LESLIE A. TRAVIS, Legal Counsel
leslie.travis@guam.gov
JEFFREY A. MOOTS, Legal Counsel
jeffrey.moots@guam.gov
OFFICE OF THE GOVERNOR OF GUAM
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910
P.O. Box 2950, Hagåtña, Guam 96932
Office: (671) 473-1118 | Fax: (671) 477-4826

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OFFICE OF THE ATTORNEY GENERAL
SOLICITOR DIVISION

Attorneys for the
Honorable Lourdes A. Leon Guerrero
Governor of Guam

IN THE SUPREME COURT OF GUAM

IN RE: REQUEST OF LOURDES A. LEON GUERRERO, I MAGA'HÅGAN GUÅHAN, RELATIVE TO THE AUTHORITY OF THE ATTORNEY GENERAL OF GUAM TO APPROVE AUTONOMOUS AGENCY CONTRACTS	SUPREME COURT CASE NO. CRQ25001 **REQUEST FOR DECLARATORY JUDGMENT (7 G.C.A. § 4104); VERIFICATION; EXHIBITS A-D**

Petitioner Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan*, Governor of Guam, by and through counsel and pursuant to 7 G.C.A. § 4104, Rules 26 and 27 of the Guam Rules of Appellate Procedure, and the Organic Act of Guam, requests that the Court issue declaratory judgment relative to the authority of the Attorney General of Guam to approve autonomous agency contracts pursuant to 5 GCA § 5150.

I. INTRODUCTION

The American Rescue Plan Act of 2021 ("ARPA"), enacted on March 11, 2021, authorized $1.9 trillion in federal aid, including $350 billion in State and Local Fiscal Recovery Funds ("SLFRF") program to support public health and economic recovery from the COVID-19 pandemic. Guam received over $600 million under the SLFRF program. The U.S. Department of the Treasury ("Treasury"), which administers ARPA, has issued compliance guidelines and FAQs governing the expenditure of SLFRF funds, including eligible uses and applicable deadlines. Pursuant to Treasury's 2022 Final Rule,[1] SLFRF funds distributed to states and territories must be obligated by December 31, 2024, and fully expended by December 31, 2026.

Since ARPA's enactment, Governor Leon Guerrero has allocated Guam's SLFRF funds across agencies and programs to address our community's priority needs. On December 27, 2025, the Department of Administration ("DOA") executed an interagency grant agreement ("IGA") with the Guam Economic Development Authority ("GEDA") to obligate approximately $104 million for the initial phase of a new medical complex in Mangilao, Guam ("Mangilao Medical Campus" or "MMC"). The IGA covers design and construction of primary utility

[1] 31 CFR Part 35 RIN1505-AC77 (2022).

infrastructure, including electrical power, water, and sewer systems, as well as sampling and analysis of environmental, archaeological, physical, geology, and other site characteristics. *See* Ex. A (DOA-GEDA IGA).

On March 2, 2025, GEDA executed a Subgrant Agreement ("GPA Subgrant Agreement") with the Guam Power Authority ("GPA"), subgranting more than $35 million to fund the installation of power infrastructure supporting the MMC Project. *See* Ex. B (GPA Subgrant Agreement). On April 1, 2025, GEDA similarly executed a Subgrant Agreement ("GWA Subgrant Agreement") with the Guam Waterworks Authority ("GWA"), subgranting more than $62 million to GWA to fund the installation of water and wastewater infrastructure for the MMC Project. *See* Ex. C (GWA Subgrant Agreement).

On March 4, 2025, the Pacific Daily News ("PDN") reported that Attorney General Douglas B. Moylan stated that government officials who certified funds for the MMC Project would "assume the consequences of the law" because AG Moylan considered the project illegal. *See* Ex. D at 2 (*Pacific Daily News*, "AG: Spending on new hospital illegal, funds could be 'clawed back' from vendors," Mar. 4, 2025). The article further reported that AG Moylan "has already promised not to approve any contract for the construction of the hospital." *Id.*

In light of these public statements, and given the substantial federal funds at stake, clarification is necessary regarding the scope of the Attorney General's contract approval authority under Guam law, particularly whether that authority extends to autonomous agencies such as GPA and GWA.

Title 5 GCA § 22601 provides in relevant part that "[a]ll contracts shall, after approval of the Attorney General, be submitted to the Governor for her signature." This provision, however, only applies to agencies within the Central Accounting System, not to autonomous agencies or public corporations such as GPA or GWA. *See In re Leon Guerrero*, 2024 Guam 18 ¶ 23.

Title 5 GCA § 5150 provides that the Attorney General shall serve as legal advisor to all agencies, autonomous agencies, instrumentalities or public corporations, during all phases of "any solicitation or procurement which is estimated to result in an award of Five Hundred Thousand Dollars ($500,000) or more." Section 5150 further provides that "[t]he Attorney General…shall, in addition, *when* he approves contracts, determine not only the correctness of their form, but their legality." 5 GCA § 5150 (emphasis added).

Section 5150 does *not* operate as an independent source of the Attorney General's contract approval authority. Instead, it defines the scope of review, limiting the Attorney General's role, when approval is otherwise required by law, to determinations of form and legality. The statute also imposes an advisory duty in large procurements, requiring the Attorney General to serve as legal advisor to agencies, including autonomous agencies such as GPA and GWA, during all phases of solicitations estimated to exceed $500,000. This advisory role, however, does not confer upon the Attorney General veto authority over the execution of contracts by those agencies. Accordingly, GPA and GWA remain empowered to execute contracts related to the MMC Project without the Attorney General's approval.

II. STANDING

1. Petitioner, Governor Lourdes A. Leon Guerrero, brings this request for declaratory judgment pursuant to 7 GCA § 4104. As the duly elected Chief Executive of the government of Guam, the Governor has standing to seek clarification of questions affecting the powers and duties of the Executive Branch.

III. JURISDICTION

2. This court has original jurisdiction over requests from the Governor of Guam for declaratory judgment interpreting any federal or local law and over "any question affecting the powers and duties of [*I Maga'håga*] and the operation of the Executive Branch[.]" 7 G.C.A. § 4104; *see also* 48 U.S.C.A. § 1424-1(a).

3. Guam law authorizes the Governor to seek declaratory judgments directly from the Supreme Court of Guam on matters affecting the Executive Branch. Section 4104 provides:

> *I [Maga'hågan] Guåhan*, in writing...may request declaratory judgments from the Supreme Court of Guam as to the interpretation of any law, federal or local, lying within the jurisdiction of the courts of Guam to decide, and upon any question affecting the powers and duties of *I [Maga'håga]* and the operation of the Executive Branch...The declaratory judgments may be issued only where it is a matter of great

> public interest and the normal process of law would cause undue delay...The Supreme Court of Guam *shall*, pursuant to its rules and procedure, permit interested parties to be heard on the questions presented and *shall* render its written judgment thereon.

7 G.C.A. § 4104 (emphasis in original).

4. This Court has held that the Governor must satisfy three requirements to invoke its declaratory judgment jurisdiction under 7 GCA § 4104: (1) the issues must be of great public importance; (2) resolution through the normal process of law would cause undue delay; (3) and the subject matter is appropriate for Section 4104 review. *In re Request of Governor Carl T.C. Gutierrez, Relative to the Organicity & Constitutionality of Pub. L. 26-35*, 2002 Guam 1 ¶ 9.

5. Although parties invoking the Court's jurisdiction must generally demonstrate Article III standing, this Court has recognized a narrow exception where the Governor or Legislature satisfies the jurisdictional requirements of 7 GCA § 4104. *In re Request of Leon Guerrero, Relative to the Validity and Enforceability of Public Law No. 20-134*, 2023 Guam 11 ¶ 24 ("*Leon Guerrero I*"). In such cases, Article III standing is not required if the matter presents a purely legal issue in an adversary context that is capable of judicial resolution. *Id.*

IV. MATTER OF GREAT IMPORTANCE

6. A matter of great importance or public interest "signifies an importance of the issue to the body politic, the community, in the sense that the operations of

the government may be substantially affected one way or the other by the issue's resolution … the issue presented must be significant in substance and relate to a presently existing governmental duty borne by the branch of government that requests the opinion." *In re Request of Governor Gutierrez for a Declaratory Judgment as to Organicity of Guam Pub. Law 22-42*, 1996 Guam 4 ¶ 4.

7. This Petition seeks declaratory judgment to determine whether the Attorney General of Guam possesses statutory authority to approve contracts executed by autonomous agencies under 5 GCA §§ 5150 and 22601. The question is of great public importance because its resolution will directly affect the administration of hundreds of millions of dollars in public funds, the lawful operation of autonomous agencies, and the execution of critical infrastructure projects such as the MMC.

8. The scope of the Attorney General's authority over autonomous agency procurements and the execution of resulting contracts is a matter of grave public importance. The issue directly affects the lawful administration of federal pandemic recovery funds and execution of major public infrastructure projects funded through those programs. Subgrants of SLFRF funds have been made to GPA and GWA to install power, water, and wastewater infrastructure in Mangilao, the first phase of the planned MMC. The Attorney General has questioned the legality of these actions, including the Governor's authority to allocate SLFRF funds, the acquisition

of property in Mangilao, and the authority of GPA and GWA to execute contracts in furtherance of the MMC project.

9. Several lawsuits are currently pending that address discrete aspects of AG Moylan's objections, including (1) *Government of Guam v. Leon Guerrero*, District Court of Guam Civil Case No. 24-cv-00029 (challenging the Governor's authority to expend ARPA funds without legislative appropriation, GHURA's authority to acquire property for the MMC project, and alleged procedural deficiencies in GHURA's acquisition efforts); *GHURA v. Dr. Joel Joseph et al.*, Superior Court Case No. CV0692-24 (eminent domain action to acquire property for the MMC project); and *GPA v. Attorney General of Guam*, District Court of Guam Civil Case No. 25-cv-00029 (removed from the Superior Court, seeking mandamus relief to compel the Attorney General to implement conflict protocols to perform 5 GCA § 5150 duties). None of these actions, however, address the specific legal question presented here—whether the Attorney General's approval is required for GPA and GWA contracts.

10. Resolution of this issue is of grave public concern. Under federal guidance implementing ARPA, SLFRF funds not expended by December 31, 2026 must be forfeited and returned to Treasury—approximately fourteen (14) months from the date of this filing. Although the various pending lawsuits may ultimately address some of the Attorney General's asserted legal concerns regarding the MMC

project, they do not resolve the threshold question presented here: whether the Attorney General possesses the authority under Guam law to prevent GPA and GWA from proceeding with their respective contracts. If such authority does not exist, the agencies may lawfully move forward with implementing the project to ensure compliance with federal deadlines and prevent the loss of public funds.

11. Utilization of the $104 million obligated to complete infrastructure work for the MMC project will have far-reaching benefits for the people of Guam. It the first major step toward construction of a new public hospital to replace the Guam Memorial Hospital facility, which has long exceeded its expected useful life. Beyond its health impact, the project will strengthen our community's resilience by improving power and water systems, expanding services to underserved areas, and protecting the environment through modernized wastewater infrastructure. The infrastructure phase will enhance our island's overall capacity to support future public health and emergency response needs.

12. The forfeiture of $104 million in SLFRF funds would deprive the people of Guam of these critical infrastructure and health benefits and force the government to divert limited local resources to complete the work. Such a loss would delay the development of a long-overdue medical facility and undermine the broader improvements to power, water, and wastewater systems already in progress.

13. Governor Leon Guerrero therefore requests that this Court interpret relevant Guam law, and declare that AG Moylan's approval is not required for GPA and GWA contracts related to the MMC project. Clarification of this question will enable these agencies to proceed with the necessary infrastructure work and ensure that our government can lawfully and expeditiously utilize its remaining ARPA funds for the benefit of our community.

V. UNDUE DELAY IN NORMAL PROCESS OF LAW

14. The declaratory judgment mechanism under 7 GCA § 4104 exists precisely to prevent undue delay in resolving matters of substantial public importance. As the Court has explained, Section 4104 "was intended to provide a fast track for the initiation of cases before the Supreme Court of Guam so that rulings could be obtained on important issues of law without time consuming litigation in the inferior court." *In re Gutierrez*, 1996 Guam 4 ¶ 8.

15. In evaluating undue delay, the Court has explained that the inquiry "requires one to estimate, as a practical matter, the *relative* difference in speed for an issue depending on whether it travels the 'normal processes of law' route, or that provided by 7 G.C.A. § 4104," and further that the delay must be "undue, that is to say, excessive or inappropriate." *In re Request of Calvo Relative to Interpretation & Application of Organic Act Section 1423b & What Constitutes Affirmative Vote of Members of I Liheslaturan Guåhan*, 2017 Guam 14. Both criteria are satisfied here.

16. Litigation of this issue through the ordinary judicial process, commencing in the Superior Court and proceeding through potential appeals, could delay resolution for months, if not years. Such delay would impede the procurement and execution of contracts essential to the MMC project and risk the forfeiture of remaining SLFRF funds, which must be expended by December 31, 2026. Given the magnitude of the funds and the essential nature of the public infrastructure at stake, this is precisely the type of circumstance for which 7 GCA § 4104 was intended to provide expedited relief.

17. Proceeding by petition under Section 4104 will allow this Court to resolve the legal question promptly and with finality, enabling continued progress toward the MMC and ensuring our government remains in compliance with federal funding deadlines and requirements.

VI. REQUESTED INTERPRETATION AFFECTING GOVERNOR'S POWERS AND DUTIES AND OPERATIONS OF THE EXECUTIVE BRANCH

18. This Court has recognized two subjects appropriate for Section 4104 review: (1) questions that require an interpretation of federal or local law lying within the jurisdiction of Guam courts; and (2) questions that affect the powers and duties of the Governor and the operation of the executive branch. Governor Leon Guerrero seeks interpretation under both categories.

19. Governor Leon Guerrero seeks an interpretation of Guam law, specifically 5 GCA §§ 5150 and 22601, to clarify the scope of the Attorney General's authority to approve or withhold approval of contracts entered into by autonomous agencies, and to determine whether such authority extends to preventing those agencies from awarding or executing contracts. In particular, the Governor respectfully requests declarations on the following questions:

a. Whether, under Guam law, autonomous agencies that are not governed by the Central Accounting Act are required to obtain the Attorney General's approval prior to executing contracts; and

b. Whether 5 GCA § 5150 confers independent contract-approval authority upon the Attorney General, or merely defines the scope of review when such approval is otherwise required by law.

