42 U.S.C. 5310; and to act in conformance with OMB Circular A-87 (2 CFR part 225) pertaining to cost principles.

5. The Contractor’s application, Duplication of Benefits Affidavit, and the Notices identified in condition 3 (above) are incorporated by reference and constitute part of this contract.

7. The Contractor will not use grant funds for any activity in an area delineated as a special flood hazard area or equivalent in FEMA’s most recent and current data source unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain. The Contractor further certifies that at a minimum, actions to minimize harm will include elevating or floodproofing new construction and substantial improvements to one foot above the base flood elevation and otherwise acting in accordance with Executive Order 11988 and 24 CFR part 55. The relevant data source for this provision is the latest issued FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps.

8. The Contractor certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by part 87.

9. The Contractor certifies that the Sources and Uses of Funds are fully and accurately presented in Attachment B, Program Budget, and CDBG Disaster Recovery funds are not duplicative of other assistance. Other assistance may include, but is not limited to, insurance benefits, FEMA funds, SBA loans, and private grants.

10. The Contractor will strive to meet the Performance Projections identified in Attachment A. The Contractor shall notify OHCD immediately, if in the Contractor’s reasonable determination, it will be unable to comply with the performance projections. Either preemptively or following any failure to comply with the performance projections, OHCD may, at its sole discretion, require the Contractor to submit a corrective action plan for OHCD approval. Failure to implement the approved corrective action plan within a prescribed schedule will result in de-obligation and/or recapture of CDBG-DR funds by OHCD.

11. The Contractor, or its designee, must complete the HUD CPD Green Building Retrofit Checklist, the “Checklist,” for all residential rehabilitation activities prior to construction completion, and address each item identified as necessary for compliance. The Checklist covers water and energy conservation measures, as well as indoor air quality.

Date: ___________ Contractor Signature: ______________________________________

Title: ______________________________________
ATTACHMENT E

RHODE ISLAND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Residential Antidisplacement and Relocation Assistance Plan
under Section 104(d) of the
Housing and Community Development Act of 1974, as Amended

The Town of Portsmouth will replace all occupied and vacant occupiable low/moderate income dwelling units demolished or converted to a use other than as low/moderate income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.606 (b)(1) - 24 CFR Part 42.

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to the conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the Town of Portsmouth will make public and submit to the State the following information in writing:

1. A description of the proposed assistance activity;

2. The general location of a map and approximate number of dwelling units by size (number of bedrooms) that will demolished or converted to a use other than as low/moderate income dwelling units as a direct result of the assisted activity;

3. A time schedule for the commencement and completion of the demolition or conversion;

4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;

5. The source of funding and a time schedule for the provision of replacement dwelling units; and

6. The basis for concluding that each replacement dwelling unit will remain a low/moderate income dwelling for at least 10 years from the date of initial occupancy.

The Town of Portsmouth will provide relocation assistance, as described in 570.606 (b)(2) - 24 CFR Part 42 to each low/moderate income household displaced by the demolition of housing or by the conversion of a low/moderate income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the Act, Portsmouth will take the following steps to minimize the displacement of persons from their homes:

1. Rent for units assisted with CDBG funds shall not exceed HUD Published Fair Market Rents for a period of three years.

2. Other steps (to be completed by Contractor)

Date: _______________ Contractor Signature: ________________________________

Title: _____________________________________________
ATTACHMENT F

RHODE ISLAND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SUBROGATION AND ASSIGNMENT AGREEMENT

1. Assignment Relating to Funds Received under CDBG Disaster Recovery Program. In consideration of Contractor’s receipt of funds or the commitment by OHCD to evaluate Contractor’s application for the receipt of funds under the CDBG Disaster Recovery Program (CDBG-DR) administered by OHCD; Contractor hereby assigns to OHCD all of Contractor’s future rights to reimbursement and all payments received under any policy of casualty or property damage insurance (the “Policies”) or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (“FEMA”) or the Small Business Administration (“SBA”) for physical damage to the Structure (defined below) that was the basis of the calculation of Contractor’s award to the extent of the Note or Loan proceeds paid to Contractor under the Program. The proceeds or payments referred to in the preceding sentence, whether they be from insurance, FEMA or the SBA, shall be referred to herein as “Proceeds.”

The rights Contractor assigns are specific to the CDBG-DR funded activity with respect to which Note or Loan proceeds were paid which is described in Contractor’s application with the Program arising out of physical damage originally caused by Hurricane Sandy in 2012 but also including Proceeds received for damage to the structure caused by any subsequent event that occurred until the commencement of repair or reconstruction utilizing Program funds. The Policies include, but are not limited to, policies characterized as wind, flood or any other type of casualty or property damage insurance coverage held by Contractor or its sub-recipients and which provides coverage for physical damage to the property repaired/improved pursuant to this contract.

2. Cooperation and Further Documentation. Contractor agrees to assist and cooperate with OHCD should OHCD elect to pursue any of the claims Contractor has against the insurers for reimbursement under any such policies. Contractor’s assistance and cooperation shall include allowing suit to be brought in Contractor’s name(s), giving depositions, providing documents, producing records and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by OHCD. Contractor further agrees to assist and cooperate in the attainment and collection of any Proceeds that the Contractor would be entitled to under any applicable FEMA or SBA program as described above. If requested by OHCD, Contractor agrees to execute such further and additional documents and instruments as may be requested to further and better assign to OHCD, to the extent of the Note or Loan proceeds paid to Contractor under the Program, the Policies, the disaster relief funds from FEMA or SBA and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by OHCD to consummate and make effective the purposes of this Agreement.