20. This question also directly implicates the Governor's powers and duties under the Organic Act of Guam to administer and expend ARPA funds. Courts have recognized that the authority to manage and disburse such funds rests with the Governor and the Executive Branch, not the Legislature. *See Wong v. Camina*, 2 Guam Rep. 132, 136–37 (1978) (holding that federal grants to Guam are not subject to legislative reappropriation if made for a specific purpose without the need for local funding, and the appropriation or grant does not provide for local legislative control); *Story-Bernardo v. Government of Guam*, 2023 Guam 27 ¶ 45 (reaffirming

that the Legislature lacks control over CARES Act funds administered by the Governor). Because DOA executes ARPA grants on behalf of the Governor, the Attorney General's claimed authority to withhold approval of contracts funded by those grants directly interferes with the Governor's execution of her fiscal duties. Resolution of this issue therefore presents a clear question "affecting the powers and duties of [*I Maga'håga*] and the operation of the Executive Branch" within the meaning of 7 GCA § 4104.

21. Accordingly, this Petition satisfies all three jurisdictional requirements articulated in *In re Request of Governor Gutierrez*, 2002 Guam 1 ¶ 9. The issues presented are of substantial public importance, resolution through ordinary litigation would risk of forfeiting significant federal funds, and the issues directly affect the powers and duties of the Governor and the operation of the Executive Branch. Declaratory review under 7 GCA § 4104 is therefore appropriate and necessary to resolve the legal uncertainty surrounding the Attorney General's authority and the ability of autonomous agencies to execute contracts under Guam law.

IV. PETITIONER'S LEGAL POSITION

A. Agencies not subject to the Central Accounting Act are not required to obtain the Attorney General's approval to award or execute contracts pursuant to 5 GCA §§ 5150 and 22601.

Guam law organizes executive branch agencies according to their degree of autonomy and independence from centralized fiscal and operational control. "Line agencies" generally operate under the Governor's direct supervision and control: their directors serve at the pleasure of the Governor, their budgets are administered through the Bureau of Budget and Management Research, and their fiscal operations are administered by the DOA pursuant to the Central Accounting Act ("CAA"), codified at 5 GCA § 22201 *et seq*.

In contrast, "autonomous agencies" exercise varying degrees of fiscal and operational independence depending on their enabling legislation. *See In re Leon Guerrero*, 2024 Guam 18 ¶ 30. Agencies such as GPA and GWA are governed by independent boards and maintain separate accounting systems outside the CAA framework. This structural distinction between line agencies and autonomous agencies is central to determining the nature and scope of the Attorney General's role to review and approve agency contracts.

The Attorney General of Guam serves as the government's chief legal officer and is principally responsible for providing legal services to line agencies, which lack statutory authority to retain independent counsel. In *In Re Leon Guerrero*, 2024 Guam 18 ¶ 30 (*Leon Guerrero II)*. This responsibility includes reviewing all line agency contracts, advising on procurements valued at $500,000 or more, and providing legal services and litigation representation to those agencies. *Id.* ¶ 42.

The Attorney General's role relative to autonomous agencies is significantly more limited. Although such agencies may request the Attorney General's assistance, many, including GPA and GWA, are statutorily authorized to employ their own legal counsel. *Id.* (citing 12 GCA § 8112(a) (GPA) and 12 GCA § 14109(a) (GWA)). While these agencies generally manage their own legal affairs, Guam law provides that the Attorney General shall represent GPA and GWA in litigation unless that authority has been expressly delegated to the agencies. *See* 12 GCA 8112(d) and 12 GCA § 14109(c).

The Attorney General's role relative to line and autonomous agencies further diverges in the context of procurement and contract approval. The Attorney General's general contract approval authority is codified in 5 GCA § 22601, located within the Fiscal Procedures chapter of Title 5, Guam Code Annotated. Originally enacted in 1952 as Section 6107 of the Government Code through Public Law 1-88, the operative language of Section 22601 has remained unchanged since its enactment. It provides:

> All contracts shall, after approval of the Attorney General, be submitted to the Governor for his signature. All contracts of whatever nature shall be executed upon the approval of the Governor.

5 GCA § 22601.

Section 22601 conditions the execution of government contracts on both the Attorney General's approval, and the Governor's approval and signature. As the

Court recognized in *In re Leon Guerrero II*, 2024 Guam 18 ¶ 76, Section 22601 applies exclusively to agencies subject to the CAA. The CAA, however, does not govern accounting operations of certain enumerated agencies and branches that maintain independent accounting systems, including GPA and GWA. *See* 5 GCA § 22205.

A separate statutory requirement for the Attorney General's approval of contracts appears in the Guam's Procurement Law. Enacted in 1982 as Title VII-A of the Government Code through Public Law 16-124, the Procurement Law included Section 6954.7(b), now codified as 5 GCA § 5121(b). It provides, in relevant part:

> **§ 5121. Authority to Contract for Certain Services and Approval of Contracts.**
>
> . . . .
>
> (b) Approval of Contracts for Legal Services. No contract for the services of legal counsel in the Executive Branch shall be executed without the approval of the Attorney General.

5 GCA § 5121(b).

Neither Section 22601 nor Section 5121(b) defines the scope or nature of the Attorney General's review and approval of contracts. That function was first supplied by Section 6957 of the Government Code, also enacted as part of the Guam Procurement Law through Public Law 16-124, which provided:

> Section 6957. Duties of the Attorney General. The Attorney General…shall serve as legal counsel and provide necessary legal services to the policy officer and the General Services Agency. The Attorney General shall, in addition, *when* he approves contracts, determine not only the correctness of

> their form, but their legality. In making such a determination of legality, he may require any or all agencies involved in the contract to supply him with evidence that the required procedures precedent to executing the contract were carried out. He may prescribe the forms and format required to be followed by the agencies in aiding him in his determination of legality.

Gov't Code § 6975 (emphasis added).

Section 6957 did not establish independent contract approval authority beyond that provided in Section 6107 (CAA contracts) or Section 6954.7(b) (attorney services contracts). Rather, it clarified the *scope* of contract review and approval when the Attorney General already existed, specifically defining such approval as a review of form and legality.

Upon codification of the Guam Code Annotated, Section 6957 was carried forward and renumbered as 5 GCA § 5150. Section 5150 has been meaningfully amended twice, in 2009 through Public Law 30-72 ("2009 Amendment"), and in 2010 through Public Law 30-157 ("2010 Amendment").

The 2009 Amendment expanded the role of the Attorney General in procurement oversight. In Section 1 of Public Law 30-72, the Legislature identified "a need for greater scrutiny in the preparation of bid documents and in the awarding of bids for major purchases and contracts for services," and sought to minimize protests and promote efficiency. *See* P.L. 30-72:1 (Nov. 27, 2009). To that end, the Legislature amended Section 5150 to assign the Attorney General a *legal advisory* *role* in large procurements – specifically those estimated to result in an award of Five Hundred Thousand dollars ($500,000.00) or more:

> Whenever the Chief Procurement Officer, the Director of Public Works, or the head of any executive branch agency, autonomous agency, instrumentality or public corporation of the government of Guam conducts any solicitation or procurement which is estimated to result in an award of Five Hundred Thousand Dollars ($500,000) or more, the Attorney General shall act as legal advisor during all phases of the solicitation or procurement process.

5 GCA § 5150 (as amended by P.L. 30-72 § 2 (Nov. 27, 2009)).

The 2009 Amendment added an advisory function but did not create approval authority beyond that already provided elsewhere in law. The operative language—"when he approves contracts"— remained unchanged from its original 1982 enactment, confirming that Section 5150 defines the *scope* of the Attorney General's review when such approval is otherwise required. It does not operate as an independent grant of approval authority.

The 2010 Amendment subsequently authorized the Attorney General to designate Special Assistant Attorneys General ("SAAGs") to perform the Attorney General's duties under Section 5150. The amendment made no other substantive change to the section or to the advisory role established in the 2009 Amendment.

The statutory history of Section 5150 demonstrates consistent legislative intent to define the scope of the Attorney General's review when approval authority is otherwise conferred in Guam law, and to expand the Attorney General's advisory and support functions in major procurements—not to create an independent power to approve or disapprove contracts.

Governor Leon Guerrero acknowledges that in *In re Leon Guerrero*, 2024 Guam 18, the Court, in dicta, referenced the Attorney General's approval of contracts under 5 GCA §§ 22601 and 5150 for procurements valued at $500,000 or more, including those of autonomous agencies. However, those statements were not necessary to the Court's holding, were made in a narrow procedural context, and were not accompanied by detailed statutory or historical analysis.

Because some have since interpreted this language as extending the Attorney General's contract approval authority beyond agencies governed by the CAA, Governor Leon Guerrero respectfully submits that a declaratory judgment is necessary to clarify the proper scope and effect of §§ 22601 and 5150 under Guam law.

In light of this uncertainty, and to ensure consistent application of Guam's procurement and fiscal laws, Governor Leon Guerrero respectfully seeks a declaratory judgment clarifying the scope of the Attorney General's authority under these provisions.

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PRAYER FOR RELIEF

WHEREFORE, Petitioner Governor Leon Guerrero respectfully requests that the Court:

1. Expedite the briefing and hearing schedule in this matter; and
2. Issue a declaratory judgment declaring that:
   a. 5 GCA § 22601 applies exclusively to agencies and instrumentalities of the Government of Guam that are subject to the Central Accounting Act, and not to autonomous agencies that maintain independent accounting systems; and
   b. 5 GCA § 5150 does not independently confer contract approval authority upon the Attorney General, but rather defines the scope of review when such approval authority is otherwise conferred by law.

Respectfully submitted this 29th day of October, 2025.

OFFICE OF THE GOVERNOR OF GUAM
Office of Legal Counsel

By: ______________________________
LESLIE A. TRAVIS
JEFFREY A. MOOTS
Attorneys for Petitioner
Lourdes A. Leon Guerrero,
Governor of Guam

<u>**VERIFICATION**</u>

GUAM U.S.A,)
) ss:
Territory of Guam)

The undersigned, deposes and says: That she is the petitioner in the foregoing Request for Declaratory Judgment, that the facts contained therein are true and correct to the best of her knowledge and belief, except as to the matters stated upon information and belief, and as to those matters, she believes them to be true.

Dated this 29th day of October, 2025.

LOURDES A. LEON GUERRERO

SUBSCRIBED and SWORN to before me on the day and year first above-written.

NOTARY PUBLIC

DAVINA CHRISTINE SAYAMA-CHARGUALAF
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: SEP. 11, 2026
Commission Number NP: 22-0486P
149 Sobrino Street Mangilao, GU 96913

EXHIBIT A

Government of Guam Interagency Grant Agreement

Paying State Agency Department of Administration	**Agreement Number** 2024-DOAARPA-GEDA-0002
Performing State Agency Guam Economic Development Authority	**Agreement Performance Beginning Date** December 27, 2024
UEI/SAMS Number	**Initial Agreement Expiration Date** December 01, 2026
Agreement Maximum Amount SLRLF $104,843,733.97	**Fund Expiration End Date** December 31, 2026
Total: $104,843,733.97	**Agreement Authority** These funds are awarded and obligated pursuant to the Governor's Organic Act authority and the American Rescue Plan Act of 2021, P.L. 117-2.

Agreement Purpose: The Department of Administration is entering into this Federal Award with the Guam Economic Development Authority to fund the completion of the initial phase of the Mangilao Medical Campus Project, including design and construction of primary utility infrastructure (electrical power, water, and sewer), and completion of sampling and analysis of environmental, archaeological, physical, geology and other site characteristics.

Exhibits

The following exhibits and attachments are included with this Interagency Grant Agreement:

1. Exhibit A. Statement of Work.
2. Exhibit B. Budget.
    a. Exhibit B1. Guam Power Authority Cost Estimate
    b. Exhibit B2. Guam Waterworks Authority Cost Estimate
    c. Exhibit B3. Civil Engineering Cost Estimate
3. Exhibit C. Federal Provisions.
4. Exhibit D. SLFRF Reporting Modification Form

Principal Representatives

For the Government of Guam: Edward Birn, Director Department of Administration ITC Building, Suite 224 590 S. Marine Corps Drive Tamuning, Guam 96913 edward.birn@doa.guam.gov	For Grantee: Melanie Mendiola, CEO/Administrator Guam Economic Development Authority ITC Building, Suite 511 590 S. Marine Corps Drive Tamuning, Guam 96913 mel.mendiola@investguam.com

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

1. PARTIES

This Interagency Grant Agreement ("IGA" or "Agreement") is entered into by and between the Department of Administration ("DOA" or the "Paying Agency"), and the Guam Economic Development Authority ("GEDA" or the "Performing Agency"). DOA and GEDA may each individually be referred to as a "Party" and collectively as the "Parties." Each Party is an agency of the government of Guam.

2. GRANT

As of the Grant Issuance Date, DOA hereby obligates and awards to GEDA grant funds in the amounts shown on the first page of this IGA. By accepting the grant funds provided under this IGA, GEDA agrees to comply with the terms and conditions of this IGA and requirements and provisions of all Exhibits to this IGA.

3. TERM

A. Initial Grant Term and Extension

The Parties' respective performances under this IGA shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Agreement.

B. Early Termination in the Public Interest

DOA is entering into this IGA to serve the public interest of the Government of Guam. If this IGA ceases to further the public interest of Guam or if Government of Guam, Federal or other funds used for this IGA are not appropriated, or otherwise become unavailable to fund this IGA, DOA, in its discretion, may terminate this IGA in whole or in part by providing at least ten (10) days' written notice to GEDA that includes, to the extent practicable, the public interest justification for the termination. If DOA terminates this IGA in the public interest, DOA shall pay GEDA an amount equal to the percentage of the total reimbursement payable under this IGA that corresponds to the percentage of Work satisfactorily completed, as determined by DOA, less payments previously made. Additionally, DOA, in its discretion, may reimburse GEDA for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this IGA that are incurred by GEDA and are directly attributable to the uncompleted portion of GEDA's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to GEDA hereunder. This subsection shall not apply to a termination of this IGA by DOA for breach by GEDA.

C. GEDA's Termination Under Federal Requirements

GEDA may request termination of this IGA by sending notice to DOA, or to the Federal Awarding Agency with a copy to DOA, which includes the reasons for the termination and the effective date of the termination. If this IGA is terminated in this manner, then GEDA shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

4. STATEMENT OF WORK

GEDA shall complete the Work as described in this IGA and in accordance with the provisions of Exhibit A. Neither DOA nor the Government of Guam (and its other agencies) shall have any liability to compensate or reimburse GEDA for the delivery of any goods or the performance of any services not specifically set forth in or consistent with this IGA.

5. PAYMENTS TO PERFORMING AGENCY

A. Maximum Amount

GEDA shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. DOA shall have no liability to compensate GEDA for the delivery of any goods or the performance of any services that are not specifically set forth in this IGA.

B. Payment Procedures

i. GEDA shall initiate payment requests by invoice to DOA, in a form and manner approved by DOA. To facilitate Fiscal Year End closing, final invoices for each Fiscal Year should be submitted to DOA by November 15th of the following Fiscal Year.

ii. DOA shall pay each invoice within 10 days following the DOA's receipt of that invoice, so long as the amount invoiced correctly represents work completed by the GEDA and previously accepted by the DOA during the term that the invoice covers.

DOA shall pay GEDA's allowable costs, not exceeding the maximum total amount described in this IGA for all allowable costs described in this IGA and shown in the Budget, except that GEDA may adjust the amounts between each line item of the Budget without formal modification to this IGA as long as GEDA provides notice to DOA of the change, the change does not modify the total maximum amount of this IGA or the maximum amount for any Government of Guam fiscal year, and the change does not modify any requirements of the Work. GEDA may request, and DOA may make direct payment to vendors or subcontractors for allowable costs as authorized by the Treasury Rules, and only in satisfaction of costs incurred as a result of the IGA. DOA shall only pay allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to GEDA (i.e. the price paid minus any items of value received by GEDA that reduce the cost actually incurred).

The U.S. Department of the Treasury has issued a 2024 Compliance Supplement for Assistance Listing 21.027 Coronavirus State and Local Fiscal Recovery Funds ("Compliance Supplement"). The Compliance Supplement provides guidance to auditors and grant recipients regarding the ARP SLFRF and applicable federal regulations, and also provides a guide on how to audit the federal funds.

The procurement requirement under the Compliance Supplement states that, "recipients may use award funds to enter into contracts to procure goods and services necessary to complement one or more of the eligible purposes . . . recipients are expected to have procurement policies and procedures in place that comply with the procurement standards outlined in the Uniform Guidance." Uniform Guidance procurement methods are stated in 2 CFR Part 200 Subpart D - Procurement Standards.

In addition, under Procurement Standards 2 CFR §200.324(c), procurement funded by federal funds "must not use the cost plus a percentage of cost and percentage of construction cost methods of contracting."

C. Close-Out

GEDA shall close out this IGA within 45 days after the Grant Expiration Date. To complete close out, GEDA shall submit to DOA all deliverables (including documentation) as defined in this IGA and GEDA's final reimbursement request or invoice. DOA will withhold 5% of allowable costs set forth in reimbursement requests or invoices submitted by GEDA during the final three months of the performance period, until all final documentation has been submitted and accepted by DOA as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

GEDA shall submit all financial, performance and other reports to DOA no later than the end of the close out described in §5C, containing an evaluation and review of GEDA's performance and the final status of GEDA's obligations hereunder.

B. Violations Reporting

GEDA shall disclose, in a timely manner, in writing to DOA and the Federal Awarding Agency, all violations of federal, state, or Guam criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. DOA or the Federal Awarding Agency may seek to impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. PERFORMING AGENCY RECORDS

A. Maintenance and Inspection

GEDA shall make, keep, and maintain, all official records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this IGA for a period of five years following the completion of the close out of this IGA. GEDA shall permit the DOA and its delegees to audit, inspect, examine, excerpt, copy and transcribe all such records at all reasonable times and places during the term of this IGA, unless DOA determines that an audit or inspection is required without notice at a different time to protect the interests of DOA or the Government of Guam.

B. Monitoring

DOA will monitor GEDA's performance of its obligations under this IGA using procedures as determined by DOA. GEDA shall allow DOA to perform all monitoring required by the Uniform Guidance and otherwise, based on DOA's risk analysis of GEDA. DOA shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this IGA. DOA shall monitor GEDA's performance in a manner that does not unduly interfere with GEDA's performance of the Work. If GEDA enters into a subcontract or subgrant with an entity that would be considered a Subrecipient, then the subcontract or subgrant entered into by GEDA shall contain provisions permitting both GEDA and DOA to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance or as otherwise determined necessary by DOA in its sole discretion.

C. Final Audit Report

GEDA shall promptly submit to DOA a copy of any final audit report of an audit performed on GEDA's records that relates to or affects this IGA or the Work, whether the audit is conducted by GEDA or a third party.

8. CONFIDENTIAL INFORMATION-GOVERNMENT OF GUAM RECORDS

A. Confidentiality

Each Party shall treat the confidential information of the other Party with the same degree of care and protection it affords to its own confidential information, unless a different standard is set forth in this Agreement. Each Party shall notify the other Party immediately if it receives a request or demand from a third party for records or information of the other Party.

9. CONFLICTS OF INTEREST

GEDA shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of GEDA's obligations under this IGA. GEDA acknowledges that, with respect to this IGA, even the appearance of a conflict of interest is harmful to the Government of Guam's interests and absent DOA's prior written approval, GEDA shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of GEDA's obligations under this IGA. If a conflict or the appearance of a conflict arises, or if GEDA is uncertain whether a conflict or the appearance of a conflict has arisen, GEDA shall submit to DOA a disclosure statement setting forth the relevant details for DOA's consideration. DOA shall inform GEDA of its position as to GEDA's disclosure statement within ten (10) business days of receiving said disclosure.

10. DISPUTE RESOLUTION

The failure of a Party to perform its respective obligations in accordance with the provisions of this IGA is a breach of this IGA. In the event of disputes concerning performance hereunder or otherwise related to this IGA, the Parties shall attempt to resolve them at the agency level. Except as herein specifically provided otherwise or as required or permitted by federal regulations related to any Federal Award that provided any of the Grant Funds, disputes concerning the performance of this IGA that cannot be resolved by agency representatives shall be referred in writing to the Office of the Governor for resolution.

11. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover and Signature Pages for this Agreement shall be the Principal Representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's Principal Representative at the address set forth on the Cover Page or (C) as an email with read receipt requested to the Principal Representative at the email address, if any, set forth on the Cover Page for this Agreement. Either Party may change its Principal Representative by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

12. GENERAL PROVISIONS

A. Assignment

GEDA's rights and obligations under this IGA are personal and may not be transferred or assigned without the prior, written consent of DOA. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of GEDA's rights and obligations approved by DOA shall be subject to the provisions of this IGA.

B. Captions and References

The captions and headings in this IGA are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this IGA to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This IGA represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this IGA.

D. Modification

DOA may modify the terms and conditions of this IGA by issuance of an Amended IGA, which shall be effective if GEDA countersigns the IGA or accepts Grant Funds following its receipt of the Amended IGA. The Parties may also agree to modification of the terms and conditions of the IGA in a formal amendment to this IGA, properly executed and approved in accordance with applicable Guam law.

E. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this IGA to a statute, regulation, rule, fiscal policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. GEDA shall strictly comply with all applicable Federal, State, and Guam laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Severability

The invalidity or unenforceability of any provision of this IGA shall not affect the validity or enforceability of any other provision of this IGA, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the IGA in accordance with the intent of the IGA.

G. Survival of Certain IGA Terms

Any provision of this IGA that imposes an obligation on a Party after termination or expiration of the IGA shall survive the termination or expiration of the IGA and shall be enforceable by the other Party.

H. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this IGA does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this IGA are incidental to the IGA, and do not create any rights for such third parties.

I. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this IGA, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

J. Compliance with Guam and Federal Law, Regulations, and Executive Orders

GEDA shall comply with all Guam and Federal law, regulations, executive orders, Guam and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this IGA.

K. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Government of Guam. The Parties agree that any legal action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the courts of the Government of Guam, and the Parties hereby irrevocably consent to the jurisdiction of such courts.

[Signature page follows.]

IN WITNESS of the above provisions, the Parties have executed this Interagency Grant Agreement on the last of the dates below stated.

For the Department of Administration:

EDWARD M. BIRN, Director

December 30, 2024
Date

For the Guam Economic Development Authority:

MELANIE A. MENDIOLA, CEO/Administrator

12/27/24
Date

Certified Funds Available:
$104,843,733.97
Account No. 681-21-9966103

CLEARED PER
BBMR'S REVIEW

DEC 27 2024

LESTER L. CARLSON, JR., Director,
Bureau of Budget and Management Research
Certifying Officer

EXHIBIT A: STATEMENT OF WORK

I. Purpose

The Department of Administration ("DOA") is entering into this Federal Award with the Guam Economic Development Authority ("GEDA") to fund the completion of the initial phase of the Mangilao Medical Campus ("MMC") project, including completion of the design and construction of primary utility infrastructure (electrical power, water, and sewer), and completion of the sampling and analysis of environmental, archaeological, physical, geological and other site characteristics.

For details on the ARPA funding, see Cover Page, Federal Award(s) Applicable to This Grant Award.

II. Notification

To the DOA:

Edward Birn, Director
edward.birn@doa.guam.gov
Department of Administration
ITC Building, Suite 224
590 S. Marine Corps Drive
Tamuning, Guam 96913

To GEDA:

Melanie Mendiola, CEO/Administrator
mel.mendiola@investguam.com
Guam Economic Development Authority
ITC Building, Suite 511
590 S. Marine Corps Drive
Tamuning, Guam 96913

III. Performance Period

The performance period and expiration date are stated on the IGA cover page.

DOA shall not be responsible or liable for goods or services delivered or performed prior to issuance of this IGA.

IV. Definitions

- **"ARPA"** means the American Rescue Plan Act of 2021.
- **"SLFRF"** means State and Local Fiscal Recovery Fund.

V. Personnel

A. Responsible Administrator

GEDA's performance hereunder shall be under the direct supervision of Melanie Mendiola, Chief Executive Officer/Administrator of GEDA, who is hereby designated as the responsible administrator of this project.

The responsible administrator may delegate oversight of the Work – not including contracting authority–to another Government of Guam employee, if prior notice of the delegation is provided to DOA and the delegee meets at least the following minimum qualifications:

1. College degree or minimum of four years' experience in government administration, procurement, project administration, and/or construction management.
2. Strong oral and written communication and interpersonal skills.
3. Strong organizational and problem-solving skills.
4. Familiarity with Guam governmental operations.

B. Other Personnel

1. GEDA represents that, in addition to the expertise of its current employees, GEDA will leverage the available expertise of other Government of Guam agencies where it believes such expertise can be productively applied.
2. GEDA may use its budgeted "Administrative Fee" as set forth herein to defray its staffing expenses attributable to the Services.
3. Further notwithstanding the above, DOA and GEDA expressly agree that efficient, effective completion of the scope of work will require GEDA to procure professional services including but not limited to design and engineering services as well as inspection and construction management services, and that such procured professional services are eligible expenses for Grant Funds.

C. Secondment from Other Government of Guam Agencies

If GEDA determines that it would be advantageous to formally second staff with particular expertise from another Government of Guam agency to GEDA, GEDA may make such request to the contact designated by DOA and in the manner prescribed by DOA. The request should, at a minimum, include the expertise requested, together with any suggestions for Government of Guam staff possessing the needed expertise, the anticipated timeframe of the secondment, and the proposed funding source for the secondment. All such requests will be promptly considered but will necessarily involve balancing the utility of the secondment against the disadvantage, if any, to the proposed secondee's default agency and responsibilities.

D. Procured Professional Services

DOA and GEDA expressly contemplate that GEDA will contract for the provision of certain professional services in support of the Work and the Services, including but not limited to architectural and engineering design, environmental assessment, construction, and construction management and inspection services.

VI. Work Tasks and Deliverables

A. **Work tasks:** GEDA will develop a project strategy for efficient completion of the Work, consistent with the below budget narrative. GEDA, working in close coordination with GHURA and other Guam agencies as necessary, will procure, as necessary, professional and construction services and organize the assistance of other Government of Guam agencies and, as appropriate, enter into memoranda of agreement with those agencies and other entities. GEDA will oversee all activities, ensure that all activities are consistent with this IGA and process invoices for payment as required in memoranda of agreement with other agencies and entities. GEDA will, in coordination with the Office of the Governor, lead public communication efforts. GEDA will be lead communicator with Guam regulatory and inspection agencies for the project. GEDA will oversee the budget against project completion and will coordinate the preparation of periodic reports as described below.

GEDA is authorized by 12 GCA § 50103 to finance, acquire, construct, reconstruct, rehabilitate, or improve hospital facilities, and provide such hospital facilities to serve the general public and to make reasonably accessible to all the people of Guam modem and efficient hospital facilities. To assist in achieving this objective, GEDA will complete the initial phase of the Mangilao Medical Campus Project, including design and construction of primary utility infrastructure (electrical power, water and wastewater), and prepare an Environmental Condition of Property report which analyzes environmental, archaeological, physical, geology and other characteristics of the MMC property or portions thereof in compliance with local and federal laws and regulations. The MMC property will be identified by DOA. GEDA may request and DOA may approve acquisition by GEDA of other properties as may be necessary to perform its obligations under this IGA.

Preliminary analysis indicates that the proposed location for the medical campus lacks basic infrastructure to support not only the MMC but also developments within the surrounding area. As a result, GEDA will execute interagency agreements with government of Guam utility and infrastructure agencies to provide infrastructure design and construction services for off-site infrastructure that will service the MMC in compliance with local and federal law and regulations.

Electrical Power

Guam Power Authority (GPA) provides power and power infrastructure to Guam through the use of oil-fired power generators (94.3%) and renewable power generation (5.7%). Currently electricity is distributed to the grid around the medical campus site. New development would require additional electrical infrastructure. GEDA intends to enter into an interagency agreement with GPA to design and construct the additional electrical infrastructure. Once completed, GPA will apportion sufficient electrical supply from the generating capacity installed to meet the needs of the MMC.

Preliminary analysis indicates that the following electrical infrastructure may be required:

- Power substation
- Power tie-ins from GU-15
- Transmission lines that intercept Barrigada-Pulantat for aboveground transmission lines
- Dedicated feeder serving the new hospital
- Additional circuit utilized for backfeed capabilities

The design process that will be instituted by GPA will confirm electrical infrastructure requirements.

Potable Water and Wastewater

The Guam Waterworks Authority (GWA) provides water and wastewater infrastructure on Guam. The hospital campus water demand has been calculated as double the Guam Memorial Hospital's current water consumption, in addition to public health and behavioral health water consumption. The sewer load is estimated to be 90 percent of the water demand.