3. Authorization for OHCD to Contact Third Parties. Contractor explicitly allows OHCD to request of any company with which Contractor held Policies or FEMA or the SBA any non-public or confidential information needed by OHCD to monitor/enforce its interest in the rights assigned to it under this Agreement and to give Contractor’s consent to such company to release said information to OHCD.
4. **Agreement to Turn over Proceeds; Future Reassignment.** If Contractor (or any entity holding a lien on the subject property, except to the extent required by superior loan documents) hereafter receives any insurance payment or disaster relief or reimbursement funds for physical damage to the Structure (not including proceeds received to cover contents), Contractor agrees to promptly pay such amounts to OHCD if Contractor received grant proceeds under the Program in an amount greater than the amount Contractor would have received if such insurance and/or disaster relief or reimbursement payment had been considered in the calculation of Contractor's award. Once OHCD has recovered an amount equal to the grant proceeds paid to Contractor, OHCD will reassign to Contractor any rights assigned to OHCD pursuant to this Agreement.

5. **Mortgage OHCD Rights.** Contractor acknowledges that this Agreement does not impair Contractor’s mortgage or OHCD’s rights as loss-payee under any deed of trust or mortgage on the Structure.

6. **Miscellaneous.** Contractor hereby represents that he/she has received, read, and understood this notice of penalties for making a materially false or misleading written statement to obtain CDBG-DR assistance.

   (c) Contractor represents that all statements and representations made by Contractor regarding Proceeds received by Contractor shall be true and correct as of the date of this contract.

   (d) In any proceeding to enforce this Agreement, OHCD shall be entitled to recover all costs of enforcement, including actual attorney’s fees.

Date: _______________  Contractor Signature: ________________________________

Title: ________________________________
ATTACHMENT G

RHODE ISLAND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

MAINTENANCE AGREEMENT
FOR
PUBLIC FACILITIES & INFRASTRUCTURE ACTIVITIES

The Contractor has been awarded a Community Development Block Grant, Disaster Recovery Program (CDBG-DR) grant, pursuant to which the Contractor or a sub-recipient of the Contractor will use all or a portion of the grant funds for public facility and/or infrastructure improvements.

All Contractors receiving Hurricane Sandy CDBG-DR Program funds for public facilities and/or infrastructure activities are required to execute a maintenance agreement, pursuant to which the recipient of grant funds agrees to maintain, in good working order, the public facilities and/or infrastructure improvements completed in accordance with the CDBG-DR Program grant.

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions contained herein, the parties hereto intending to be legally bound hereby, do covenant and agree for themselves, their respective successors and assignees as follows:

1. Upon completion of the grant activities involving public facilities and infrastructure improvements, the Contractor, at its own expense, shall operate and maintain or cause the Contractor's sub-recipient or designee to operate and maintain the public facilities or infrastructure.

2. The Contractor shall annually provide the OHCD with demonstrative evidence that such maintenance has occurred for a minimum period of five (5) years after grant closeout with OHCD. The evidence shall include, but is not limited to:

   a. photographs,
   b. scopes of work,
   c. summary reports,
   d. invoices, and
   e. cancelled checks.

3. OHCD may disqualify the Contractor from future disaster assistance through the CDBG-DR Grant program if:

   a. The Contractor fails to submit sufficient evidence of maintenance, or
   b. OHCD can reasonably conclude, based on information available to OHCD, that the Contractor has failed to maintain the funded public facilities or infrastructure.

4. Upon completion of any grant activities involving flood drainage improvements, the Contractor, sub-recipient, or the designee of the Contractor or sub-recipient shall inspect
the flood drainage improvements on a biannual (two times per year) basis and immediately after heavy rain flows for a minimum period of five (5) years after grant closeout with OHCD. The entity conducting the inspection shall:

a. Complete an Inspection and Maintenance Checklist,
b. Report the condition in which the flood drainage improvements were found,
c. Recommend necessary repairs, if applicable, and
d. Provide the Contractor with all of the information gathered and prepared in connection with the inspection.

5. Upon completion of any grant activities involving generator installations or related electrical improvements, the Contractor, sub-recipient, or the designee of the Contractor or sub-recipient shall inspect and service the generator on an annual basis for a minimum period of five (5) years after grant closeout with OHCD. The entity conducting the inspection and service shall:

a. Report the condition of the generator,
b. Recommend necessary repairs, if applicable, and
c. Provide the Contractor with documentation of the inspection/service.

6. Upon completion of any grant activities involving other public facilities or infrastructure improvements, the Contractor, sub-recipient, or the designee of the Contractor or sub-recipient shall maintain the public facilities or infrastructure in safe, functional condition for a minimum period of five (5) years after grant closeout with OHCD. The entity responsible for maintenance shall:

a. Complete routine repairs,
b. Recommend capital improvements, if applicable, and
c. Provide the Contractor with an annual summary report of maintenance activities, including details on maintenance staffing, costs, and sub-contracts.

7. In those situations in which the Contractor passes grant funds to a sub-recipient to carry out the grant activities for public facilities and infrastructure improvements, the Contractor shall require the sub-recipient to execute a maintenance agreement with the Contractor, which agreement should be in substantially the same format as the maintenance agreement executed by the Contractor.

Date: ____________________  Contractor Signature: ________________________________

Title: ________________________________