GEDA will execute an interagency agreement with GWA to design and construct water and wastewater improvements and apportion sufficient water and wastewater capacity to meet the needs of the MMC.

Based on the initial review of the water demand analysis by GWA, the medical campus would require the following off-site water infrastructure:

- Two (2) Wells design and exploration
- 6-inch water line extensions to 2 new wells
- Storage tank(s) with total volume of 2.5 million gallons and piping

- Pumping system

Offsite Wastewater Facilities preliminarily include:

- Lalo Street gravity sewer main upgrade
- Route 10 gravity sewer main upgrade (pipes & manholes)
- Barrigada sewer pump station upgrade
- Barrigada force main upgrade
- Route 8 gravity sewer upgrade
- Route 1 gravity sewer upgrade (pipes & manholes)
- Hagåtña Main sewer pump station
- Hagåtña Main force main

The design process that will be instituted by GWA will confirm water and wastewater infrastructure requirements.

B. **Specific deliverables:**

1. Registration of the unified MMC property in a single parcel, appropriately zoned, with all necessary rights and registrations recorded with the Division of Land Management. GHURA

2. Architectural and engineering design of plans and construction specifications for electrical power infrastructure to bring needed infrastructure to the campus site, including as necessary power substations, power tie-ins from Route 15, transmission lines that intercept Barrigada-Pulantat for above-ground transmission lines, a dedicated feeder serving the new campus, an additional circuit utilized for backfeed capabilities, and other electrical facilities as determined to be advisable in consultation with the Guam Power Authority. GPA

3. Architectural and engineering design of plans and construction specifications for potable water infrastructure to bring needed infrastructure to the campus site, including as necessary Offsite Water System improvements to include design and exploration of two (2) water wells, six-inch water line extensions to two (2) new wells, storage tank(s) with total volume of 2.5 million gallons and piping, pumping system and potable water facilities as determined to be advisable in consultation with the Guam Waterworks Authority and the Guam Environmental Protection Agency. GWA

4. Architectural and engineering design of plans and construction specifications for wastewater disposal infrastructure to bring needed infrastructure to the campus site, including as necessary offsite sewer system improvements, new sewer pump stations, force mains, gravity sewer upgrades, gravity sewer main upgrade (pipes and manholes), sewer pump station upgrades, and related work as determined to be GWA

advisable in consultation with the Guam Waterworks Authority and the Guam Environmental Protection Agency.

5. Required environmental studies of site characteristics to enable facility design and to satisfy any permitting requirements including hydrology, karst topography, geology, archaeology, cultural and historic resources, groundwater quality, endangered species, environment, noise, impacts on residents living nearby, and other characteristics as determined to be advisable for analysis pursuant to the National Environmental Policy Act and Guam law.

C. **Optional Additions**: If funding becomes available, GEDA may prepare estimates and proposals to include additional related work to the Specific Deliverables, which DOA may accept or decline, including but not limited to:

1. Analysis of required broadband and communication infrastructure improvements.
2. Architectural and engineering design of plans and construction specifications for highway infrastructure including as necessary widening of GU-15 to six (6) lanes of travel and related improvements, traffic signals at arterial road intersections, main entrance road, road dedicated for emergency and employee ingress and egress, secondary public ingress and egress, pedestrian crossings and sidewalks, and other highway improvements as determined to be advisable in consultation with the Guam Department of Public Works and consistent with applicable federal highway requirements.
3. Engineering design of plans and construction specifications for broadband and communication infrastructure improvements to bring needed infrastructure to the campus site.
4. Procurement of a construction manager for construction of the MMC.
5. Architectural and engineering design of plans and construction specifications for a general service, community hospital facility, suitable for accreditation by as a Level I trauma center, with up to 300 beds, suitable to provide specialty services and have an outpatient clinic component and preparation of a draft Invitation for Bid.

VII. Reporting

A. Annual and Final Report(s)

GEDA will fulfill the performance and financial reporting requirements as outlined in this section.

B. Performance and Financial Reporting Requirements Due Date(s)

1. Core Performance:

Within 45 days of the execution of this IGA, GEDA will prepare for review and acceptance by DOA a master calendar with an anticipated schedule for the performance and completion of all core activities required for successful and timely completion of the Work, including but not limited to the specific deliverables detailed above. The Core Performance schedule will subdivide the project as a whole, assigning percentages to appropriate milestones quantified to appropriately state, on a weekly basis, the percentage complete the project as a whole is against the scheduled percentage of completion.

2. Monthly:

Due by the fifth of the month, GEDA will submit its Monthly Report to DOA. The Monthly Report will include ((i) the Core Performance actual and scheduled percentages; (ii) milestones achieved in the last month; (iii) planned activities for the next two months; (iv) an abbreviated budget overview of expenses paid to date, unpaid expenses incurred, and Grant Funds that remain. The Monthly Report will also list vendor invoices received in the previous month and expected vendor billings for the next two months. The Monthly Report will also list Government of Guam staff other than GEDA staff employed on the project in the previous month and any expected other-than-GEDA Government of Guam staff participation requested for the next two months. Each Monthly Report should also include a brief narrative of the previous month's project successes and, as appropriate, a brief analysis of any challenges encountered.

3. Quarterly:

GEDA will submit a quarterly Grant Itemization Report with evidence of expenditures in a form that complies with U.S. Department of Treasury reporting requirements and meet with DOA to resolve any questions or comments. If the U.S. Department of Treasury changes reporting requirements, GEDA agrees to comply with the revised requirements.

4. Annually:

GEDA shall submit an annual report as specified below. These reports shall include but are not limited to a summary of the following:

- Progress as to Specific Deliverables
- Budget v. Actuals
- Anticipated potential upcoming challenges
- Project utilization of non-GEDA Government of Guam resources
- Upcoming project efficiency or other opportunities
- Economic impact reporting

The annual reports are due according to the schedule below:

- Report 1: June 2, 2025
- Report 2: June 1, 2026

GEDA shall provide DOA with an explanation and action plan for any performance measurements that are not on target.

VIII. Budget and Payment

Payments shall be made in accordance with the provisions set forth in the Grant and its attached exhibits, including this Exhibit A. The project budget is set forth in Exhibit B.

The maximum amount payable under the terms and conditions of this IGA shall not exceed $104,843,733.97. Any amount in excess of these totals, must be agreed to by both parties, must be provided by a properly executed option or amendment to this IGA.

Matching Funds

No match required.

Grant Funds

2024-DOAARPA-GEDA-0002 $104,843,733.97

IX. Administrative Requirements

A. Accounting

1. At all times from the Effective Date of this Grant until completion of the Work, GEDA shall maintain properly segregated books of Grant Funds, matching funds (if any), and other funds associated with the Work.
2. All receipts and expenditures associated with said Work shall be documented in a detailed and specific manner, and shall accord with the Work Budget set forth herein.
3. GEDA shall assume responsibility for seeing that all funding is expended, accounted for and reported, consistent with underlying agreements, program objectives and with allowable cost, applicable rules and regulations addressed by 2 CFR 200 and originating grant award provisions.
4. Adjustments of budget expenditure amounts in excess of ten percent (10%) must be authorized by DOA in an amendment to this IGA properly executed and approved pursuant to DOA procedures.

5. In no event shall GEDA's total consideration exceed the amount indicated in "Budget" above.
6. Reimbursement requests must include the standard reimbursement summary sheet and supporting documentation of the amounts listed on the summary sheet, including but not limited to an original ticked general ledger from the host accounting system.

B. Monitoring

DOA shall monitor this Work on an as-needed basis. DOA may choose to audit the business activities performed under this Grant. GEDA shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Grant. Such books and records shall contain documentation of the participant's pertinent activity under this Grant in a form consistent with good accounting practice.

C. Discretionary Audit

DOA, or any of its duly authorized representatives, including an independent Certified Public Accountant of DOA's choosing, or the federal government or any of its properly delegated or authorized representatives shall have the right to inspect, examine, and audit GEDA's (and any of GEDA's contractor's) records, books, accounts and other relevant documents. Such a discretionary audit may be requested at any time and for any reason from the effective date of this IGA until three (3) years after the date final payment for the project is received by GEDA or applicable federal audit period, whichever is later. The cost of a discretionary audit will be borne by the DOA.

D. Mandatory Audit

Whether or not DOA calls for a discretionary audit as provided above, GEDA shall provide DOA copies of annual audit reports for the period of the project. In addition, GEDA shall supply DOA with copies of all correspondence from any auditor related to any findings relevant to the project. If an audit reveals evidence of non-compliance with applicable requirements, or other issues pertaining to the administration of federal funds, DOA reserves the right to institute compliance, or other appropriate measures, to address audit findings.

E. Specific Terms and Conditions

1. Expenses incurred by GEDA in association with this project **prior to the Effective Date and after December 31, 2026** are not eligible Grant expenditures under this grant and will not be reimbursed by DOA.

2. GEDA will maintain an office conveniently located and easily accessible to the community.
3. GEDA will maintain a publicly listed telephone in the name of the "Guam Economic Development Authority" The phone will be answered "Guam Economic Development Authority" or "GEDA."
4. GEDA's office will be staffed and operational during normal business hours.
5. All advertising or other promotional materials developed or distributed in connection with conferences or other meetings or gatherings must contain the following statement: "Reasonable accommodations for persons with disabilities will be made, if requested in advance."
6. GEDA employees, volunteers, and paid consultants must sign and abide by the applicable conflict of interest policy.
7. The responsible administrator or her delegate must actively participate in any calls scheduled by DOA or the Office of the Governor concerning the Grant Work and must respond to all email inquiries from either as soon as reasonably possible.
8. All off-island travel using grant funds must be approved by DOA before travel occurs.

X. Additional Terms and Conditions

All terms and provisions from the following Exhibits apply in full effect for this Grant Award:

This Exhibit A: Statement of Work

Exhibit B: Budget

a. Exhibit B1. Guam Power Authority Cost Estimate
b. Exhibit B2. Guam Waterworks Authority Cost Estimate
c. Exhibit B3. Civil Engineering Cost Estimate

Exhibit C: Federal Provisions

Exhibit D: Sample SLFRF Reporting Modification Form

EXHIBIT B: BUDGET

1. BUDGET BY US TREASURY EXPENDITURE CATEGORY

1.1 Expenditure Categories:

BUDGET SUMMARY	
Power	$ 35,448,983.97
Water	$ 26,130,000.00
Wastewater	$ 36,772,250.00
GEDA Administrative Fee	$1,000,000.00
Civil Engineering	$5,492,500.00
TOTAL	**$104,843,734.97**

1.2 Power. The Guam Power Authority (GPA) has provided a cost estimate (attached as Exhibit B1) estimating costs to provide a new looped underground transmission line from Route 10 to the MCC, a new indoor substation, and new distribution upgrades to provide upgraded service to the MCC and surrounding areas.

POWER COST ESTIMATE	
New indoor substation	$ 12,484,469.26
New transmission underground lines	$15,876,635.62
New underground dedicated feeder and backup tie-in	$ 7,087,879.09
TOTAL	**$ 35,448,983.97**

1.3 Water. The Guam Waterworks Authority (GWA) has provided a cost estimate estimating the cost to meet the estimated water consumption for the MCC (attached as Exhibit B2), which entails development of an offsite water system, including well design, well construction, water line extensions, storage tanks, and a pumping system.

WATER COST ESTIMATE	
Well design and exploration	$ 1,950,000.00
Well construction – 2 wells	$ 11,700,000.00
6-inch water line extension to 2 new wells	$ 2,340,000.00
Storage tank(s)	$ 7,215,000.00
Pumping system	$ 2,925,000.00
TOTAL	**$ 26,130,000.00**

1.4 Wastewater. GWA has additionally provided alternative wastewater cost estimates in Exhibit B2 based on whether an easement is attained from the U.S. military for a sewer connection point on Lalo Street in Mangilao or GWA is required to connect to a gravity sewer line near Dimas Street in Mangilao. The cost estimate utilized herein is based on the more conservative alternative that would require GWA to connect near Dimas Street. In the event an easement is attained from the U.S. military for a sewer connect point on Lalo Street, the amounts needed to complete the wastewater needs of the MMC may be reduced and funds may be reprogrammed for other project needs.

GWA has additionally identified capital improvement projects it is planning to undertake for the Barrigada gravity system and force main, which will also be necessary for the MMC project, and may provide an opportunity for cost-sharing between the developer and GWA. Amounts included herein reflect the sum of estimated developer costs and 50% of estimated amounts for potential cost shares with GWA for the Barrigada gravity system project.

WASTEWATER COST ESTIMATE	
Route 15 new sewer pump station	$2,500,000.00
Route 15 new force main to Dimas Street	$6,800,000.00
Route 15 SMH upgrades	$390,000.00
Route 10 gravity sewer main (pipes)	$5,265,000.00 (50% of potential cost share)
Added Route 10 gravity sewer main upgrade to Mangilao SPS	$4,680,000.00
Added Route 10 SMH upgrades to Mangilao SPS	$195,000.00
Route 10 gravity sewer main upgrade (manholes)	$292,500.00 (50% of potential cost share)
Mangilao sewer pump station upgrade	$625,000.00 (50% of potential cost share)
Mangilao SPS force main upgrade	$2,100,000.00 (50% of potential cost share)
Added Route 10 gravity line upgrade (AMC to Lalo)	$3,607,500.00 (50% of potential cost share)
Added Route 10 SMH upgrade (AMC to Lalo)	$146,250.00 (50% of potential cost share)
Barrigada sewer pump station upgrade	$625,000.00 (50% of potential cost share)
Barrigada force main upgrade	$4,558,500.00 (50% of potential cost share)
Route 1 gravity sewer upgrade (pipes)	$4,500,000.00
Route 1 gravity sewer upgrade (manholes)	$487,500.00
TOTAL	**$36,772,250**

1.5 GEDA Administrative Fee. As the grantee herein, GEDA will be entitled to an administrative fee of One Million dollars ($1,000,000.00) for services and costs associated with the tasks assigned to it under this IGA, to be paid in disbursements according to the following schedule:

ADMINISTRATIVE FEE SCHEDULE	
12/30/2024	$111,111
03/30/2025	$111,111
06/30/2025	$111,111
09/30/2025	$111,111
12/30/2025	$111,111
03/30/2026	$111,111
06/30/2026	$111,111
09/30/2026	$111,111
12/30/2026	$111,112

1.6 Civil Engineering/Environmental Conditions. GEDA shall prepare or cause to be prepared a detailed inventory of data required for the preparation of the Environmental Condition of Property report and utilize the inventory as a guide for data collection efforts. Data from existing databases and studies shall be used to the extent available, supplemented with field surveys, sampling and exploration and interviews with knowledgeable individuals and local and federal agency personnel. Data concerning impacts on residents living nearby, utilities and infrastructure, cultural and historic resources, groundwater quality, endangered species, traffic and other factors must be collected and considered in the preparation of the EA, consistent with local and federal laws and regulations. All necessary consultation efforts with local and federal agencies shall also be conducted. The cost estimate for Environmental Engineering (attached as Exhibit B3) entails a Site Feasibility Study, including a Site Survey Analysis, Environmental Impact Assessment, and Section 106 Assessment for a +/- 105 acre project site, for a total of $5,492,500.00.

2. EXPENDITURE CATEGORY MODIFICATION

2.1 Increase or decrease in any Expenditure Category must be requested by GEDA and approved by DOA.

EXHIBIT B1: POWER COST ESTIMATE

The need for a new hospital in central Guam stems from the island's growing population, increased demand for healthcare services, and the strategic importance of the area. Central Guam is experiencing significant growth, driven by the military buildup and associated population increases, including both military personnel and their dependents. This growth places additional pressure on the island's existing healthcare facilities, which are already operating near or beyond capacity.

Guam Memorial Hospital (GMH), the island's public healthcare facility, faces numerous challenges, including aging infrastructure, limited bed space, and outdated medical equipment. These issues hinder its ability to meet the current and future healthcare needs of the population. A new hospital in central Guam would alleviate these pressures by providing additional capacity and state-of-the-art facilities to serve both civilian and military communities. Its location in central Guam would ensure better accessibility for a significant portion of the island's population, reducing travel time and improving emergency response capabilities.

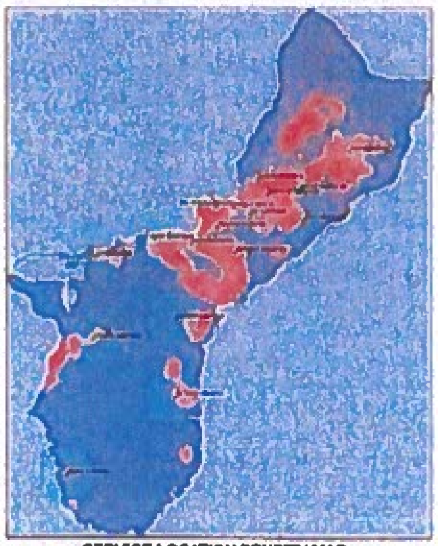
However, this places additional strain on GPA's current electrical infrastructure, in particular the substations. GPA manages an extensive network of substations that play a critical role in the island's electrical distribution system. At present, there are 30 substations that service an estimated 53,000 customers. These substations are the backbone of Guam's power infrastructure. GPA operates both primary and secondary substations, which are located across the island to support efficient energy distribution and minimize transmission losses.

Many of these substations face challenges due to Guam's geographic and environmental conditions, including vulnerability to typhoons and salt water corrosion. To address these issues and improve resilience, GPA has been actively upgrading its substation assets by incorporating modern technologies such as automated monitoring systems and more robust structural designs. These upgrades are essential to support Guam's growing energy demands, particularly with the ongoing military buildup and the integration of renewable energy sources into the grid. By enhancing the reliability and capacity of its substation network, GPA is working to ensure a stable power supply for both the civilian population and critical infrastructure on the island.

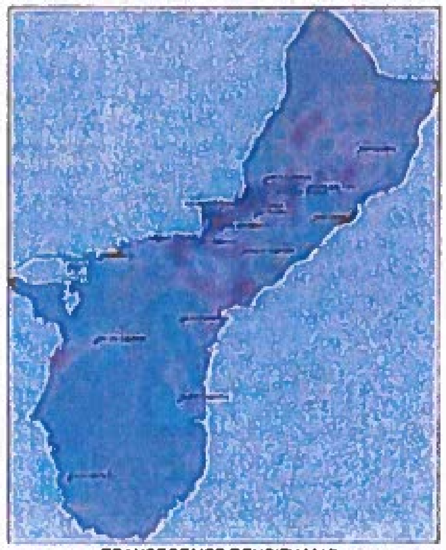
In addition to the new hospital, the growing population in central Guam necessitates the construction of an additional substation to meet the rising energy demands and improve the reliability of the electrical grid. Existing substations in the area are already operating near capacity, and as more homes, businesses, and military facilities come online, the current grid infrastructure risks becoming overburdened. This could lead to higher rates of outages, inefficiencies in power distribution, and challenges in integrating renewable energy sources.

The Service Location Density Map and the Transformer Density maps provide a visual representation of Guam's substation locations and the areas they currently serve. The heatmap highlights population density, which correlates with energy demand. Central Guam, particularly the regions surrounding Dededo, Tamuning, Barrigada, and Harmon, exhibits the highest density of service areas. These regions are experiencing rapid population growth due to residential expansion, economic activity, and the ongoing military buildup, which is increasing the number of civilian residents, military personnel, and H-2B construction workers on the island.

This surge in population results in a proportional increase in energy demand for homes, businesses, and support infrastructure, such as schools, healthcare facilities, and military installations. The current substations in these densely populated areas may soon reach or exceed their capacity limits, leading to potential grid instability or inefficiencies in energy delivery. Furthermore, upcoming developments, including new housing, hospitals, and defense projects, will place additional strain on these substations, necessitating the construction of new energy infrastructure or the expansion of existing facilities.



SERVICE LOCATION DENSITY MAP



TRANSFORMER DENSITY MAP

Shown below are the estimated costs to provide a new looped underground transmission line from Route 10 to the new hospital site, a new indoor substation, and new distribution upgrades to provide upgraded service to the new hospital and surrounding areas.

New Mangilao Hospital Substation		
Updated 12/10/2024		
Item	Description	Cost
1	New Indoor Substation	$ 12,484,469.26
2	New Transmission Underground Lines	$ 15,876,635.62
3	New Underground Dedicated Feeder and Back Up Tie-In	$ 7,087,879.09
	Total Cost	$ 35,448,983.97

Investing in a new substation may involve significant short-term costs, but the long-term benefits far outweigh these initial expenditures. A new substation increases the capacity, reliability, and resilience of Guam's power grid—ensuring that growing demand from residential, commercial, and critical infrastructure, like hospitals and military facilities, can be met without strain or outages. In the long run, this investment minimizes the risks of blackouts, reduces maintenance costs associated with overburdened substations, and improves efficiency by preventing overloads and power losses. Furthermore, modern substations can better integrate renewable energy sources, which supports Guam's goals for sustainability and energy security. By investing now, Guam will avoid costly disruptions and emergency repairs in the future—securing a more reliable and adaptable power infrastructure for decades to come.

Along with a new substation, the construction of a new hospital in central Guam can be better served with the installation of underground power lines to provide a reliable, resilient, and efficient energy supply. Hospitals rely on uninterrupted power to operate essential medical equipment, maintain lighting, and power life-saving systems, such as ventilators and emergency response units. Any disruption in electricity can jeopardize patient care and hospital operations. As we have seen during Typhoon Mawar, underground power lines offer enhanced resilience against Guam's frequent typhoons and severe weather events, which can damage overhead lines through strong winds, debris, or falling trees. By protecting the power supply infrastructure from such hazards, underground lines help ensure the hospital remains operational during emergencies when it is needed most.

In addition to improving disaster resilience, underground lines minimize power outages caused by accidents or external interference, providing a consistent and dependable energy supply. Paired with a new indoor substation, this infrastructure will reduce strain on nearby power systems, preventing grid overload and ensuring stability even during peak energy demand. As Guam's population grows, the hospital's energy needs are expected to increase. A substation and underground lines offer the scalability required to support future expansions and long-term reliability. This investment is critical not only for the hospital's operational needs but also for strengthening Guam's overall energy infrastructure and supporting its growing central population.

EXHIBIT B2: WATER AND WASTEWATER COST ESTIMATE

Mangilao Hospital Water and Sewer
Rough Order of Magnitude (ROM) Cost Estimates
Updated by Guam Waterworks Authority
December 2024

The cost estimates provided herein by GWA are informational only, and GWA makes no guarantee, expressed or implied, for its application or use at any time.

The hospital campus water demand was calculated as double GMH's current water consumption, in addition to public health and behavioral health water consumption. The sewer load was estimated to be 90 percent of the water demand. The following cost estimates are subject to changes in anticipated water demand and sewer load. Cost estimates include factors to account for design costs, construction management costs, and material cost increases due to supply chain issues. Actual costs may differ.

Offsite Water System

Offsite well development will be needed to offset water demand. New wells are estimated at 150 gallons per minute (gpm) production. Candidate well locations are to be drilled and pump tested during design to confirm viability of development of a production well. Property for each new well, approximately ¼ acre or 100ft x 100ft lots, will be provided by the developer, along with access easement and utility connections (power and waterline). It is assumed that the hospital developer can allow wells to be placed on the medical campus property or be able to negotiate with the Department of Defense to allow the wells to be placed on adjacent/nearby military property if hydrologically feasible. If developer cannot provide for installation of wells in this manner, alternative sites will need to be provided. Individual well site locations will determine the cost to extend power at water lines to the site; 2000 ft used for estimate purposes. One acre is needed for onsite water storage and pumping systems. The general scope and costs for this work are presented below.

ESTIMATED WATER COSTS

Offsite Water System Improvements	Hospital Developer Cost
Well design and exploration	$ 1,950,000.00
Well construction - 2 wells (estimated at 150 gpm)	$11,700,000.00
6-inch water line extensions to 2 new wells	$ 2,340,000.00
Storage tank(s) with total volume of 2.5 million gallons and piping	$ 7,215,000.00
Pumping system	$ 2,925,000.00
	$26,130,000.00

EXHIBIT B3: ENVIRONMENTAL ENGINEERING ESTIMATE

Guam Medical Complex - Environmental Engineering Cost Estimate (Estimate good for 120 days)			
Phase	Task	Details	
Site Feasibility Study	Site Survey and Analysis	Topographic survey, geotechnical investigations, sinkhole assessment, environmental site assessment.	Per +/-105- acre Project Site Assessment ($)
		Geotechnical Investigations: $5000 to $7000 per boring	735,000.00
		Sinkhole Assessment: $25,000 to $40,000 per sinkhole	130,000.00
		Geophysical Surveys: $150k to $300k for a 105-acre site	890,000.00
		Topographic and boundary surveys: $20k to $40k	400,000.00
		Environmental Assessment: Phase I (NEPA)	750,000.00
		Hydrological Study: $80k to $120k	120,000.00
	Environmental Impact Assessment	Assessment of flora/fauna impact and water table concerns. (NEPA)	400,000.00
	Section 106	National Historic Preservation Act Requirements	300,000.00
	Project Management of all Specialties		500,000.00
		30% Contingency	1,267,500.00
		Total Government Estimate	5,492,500.00

EXHIBIT C: FEDERAL PROVISIONS

1. **Applicability of Provisions**

1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.

1.2. DOA is accountable to Treasury for oversight of their subrecipients, including ensuring subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.

1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier or lower tier subrecipient), must hold the lower tier subrecipient accountable to these provisions and adhere to reporting requirements.

1.4. These Federal Provisions are subject to the Award as defined in § 2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or Government of Guam agency.

2. **Definitions**

2.1. **For the purposes of these Federal Provisions**, the following terms shall have the meanings ascribed to them below.

2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

2.1.2. "Unique Entity Identifier (UEI)" means the twelve-character alphanumeric ID assigned to an entity by SAM.gov

2.1.3. "Entity" means:

2.1.3.1. a Non-Federal Entity;

2.1.3.2. a foreign public entity;

2.1.3.3. a foreign organization;

2.1.3.4. a non-profit organization;

2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);

2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only);

2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or

2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).

2.1.4. "Executive" means an officer, managing partner or any other employee in a management position.

2.1.5. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and

Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

2.1.6. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1.

2.1.7. "Grant" means the Grant to which these Federal Provisions are attached.

2.1.8. "Grantee" means the party or parties identified as such in the Grant to which these Federal Provisions are attached. Grantee also means Subrecipient.

2.1.9. "Non-Federal Entity" means a State or Territory, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.

2.1.10. "Nonprofit Organization" means any corporation, trust, association, cooperative, or other organization, not including institutions of higher education, that:

2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

2.1.10.2. Is not organized primarily for profit; and

2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.

2.1.11. "OMB" means the Executive Office of the President, Office of Management and Budget.

2.1.12. "Pass-through Entity" means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.

2.1.13. "Prime Recipient" means the Government of Guam or the Government of Guam agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.

2.1.14. "Subaward" means an award to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

2.1.15. "Subrecipient" or "Subgrantee" means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.

2.1.16. "System for Award Management (SAM)" means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at http://www.sam.gov.

2.1.17."Transparency Act" means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

2.1.18."Uniform Guidance" means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

3. Compliance

3.1. GEDA shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. DOA, at its discretion, may provide written notification to GEDA of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. System for Award Management (SAM) and Unique Entity ID (UEI) Requirements

4.1. SAM. GEDA shall maintain the currency of its information in SAM until GEDA submits the final financial report required under the Award or receives final payment, whichever is later. GEDA shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.

4.2. UEI. GEDA shall provide its UEI number to its Prime Recipient, and shall update GEDA's information in SAM.gov at least annually after the initial registration, and more frequently if required by changes in GEDA's information.

5. Reporting

5.1. If GEDA is a Subrecipient of the Award pursuant to the Transparency Act, GEDA shall report data elements to SAM and to DOA as required in this Exhibit. No direct payment shall be made to GEDA for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of GEDA's obligations under this Grant.

6. Subrecipient Reporting Requirements

6.1. Subrecipient shall report as set forth below.

6.1.1. To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM ***for each*** Federal Award Identification Number (FAIN) assigned by a Federal agency to a Recipient no later than the end of the month following the month in which the Subaward was made:

6.1.1.1. Subrecipient Unique Entity ID;

6.1.1.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;

6.1.1.3. Subrecipient parent's organization Unique Entity ID;

6.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

6.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

6.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.

6.1.2. To Recipient. A Subrecipient shall report to its Recipient, upon the effective date of the Grant, the following data elements:

6.1.2.1. Subrecipient's Unique Entity ID as registered in SAM.

6.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

6.2. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and DOA. DOA may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, DOA will provide notice of such additional reporting requirements via Exhibit D: SLFRF Reporting Modification Form.

7. PROCUREMENT STANDARDS

7.1 Procurement Procedures. GEDA's procurement procedures remain subject to Guam's Procurement Law, 5 GCA § 5001, *et seq.*, and the regulations thereto, 2 GAR Division 4. GEDA shall therefore use its procurement procedures, which reflect applicable Guam law and applicable regulations, and policies of the Procurement Policy Office, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.

7.2 Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all agreements and purchase orders for work or products under this award.

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

7.4 Never contract with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never contract with the enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed $50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

7.5 Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Subrecipient is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

8. ACCESS TO RECORDS.

8.1. A Subrecipient shall permit Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

9. SINGLE AUDIT REQUIREMENTS.

9.1. If a Subrecipient expends $750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

9.2. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program- specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program- specific audit.

9.3. Exemption. If a Subrecipient expends less than $750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

9.4. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

10. REQUIRED PROVISIONS FOR SUBRECEPIENT WITH SUBCONTRACTORS.

10.1. In addition to other provisions required by the Federal Awarding Agency or the Recipient, Subrecipients shall include all of the following applicable provisions;

10.1.1. For agreements with Subrecipients – Include the terms in the Grant Federal Provisions Exhibit (this exhibit)

10.1.2. For contracts with Subcontractors – Include all terms required by federal law and regulations.

11. CERTIFICATIONS.

11.1. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to DOA at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

12. EXEMPTIONS

12.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

12.2. A grantee with gross income from all sources of less than $300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

13. EVENT OF DEFAULT AND TERMINATION.

13.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and DOA may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to DOA under the Grant, at law or in equity.

13.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

13.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

13.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

13.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non- Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

13.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass- through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

13.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT D: SAMPLE SLFRF REPORTING MODIFICATION FORM

Grantee:			Grant Agreement No:	
Project Title:			Project No:	
Project Duration:	To:		From:	

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Grantee agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the Department of Administration within 10 business days of the date sent by that Agency.

Grantee ____________________ Date ____________________

Department of Administration ____________________ Date ____________________

EXHIBIT B

Government of Guam Subgrant Agreement

Subgrantor Guam Economic Development Authority	**Agreement Number** 2025-GEDA-GPA-0001
Subgrantee Guam Power Authority	**Agreement Performance Beginning Date** February 28, 2025 **Initial Agreement Expiration Date** December 1, 2026
Subaward Agreement Amount SLFRF **$35,448,983.97** Total **$35,448,983.97**	**Fund Expenditure End Date** December 31, 2026 **Agreement Authority** Authority to enter into this Agreement exists in 12 GCA § 50103.

Agreement Purpose: In accordance with 12 GCA § 50103, the purpose of this Agreement is to provide funding for the installation of power infrastructure to support the Mangilao Medical Campus Project. The work to be completed under this Agreement by the Subgrantee is more specifically described in Exhibit A.

Exhibits and Order of Precedence

The following Exhibits and attachments are included with this Agreement:

1. Exhibit A – Statement of Work and Budget.
2. Exhibit B – Federal Provisions.
3. Exhibit C – Agreement with Subrecipient of Federal Recovery Funds

In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

1. Exhibit B – Federal Provisions.
2. Exhibit C – Agreement with Subrecipient of Federal Recovery Funds
3. Provisions in the main body of this Agreement.
4. Exhibit A – Statement of Work and Budget.

Principal Representatives

For the Subgrantor:

Melanie R. Mendiola
Guam Economic Development Authority
ITC Building, Suite 511
590 S. Marine Corps Drive
Tamuning, Guam 96913
mel.mendiola@investguam.com

For Subgrantee:

John M. Benavente, P.E.
Guam Power Authority
P.O. Box 2977
Hagåtña, Guam 96932-2977
jbenavente@gpagwa.com

1. **PARTIES.** This Agreement is entered into by and between the Guam Economic Development Authority ("GEDA") and the Guam Power Authority ("GPA") (collectively "the Parties"). The Parties agree to the terms and conditions in this Agreement.

2. **SUBGRANT.** As of the Subgrant Issuance Date, GEDA hereby obligates and awards to GPA grant funds in the amounts shown on the cover page of this Agreement. By accepting the grant funds provided under this Agreement, GPA agrees to comply with the terms and conditions of this Agreement and requirements and provisions of all Exhibits to this Agreement.

3. **TERM AND EFFECTIVE DATE**

   A. **Effective Date.** This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. GEDA shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay GPA for any Work performed or expense incurred before the Effective Date or after the Fund Expenditure End Date.

   B. **Initial Term.** The Parties' respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Agreement.

   C. **Early Termination in the Public Interest.** GEDA is entering into this Agreement to serve the public interest of Guam, as determined by the Department of Administration ("DOA") and provided in the Interagency Grant Agreement executed by and between DOA and GEDA on December 30, 2024. If DOA determines that this Agreement has ceased to further the public interest of Guam or if Government of Guam, Federal or other funds used for this Agreement are not appropriated, or otherwise become unavailable to fund this Agreement, GEDA may terminate this Agreement in whole or in part by providing at least forty-five (45) days' written notice to GPA that includes, to the extent practicable, the public interest justification for the termination. If GEDA terminates this Agreement in the public interest, GEDA shall pay GPA an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by GEDA, less payments previously made. Additionally, GEDA, in its discretion, may reimburse GPA for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Subgrant Agreement that are incurred by GPA and are directly attributable to the uncompleted portion of GPA's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to GPA hereunder, and shall be in compliance with the 2021 Interim Final Rule, the 2022 Final Rule, and the 2023 Interim Final Rule ("Treasury Rules") issued by the U.S. Department of the Treasury ("Treasury"), and other applicable federal laws or regulations. This subsection shall not apply to a termination of this Agreement by GEDA for breach by GPA.

   D. **GPA's Termination Under Federal Requirements** GPA may request termination of this Agreement by sending notice to GEDA, or to the Federal Awarding Agency with a copy to GEDA and DOA, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then GPA shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

4. **STATEMENT OF WORK AND BUDGET.** GPA shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. GEDA shall have no liability to compensate GPA for the delivery of any goods or the performance of any services that are not

specifically set forth in this Agreement.

5. PAYMENTS TO GPA

A. Subaward Maximum Amount. GPA shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. GEDA shall have no liability to compensate GPA for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

B. Payment Procedures

i. GPA shall initiate payment requests by invoice to GEDA, in a form and manner approved by GEDA. To facilitate Fiscal Year End closing, final invoices for each Fiscal Year should be submitted to GEDA by November 15th of the following Fiscal Year.

ii. GEDA shall pay each invoice within 21 days following the GEDA's receipt of that invoice, so long as the amount invoiced correctly represents work completed by GPA and previously accepted by GEDA during the term that the invoice covers.

iii. GEDA shall pay GPA's allowable costs, not exceeding the maximum total amount described in this Agreement for all allowable costs described in this Agreement and shown in the Budget, except that GPA may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as GPA provides notice to GEDA of the change, the change does not modify the total maximum amount of this Agreement or the maximum amount for any Government of Guam fiscal year, and the change does not modify any requirements of the Work. GEDA shall only pay allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to GPA (i.e. the price paid minus any items of value received by GPA that reduce the cost actually incurred).

The U.S. Department of the Treasury has issued a 2024 Compliance Supplement for Assistance Listing 21.027 Coronavirus State and Local Fiscal Recovery Funds ("Compliance Supplement"). The Compliance Supplement provides guidance to auditors and grant recipients regarding the American Rescue Plan Act ("ARPA") State and Local Fiscal Recovery Funds ("SLFRF") and applicable federal regulations, and also provides a guide on how to audit the federal funds.

The procurement requirement under the Compliance Supplement states that, "recipients may use award funds to enter into contracts to procure goods and services necessary to complement one or more of the eligible purposes . . . recipients are expected to have procurement policies and procedures in place that comply with the procurement standards outlined in the Uniform Guidance." Uniform Guidance procurement methods are stated in 2 CFR Part 200 Subpart D - Procurement Standards.

In addition, under Procurement Standards 2 CFR §200.324(c), procurement funded by federal funds "must not use the cost plus a percentage of cost and percentage of construction cost methods of contracting."

iv. If federal funds or funds from any other non-Government of Guam funds constitute all or some of the Grant Funds, GEDA's obligation to pay GPA shall be contingent upon such non-Government of Guam funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and GEDA's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, GEDA may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. GEDA shall, however, remain obligated to pay for

Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§3.C**.

v. The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the Government of Guam to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. **Close-Out.** GPA shall close out this Award within 30 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, GPA shall submit to GEDA all Deliverables (including documentation) as defined in this Agreement and GPA's final reimbursement request or invoice. GEDA will withhold 5% of allowable costs set forth in reimbursement requests or invoices submitted by GPA during the final 3 months of the performance period, until all final documentation has been submitted and accepted by GEDA as substantially complete.

6. REPORTING - NOTIFICATION

A. **Quarterly Reports.** In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, GPA shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by GEDA. Progress reports shall be submitted to GEDA not later than five (5) Business Days following the end of each calendar quarter or at such time as otherwise specified by GEDA.

B. **Performance and Final Status.** GPA shall submit all financial, performance and other reports to GEDA no later than the closeout described in §5C, containing an evaluation and review of GPA's performance and the final status of GPA's obligations hereunder.

C. **Violations Reporting.** GPA shall disclose, in a timely manner, in writing to GEDA and DOA, all violations of federal, state, or Guam criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The Federal Awarding Agency may seek to impost any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. GPA RECORDS

A. **Maintenance and Inspection.** GPA shall make, keep, and maintain, all official records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Agreement for a period of five years following the completion of the close out of this Agreement. GPA shall permit GEDA or DOA and its delegees to audit, inspect, examine, excerpt, copy and transcribe all such records at all reasonable times and places during the term of this Agreement, unless GEDA or DOA determines that an audit or inspection is required without notice at a different time to protect the interests of GEDA, DOA or the Government of Guam.

B. **Monitoring.** GEDA will monitor GPA's performance of its obligations under this Agreement using procedures as determined by GEDA. GPA shall allow GEDA and DOA to perform all monitoring required by the Uniform Guidance and otherwise, based on GEDA and/or DOA's risk analysis of GPA. GEDA shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. GEDA shall monitor GPA's performance in a manner that does not unduly interfere with GPA's performance of the Work.

C. **Final Audit Report.** GPA shall promptly submit to GEDA a copy of any final audit report of an audit performed on GPA's records that relates to or affects this Agreement or the Work, whether the audit is conducted by GPA or a third party.

8. CONFIDENTIAL INFORMATION AND RECORDS

A. **Confidentiality.** Each Party shall treat the confidential information of the other Party with the same degree of care and protection it affords to its own confidential information, unless a different standard is set forth in this Agreement. Each Party shall notify the other Party immediately if it receives a request or demand from a third party for records or information of the other Party.

B. **Other Entity Access and Nondisclosure Agreements.** GPA may provide Government of Guam records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to Government of Guam Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. GPA shall ensure all agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any Government of Guam Confidential Information. GPA shall provide copies of those signed nondisclosure provisions to the Government of Guam upon execution of the nondisclosure provisions if requested by the State.

9. CONFLICTS OF INTEREST

A. **Actual Conflicts of Interest.** GPA shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of GPA under this Agreement. GPA acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the Government of Guam's interests. Absent GEDA's prior written approval, GPA shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of GPA's obligations under this Agreement.

10. INSURANCE. GPA shall ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the Government of Guam.

A. **Workers' Compensation.** Workers' compensation insurance as required by Guam law, and employers' liability insurance covering all Subcontractor employees acting within the course and scope of their employment.

B. **General Liability.** Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

i. $1,000,000 each occurrence;

ii. $1,000,000 general aggregate;

iii. $1,000,000 products and completed operations aggregate; and

iv. $50,000 any 1 fire.

C. **Automobile Liability.** Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of $1,000,000 each accident combined single limit.

D. **Additional Insured.** The Government of Guam shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of GPA's Subcontractors.

E. **Primacy of Coverage.** Coverage required of each Subcontractor shall be primary over any insurance or self- insurance program carried by GPA or the Government of Guam.

F. **Cancellation.** All insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to GPA and GPA shall forward such notice to GEDA and DOA in accordance with section 12 (Notices and Representatives) within seven days of GPA's receipt of such notice.

G. **Subrogation Waiver.** All insurance policies secured or maintained by GPA's Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against GPA or the Government of Guam, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. **Certificates.** GPA shall provide to GEDA and DOA certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that, if GPA's subcontract is not in effect as of the Effective Date, GPA shall provide to GEDA and DOA certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following GPA's execution of the subcontract. No later than fifteen (15) days before the expiration date of GPA's or any Subcontractor's coverage, GPA shall deliver to GEDA and DOA certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by GEDA or DOA, GPA shall, within seven (7) Business Days following the request by GEDA or DOA, supply to GEDA or DOA evidence satisfactory to DOA of compliance with the provisions of this section.

11. **DISPUTE RESOLUTION.** The failure of a Party to perform its respective obligations in accordance with the provisions of this subgrant agreement is a breach of this subgrant agreement. In the event of disputes concerning performance hereunder or otherwise related to this subgrant agreement, the Parties shall attempt to resolve them at the agency level. Except as herein specifically provided otherwise or as required or permitted by federal regulations related to any Federal Award that provided any of the Grant Funds, disputes concerning the performance of this subgrant agreement that cannot be resolved by agency representatives shall be referred in writing to the Office of the Governor for resolution.

12. **NOTICES and REPRESENTATIVES.** Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

13. GENERAL PROVISIONS

A. **Assignment.** GPA's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of GEDA and DOA. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of GPA's rights and obligations approved by GEDA and DOA shall be subject to the provisions of this Agreement.

B. **Subcontracts.** GPA shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of GEDA. GPA shall submit to GEDA a copy of each such subaward or subcontract upon request by GEDA. All subawards and subcontracts entered into by GPA in connection with this Agreement shall comply with all applicable federal and Guam laws and regulations, shall provide that they are governed by the laws of Guam, and shall be subject to all provisions of this Agreement.

C. **Binding Effect.** All provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. **Captions and References.** The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. **Counterparts.** This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. **Entire Understanding**. This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. **Modification.** GEDA may modify the terms and conditions of this Agreement by issuance of an Amended Agreement, which shall be effective if GPA countersigns the Agreement or accepts Grant Funds following its receipt of the Amended Agreement. The Parties may also agree to modification of the terms and conditions of the Agreement in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Guam law.

I. **Statutes, Regulations, Fiscal Rules, and Other Authority.** Any reference in this Agreement to a statute, regulation, rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. GPA shall strictly comply with all applicable Federal and Guam laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

J. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

K. **Survival of Certain Agreement Terms.** Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

L. **Waiver.** A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

M. **Standard and Manner of Performance.** GPA shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in GPA's industry, trade, or profession.

N. **Licenses, Permits, and Other Authorizations.** GPA shall secure and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

O. **Federal Provisions.** GPA shall comply with all applicable requirements of Exhibits B and C at all times during the term of this Agreement.

P. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of Guam. The Parties agree that any legal action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the courts of Guam, and the Parties hereby irrevocably consent to the jurisdiction of such courts.

IN WITNESS of the above provisions, the Parties have executed this Agreement on the last of the dates below stated.

For the Guam Economic Development Authority:		For the Guam Power Authority:
MELANIE R. MENDIOLA, CEO/Administrator	MW	**JOHN M. BENAVENTE, P.E.** General Manager
Date 2/28/2025		Date 3/2/2025

EXHIBIT A. STATEMENT OF WORK AND BUDGET

1. **PURPOSE.** GEDA is entering into this subaward of ARPA funds with GPA to fund the installation of power infrastructure for the Mangilao Medical Campus ("MMC") project. For details on the ARPA funding, see Interagency Grant Agreement executed by and between DOA and GEDA executed on December 31, 2024.

2. **NOTIFICATION**

   To GEDA:

   Melanie R. Mendiola, CEO/Administrator
   mel.mendiola@investguam.com
   Guam Economic Development Authority
   ITC Building, Suite 511
   590 S. Marine Corps Drive
   Tamuning, Guam 96913

   To GPA:

   John M. Benavente, P.E., General Manager
   jbenavente@gpagwa.com
   Guam Power Authority
   P.O. Box 2977
   Hagåtña, Guam 96932-2977

3. **PERFORMANCE PERIOD.** The performance period and expiration date are stated on the Agreement cover page. GEDA shall not be responsible or liable for goods or services delivered or performed prior to issuance of this Agreement.

4. **DEFINITIONS**

- **"ARPA"** means the American Rescue Plan Act of 2021.
- **"SLFRF"** means State and Local Fiscal Recovery Fund.

5. **PERSONNEL**

   A. **Responsible Administrator.** GPA's performance hereunder shall be under the direct supervision of John M. Benavente, P.E., General Manager of GPA, who is hereby designated as the responsible administrator of this project. The responsible administrator may delegate oversight of the Work – not including contracting authority–to another GPA employee, if prior notice of the delegation is provided to DOA and the delegee meets at least the following minimum qualifications:

      1. College degree or minimum of four years' experience in government administration, procurement, project administration, and/or construction management.
      2. Strong oral and written communication and interpersonal skills.
      3. Strong organizational and problem-solving skills.
      4. Familiarity with Guam governmental operations.

B. Other Personnel

1. GPA represents that, in addition to the expertise of its current employees, GPA will leverage the available expertise of other Government of Guam agencies where it believes such expertise can be productively applied.

2. Further notwithstanding the above, GEDA and GPA agree that efficient, effective completion of the scope of work will require GEDA to procure professional services including but not limited to design and engineering services as well as inspection and construction management services, and that such procured professional services are eligible expenses for Grant Funds.

C. Secondment from Other Government of Guam Agencies. If GPA determines that it would be advantageous to formally second staff with particular expertise from another Government of Guam agency to GPA, GPA may make such request to the contact designated by GEDA and in the manner prescribed by GEDA, who will forward such request to DOA. The request should, at a minimum, include the expertise requested, together with any suggestions for Government of Guam staff possessing the needed expertise, the anticipated timeframe of the secondment, and the proposed funding source for the secondment.

D. Procured Professional Services. GEDA and GPA expressly contemplate that GPA will contract for the provision of certain professional services in support of the Work and the Services, including but not limited to architectural and engineering design, environmental assessment, construction, and construction management and inspection services.

6. WORK TASKS AND DELIVERABLES

A. Work tasks. GPA will develop a project strategy for efficient completion of the Work, consistent with the below budget narrative. GPA will procure, as necessary, professional and construction services and organize the assistance of other Government of Guam agencies and, as appropriate, enter into memoranda of agreement with those agencies and other entities. GPA will oversee all activities, ensure that all activities are consistent with this Agreement and process invoices for payment as required in memoranda of agreement with other agencies and entities. GPA will, in coordination with the GEDA and the Office of the Governor, lead public communication efforts. GPA will be lead communicator with Guam regulatory and inspection agencies for the project. GPA will oversee the budget against project completion and will coordinate the preparation of periodic reports as described below.

GEDA is authorized by 12 GCA § 50103 to finance, acquire, construct, reconstruct, rehabilitate, or improve hospital facilities, and provide such hospital facilities to serve the general public and to make reasonably accessible to all the people of Guam modern and efficient hospital facilities. To assist in achieving this objective, GEDA is subawarding grant funds to and/or contracting with other entities, including GPA, to complete the initial phase of the Mangilao Medical Campus Project, including design and construction of primary utility infrastructure (electrical power, water and wastewater), and prepare an Environmental Condition of Property report which analyzes environmental, archaeological, physical, geology and other characteristics of the MMC property or portions thereof in compliance with local and federal laws and regulations. The MMC property will be identified by DOA.

Preliminary analysis indicates that the proposed location for the medical campus lacks basic infrastructure to support not only the MMC but also developments within the surrounding area.

Electrical Power

GPA provides power and power infrastructure to Guam through the use of oil-fired power generators (94.3%) and renewable power generation (5.7%). Currently electricity is distributed to the grid around the medical campus site. New development would require additional electrical infrastructure. Under this Agreement, GPA agrees to design and construct the additional electrical infrastructure. Once completed, GPA will apportion sufficient electrical supply from the generating capacity installed to meet the needs of the MMC.

Preliminary analysis indicates that the following electrical infrastructure may be required:

- Power substation
- Power tie-ins from GU-15
- Transmission lines that intercept Barrigada-Pulantat for aboveground transmission lines
- Dedicated feeder serving the new hospital
- Additional circuit utilized for backfeed capabilities

The design process that will be instituted by GPA will confirm electrical infrastructure requirements.

B. Specific deliverables:

1. Architectural and engineering design of plans and construction specifications for electrical power infrastructure to bring needed infrastructure to the campus site, including as necessary power substations, power tie-ins from Route 15, transmission lines that intercept Barrigada-Pulantat for above-ground transmission lines, a dedicated feeder serving the new campus, an additional circuit utilized for backfeed capabilities, and other electrical facilities as determined to be advisable in consultation with the Guam Power Authority.

2. GPA will procure the construction of the new Fadian Substation, which will be equipped with a 30 MVA power transformer, indoor 34.5 kV and 13.8 kV breakers, underground conductors, protective relays, and other required equipment. Additionally, GPA will procure the construction of two new transmission lines to interconnect the new Fadian Substation with island power grid. These transmission lines will include manholes, risers, and #1000 KCMIL aluminum underground conductors, routed from the intersection of Route 10 and Route 15 to the Fadian Substation.

7. REPORTING

A. Annual and Final Report(s). GPA will fulfill the performance and financial reporting requirements as outlined in this section.

B. Performance and Financial Reporting Requirements Due Date(s)

1. **Core Performance.** Within 30 days of the execution of this Agreement, GPA will prepare for review and acceptance by GEDA a master calendar with an anticipated schedule for the performance and completion of all core activities required for successful and timely completion of the Work, including but not limited to the specific deliverables detailed above. The Core Performance schedule will subdivide the project as a whole, assigning percentages to appropriate milestones quantified to appropriately state, on a weekly basis, the percentage complete the project as a whole is against the scheduled percentage of completion.

2. **Monthly.** Due by the 1st of the month, GPA will submit its Monthly Report to GEDA. The Monthly Report will include ((i) the Core Performance actual and scheduled percentages; (ii) milestones achieved in the last month; (iii) planned activities for the next <u>two</u> months; (iv) an abbreviated budget overview of expenses paid to date, unpaid expenses incurred, and Grant Funds that remain. The Monthly Report will also list vendor invoices received in the previous month and expected vendor billings for the next two months. The Monthly Report will also list Government of Guam staff other than GPA staff employed on the project in the previous month and any expected other-than-GPA Government of Guam staff participation requested for the next two months. Each Monthly Report should also include a brief narrative

of the previous month's project successes and, as appropriate, a brief analysis of any challenges encountered.

3. **Quarterly.** GPA will submit a quarterly Grant Itemization Report with evidence of expenditures in a form that complies with U.S. Department of Treasury reporting requirements and meet with GEDA to resolve any questions or comments. If the U.S. Department of Treasury changes reporting requirements, GPA agrees to comply with the revised requirements.

4. **Annually.** GPA shall submit an annual report as specified below. These reports shall include but are not limited to a summary of the following:

   - Progress as to Specific Deliverables
   - Budget v. Actuals
   - Anticipated potential upcoming challenges
   - Project utilization of non-GPA Government of Guam resources
   - Upcoming project efficiency or other opportunities
   - Economic impact reporting

The annual reports are due according to the schedule below:

- Report 1: May 15, 2025
- Report 2: May 15, 2026

GPA shall provide GEDA with an explanation and action plan for any performance measurements that are not on target.

BUDGET AND PAYMENT

Payments shall be made in accordance with the provisions set forth in the Grant and its attached exhibits, including this Exhibit A. The maximum amount payable under the terms and conditions of this Agreement shall not exceed $35,448,983.97. Any amount in excess of these totals, must be agreed to by both parties, must be provided by a properly executed option or amendment to this Agreement.

The Guam Power Authority (GPA) provided a cost estimate for the Interagency Agreement between DOA and GEDA executed on December 30, 2024, estimating costs to provide a new looped underground transmission line from Route 10 to the MCC, a new indoor substation, and new distribution upgrades to provide upgraded service to the MCC and surrounding areas. The cost estimate, which is attached to the Interagency Agreement is incorporated by reference herein as if fully set forth in its entirety in this Agreement.

POWER COST ESTIMATE		
New indoor substation		$ 12,484,469.26
New transmission underground lines		$15,876,635.62
New underground dedicated feeder and backup tie-in		$ 7,087,879.09
TOTAL		**$ 35,448,983.97**

Matching Funds

No match required.

Grant Funds

2025-GEDA-GPA-0001 $35,448,983.97

8. ADMINISTRATIVE REQUIREMENTS

A. Accounting

1. At all times from the Effective Date of this Grant until completion of the Work, GPA shall maintain properly segregated books of Grant Funds, matching funds (if any), and other funds associated with the Work.

2. All receipts and expenditures associated with said Work shall be documented in a detailed and specific manner, and shall accord with the Work Budget set forth herein.

3. GPA shall assume responsibility for seeing that all funding is expended, accounted for and reported, consistent with underlying agreements, program objectives and with allowable cost, applicable rules and regulations addressed by 2 CFR 200 and originating grant award provisions.

4. Adjustments of budget expenditure amounts in excess of ten percent (10%) must be authorized by GEDA in an amendment to this Agreement properly executed and approved pursuant to GEDA procedures.

5. In no event shall GPA's total consideration exceed the amount indicated in "Budget" above.

6. Reimbursement requests must include the standard reimbursement summary sheet and supporting documentation of the amounts listed on the summary sheet, including but not limited to an original ticked general ledger from the host accounting system.

B. **Monitoring.** GEDA shall monitor this Work on an as-needed basis. GEDA may choose to audit the business activities performed under this Grant. GPA shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Grant. Such books and records shall contain documentation of the participant's pertinent activity under this Grant in a form consistent with good accounting practice.

C. **Discretionary Audit.** GEDA, or any of its duly authorized representatives, including an independent Certified Public Accountant of GEDA's choosing, or the federal government or any of its properly delegated or authorized representatives shall have the right to inspect, examine, and audit GPA's (and any of GPA's contractor's) records, books, accounts and other relevant documents. Such a discretionary audit may be requested at any time and for any reason from the effective date of this Agreement until three (3) years after the date final payment for the project is received by GPA or applicable federal audit period, whichever is later. The cost of a discretionary audit will be borne by the GEDA.

D. **Mandatory Audit.** Whether or not GEDA calls for a discretionary audit as provided above, GPA shall provide GEDA copies of annual audit reports for the period of the project. In addition, GPA shall supply GEDA with copies of all correspondence from any auditor related to any findings relevant to the project. If an audit reveals evidence of non-compliance with applicable requirements, or other issues pertaining to the administration of federal funds, GEDA reserves the right to institute compliance, or other appropriate measures, to address audit findings.

E. **Specific Terms and Conditions**

1. Expenses incurred by GPA in association with this project **prior to the Effective Date** and **after December 31, 2026** are not eligible Grant expenditures under this grant and will not be reimbursed by GEDA.

2. GPA will maintain an office conveniently located and easily accessible to the community.

3. GPA will maintain a publicly listed telephone in the name of the "Guam Power Authority" The phone will be answered "Guam Power Authority" or "GPA."

4. GPA's office will be staffed and operational during normal business hours.

5. All advertising or other promotional materials developed or distributed in connection with conferences or other meetings or gatherings must contain the following statement: "Reasonable accommodations for persons with disabilities will be made, if requested in advance."

6. GPA employees, volunteers, and paid consultants must sign and abide by the applicable conflict of interest policy.

7. The responsible administrator or his delegate must actively participate in any calls scheduled by GEDA or DOA concerning the Grant Work and must respond to all email inquiries from either as soon as reasonably possible.

8. All off-island travel using grant funds must be approved by GEDA and DOA before travel occurs.

9. **Additional Terms and Conditions.** All terms and provisions from the following Exhibits apply in full effect for this Grant Award:

This Exhibit A: Statement of Work and Budget

Exhibit B: Federal Provisions

Exhibit C. Agreement with Subrecipient of Federal Recovery Funds

EXHIBIT B. FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.

1.2. The Government of Guam is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with federal statutes, Award Terms and Conditions, applicable Treasury Rules, and reporting requirements, as applicable.

1.3. Additionally, any subrecipient that issues a subaward to another entity (2^{nd} tier subrecipients), must hold the 2^{nd} tier subrecipient accountable to these provisions and adhere to reporting requirements.

1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or Government of Guam agency or institutions of higher education.

2. DEFINITIONS.

2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.

2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

2.1.2. "Entity" means:

2.1.2.1. a Non-Federal Entity;

2.1.2.2. a foreign public entity;

2.1.2.3. a foreign organization;

2.1.2.4. a non-profit organization;

2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);

2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);

2.1.2.7. a Federal agency, but only as a subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or

2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).

2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.

2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US

Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

2.1.5. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1

2.1.6. "Grant" means the Grant to which these Federal Provisions are attached.

2.1.7. "Grantee" means the party or parties identified as such in the Grant to which these Federal Provisions are attached.

2.1.8. "Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a subrecipient.

2.1.9. "Nonprofit Organization" means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

2.1.9.2. Is not organized primarily for profit; and

2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.

2.1.10. "OMB" means the Executive Office of the President, Office of Management and Budget.

2.1.11. "Pass-through Entity" means a non-Federal Entity that provides a Subaward to a subrecipient to carry out part of a Federal program.

2.1.12. "Prime Recipient" means the Government of Guam or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.

2.1.13. "Subaward" means an award by a Prime Recipient to a subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

2.1.14. "Subrecipient" or "Subgrantee" means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient or a subgrantor to support the performance of the Federal project or program for which the Federal funds were awarded. A subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program. For SLFRF Grants, a subrecipient relationship continues to exist for Expenditure Category 6.1 Revenue Replacement.

2.1.15. "System for Award Management (SAM)" means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at http://www.sam.gov.

2.1.16. "Transparency Act" means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

2.1.17. "Uniform Guidance" means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to GPAs unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

2.2. "Unique Entity ID Number" means the Unique Entity ID established by the federal government for a Grantee/Subgrantee at https://sam.gov/content/home

3. COMPLIANCE.

3.1. GPA shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The Government of Guam, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

3.2. Per US Treasury Final Award requirements, grantee programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.

4.1. SAM. GPA shall maintain the currency of its information in SAM until GPA submits the final financial report required under the Award or receives final payment, whichever is later. GPA shall review and update SAM information at least annually.

4.2. UEI. GPA shall provide its Unique Entity ID to GEDA and DOA, and shall update GPA's information in SAM.gov at least annually.

5. REPORTING.

5.1. If GPA is a subrecipient of the Award pursuant to the Transparency Act, GPA shall report data elements to SAM, to GEDA and to DOA as required in this Exhibit. No direct payment shall be made to GPA for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of GPA's obligations under this Grant.

6. SUBRECIPIENT REPORTING REQUIREMENTS

6.1. Subrecipient shall report as set forth below.

6.1.1. To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM ***for each*** Federal Award Identification Number (FAIN) assigned by a Federal agency to a Recipient no later than the end of the month following the month in which the Subaward was made:

6.1.1.1. Subrecipient Unique Entity ID;

6.1.1.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;

6.1.1.3. Subrecipient parent's organization Unique Entity ID;

6.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

6.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

6.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.

6.1.2. To Recipient. A Subrecipient shall report to its Recipient, upon the effective date of the Grant, the following data elements:

6.1.2.1. Subrecipient's Unique Entity ID as registered in SAM.

6.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

6.2. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and DOA. DOA may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, DOA will provide notice of such additional reporting requirements via Exhibit D: SLFRF Reporting Modification Form.

7. PROCUREMENT STANDARDS.

7.1. Procurement Procedures. A subrecipient shall use its own documented procurement procedures which reflect applicable Guam law and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.

7.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.

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

7.4. Never contract with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never contract with the enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed $50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

7.5. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Subrecipient is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

8. ACCESS TO RECORDS.

8.1. GPA shall permit GEDA and/or DOA and their auditors to have access to GPA's records and financial statements as necessary for DOA to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

9. SINGLE AUDIT REQUIREMENTS.

9.1. If GPA expends $750,000 or more in Federal Awards during GPA's fiscal year, GPA shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

9.2. Election. GPA shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program- specific audits). GPA may elect to have a program-specific audit if GPA expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

9.2.1. Exemption. If GPA expends less than $750,000 in Federal Awards during its fiscal year, GPA shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the Government of Guam, and the Government Accountability Office.

9.2.2. Subrecipient Compliance Responsibility. GPA shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. GPA shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

10. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

10.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions.

Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.

10.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60- 1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.

10.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

10.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of "funding agreement" under 37 CFR 401.2 (a) and the Prime Recipient or subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements," and any implementing regulations issued by the Federal Awarding Agency.

10.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

10.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). An Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and
12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

10.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never Contract with the Enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed $50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

10.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

10.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

11. CERTIFICATIONS.

11.1. Subrecipient Certification. GPA shall sign a "Government of Guam Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit C and submit to GEDA with signed grant agreement.

11.2. Unless prohibited by Federal statutes or regulations, GEDA and/or DOA may require GPA to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if GPA fails to meet a requirement of the Federal award. GPA shall certify in writing to the Government of Guam at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

12. EVENT OF DEFAULT AND TERMINATION.

12.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and GEDA may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the GEDA under the Grant, at law or in equity.

12.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

12.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

12.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

12.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

12.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass- through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

12.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

Exhibit C. AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The Government of Guam has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and GEDA, a subrecipient of ARPA funds awarded to the Government of Guam, and your organization is signing and certifying the same terms and conditions included in the Government of Guam's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from GEDA, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name: GUAM POWER AUTHORITY

Authorized Representative: JOHN M. BENAVENTE

Title: GENERAL MANAGER

Signature: ____________________ MW

3/2/2025

TERMS AND CONDITIONS

1. USE OF FUNDS.

A. GPA understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.

B. GPA will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. PERIOD OF PERFORMANCE. The period of performance for this subaward is shown on page one of this Agreement. GPA may use funds to cover eligible costs incurred, as set forth in Treasury's implementing regulations, during this period of performance.

3. REPORTING. GPA agrees to comply with any reporting obligations established by Treasury as they relate to this award. GPA also agrees to comply with any reporting requirements established by the Governor's Office and DOA.

4. MAINTENANCE OF AND ACCESS TO RECORDS.

A. GPA shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of GPA in order to conduct audits or other investigations.

C. Records shall be maintained by GPA for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. PRE-AWARD COSTS. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. ADMINISTRATIVE COSTS. GPA may use funds provided under this award to cover both direct and indirect costs. GPA shall follow guidance on administrative costs issued by the Governor's Office and DOA.

7. COST SHARING. Cost sharing or matching funds are not required to be provided by GPA.

8. CONFLICTS OF INTEREST. The Government of Guam understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. GPA and Contractors must disclose in writing to the DOA or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. §200.112. DOA shall disclose such conflict to Treasury.

9. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS.

A. GPA agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and GPA shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

B. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

C. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C.§§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. **REMEDIAL ACTIONS.** In the event of GPA's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.

11. **HATCH ACT.** GPA agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C.§§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. **FALSE STATEMENTS.** GPA understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. **DEBTS OWED THE FEDERAL GOVERNMENT.**

A. Any funds paid to GPA (1) in excess of the amount to which the GPA is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by GPA shall constitute a debt to the federal government.

B. Any debts determined to be owed to the federal government must be paid promptly by GPA. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the GPA knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

14. **DISCLAIMER.**

A. The United States expressly disclaims any and all responsibility or liability to GPA or third persons for the actions of GPA or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.

B. The acceptance of this award by GPA does not in any way establish an agency relationship between the United States and GPA.

15. **PROTECTIONS FOR WHISTLEBLOWERS.**

A. In accordance with 41 U.S.C. § 4712, GPA may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

B. The list of persons and entities referenced in the paragraph above includes the following:

i. A member of Congress or a representative of a committee of Congress;

ii. An Inspector General;

iii. The Government Accountability Office;

iv. A Treasury employee responsible for Agreement or grant oversight or management;

v. An authorized official of the Department of Justice or other law enforcement agency;

vi. A court or grand jury; or

vii. A management official or other employee of GPA, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

C. GPA shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. **INCREASING SEAT BELT USE IN THE UNITED STATES.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), GPA should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company- owned, rented or personally owned vehicles.

17. **REDUCING TEXT MESSAGING WHILE DRIVING.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), GPA should encourage its employees, Subrecipients, and Contractors to adopt and enforce policies that ban text messaging while driving, and GPA should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, GPA provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to GPA's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. GPA ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

2. GPA acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). GPA understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, GPA shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. GPA understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the GPA's programs, services, and activities.

3. GPA agrees to consider the need for language services for LEP persons when GPA develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

4. GPA acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon GPA and GPA's successors, transferees, and assignees for the period in which such assistance is provided.

5. GPA acknowledges and agrees that it must require any sub-grantees, contractors,

subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the GPA and GPA's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. GPA understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates GPA, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates GPA for the period during which it retains ownership or possession of the property.

7. GPA shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. GPA shall comply with information requests, on-site compliance reviews and reporting requirements.

8. GPA shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. GPA also must inform the Department of the Treasury if GPA has received no complaints under Title VI.

9. GPA must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between GPA and the administrative agency that made the finding. If GPA settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If GPA has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If GPA makes sub-awards to other agencies or other entities, GPA is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document Government of Guam agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT C

Docusign Envelope ID: DAEEFAF7-A917-4394-B975-8B4C9AB48541

Contract Number: ________

Government of Guam Subgrant Agreement

Subgrantor Guam Economic Development Authority	**Agreement Number** 2025-GEDA-GWA-0001
Subgrantee Guam Waterworks Authority	**Agreement Performance Beginning Date** February xx, 2025 **Initial Agreement Expiration Date** December 1, 2026
Subaward Agreement Amount SLFRF Water/Wastewater **$62,902,250.00** Total **$62,902,250.00**	**Fund Expenditure End Date** December 31, 2026 **Agreement Authority** Authority to enter into this Agreement exists in 12 GCA § 50103.

Agreement Purpose: In accordance with 12 GCA § 50103, the purpose of this Agreement is to provide funding for the installation of water and wastewater infrastructure to support the Mangilao Medical Campus Project. The work to be completed under this Agreement by the Subgrantee is more specifically described in Exhibit A.

Exhibits and Order of Precedence

The following Exhibits and attachments are included with this Agreement:

1. Exhibit A – Statement of Work and Budget.
2. Exhibit B – Federal Provisions.
3. Exhibit C – Agreement with Subrecipient of Federal Recovery Funds

In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

1. Exhibit B – Federal Provisions.
2. Exhibit C – Agreement with Subrecipient of Federal Recovery Funds
3. Provisions in the main body of this Agreement
4. Exhibit A – Statement of Work and Budget.

Principal Representatives

For the Subgrantor:

Melanie Mendiola
Guam Economic Development Authority
ITC Building, Suite 511
590 S. Marine Corps Drive
Tamuning, Guam 96913
mel.mendiola@investguam.com

For Subgrantee:

Miguel C. Bordallo, P.E.
Guam Waterworks Authority
P.O. Box 3010
Hagåtña, Guam 96932
Email mcbordallo@guamwaterworks.org

1. **PARTIES.** This Agreement is entered into by and between the Guam Economic Development Authority ("GEDA") and the Guam Waterworks Authority ("GWA") (collectively "the Parties"). The Parties agree to the terms and conditions in this Agreement.

2. **SUBGRANT.** As of the Subgrant Issuance Date, GEDA hereby obligates and awards to GWA grant funds in the amounts shown on the cover page of this Agreement. By accepting the grant funds provided under this Agreement, GWA agrees to comply with the terms and conditions of this Agreement and the requirements and provisions of all Exhibits to this Agreement.

3. **TERM AND EFFECTIVE DATE**

   A. **Effective Date.** This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. GEDA shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay GWA for any Work performed or expense incurred before the Effective Date or after the Fund Expenditure End Date.

   B. **Initial Term.** The Parties' respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Agreement.

   C. **Early Termination in the Public Interest.** GEDA is entering into this Agreement to serve the public interest of Guam, as determined by the Department of Administration ("DOA") and provided in the Interagency Grant Agreement executed by and between DOA and GEDA on December 30, 2024. If DOA determines that this Agreement has ceased to further the public interest of Guam or if Government of Guam, Federal or other funds used for this Agreement are not appropriated, or otherwise become unavailable to fund this Agreement, GEDA may terminate this Agreement in whole or in part by providing at least forty-five (45) days written notice to GWA that includes, to the extent practicable, the public interest justification for the termination. If GEDA terminates this Agreement in the public interest, GEDA shall pay GWA an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by project documentation jointly reviewed and acceptable to GWA and GEDA, less payments previously made. Additionally, GEDA, in its discretion, may reimburse GWA for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Subgrant Agreement that are incurred by GWA and are directly attributable to the uncompleted portion of GWA's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to GWA hereunder, and shall be in compliance with the 2021 Interim Final Rule, the 2022 Final Rule, and the 2023 Interim Final Rule ("Treasury Rules") issued by the U.S. Department of the Treasury ("Treasury"), and other applicable federal laws or regulations. This subsection shall not apply to a termination of this Agreement by GEDA for breach by GWA.

   D. **GWA's Termination Under Federal Requirements** GWA may request termination of this Agreement by sending a notice to GEDA, or to the Federal Awarding Agency with a copy to GEDA and DOA, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then GWA shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

4. **STATEMENT OF WORK AND BUDGET.** GWA shall complete the Work as described in this Agreement, and in accordance with the provisions of Exhibit A. GEDA shall have no liability to compensate GWA for the delivery of any goods or the performance of any services that are not

specifically set forth in this Agreement.

5. PAYMENTS TO GWA

A. Subaward Maximum Amount. GWA shall complete the Work as described in this Agreement, and in accordance with the provisions of Exhibit A. GEDA shall have no liability to compensate GWA for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

B. Payment Procedures

i. GWA shall initiate payment requests by invoice to GEDA in a form and manner approved by GEDA. To facilitate the Fiscal Year End closing, final invoices for each Fiscal Year should be submitted to GEDA by November 15th of the following Fiscal Year.

ii. GEDA shall pay each invoice within 21 days following GEDA's receipt of that invoice, so long as the amount invoiced correctly represents work completed by GWA and previously accepted by GEDA during the term that the invoice covers.

iii. GEDA shall pay GWA's allowable costs, not exceeding the maximum total amount described in this Agreement for all allowable costs described in this Agreement and shown in the Budget, except that GWA may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as GWA provides notice to GEDA of the change, the change does not modify the total maximum amount of this Agreement or the maximum amount for any Government of Guam fiscal year, and the change does not modify any requirements of the Work. GEDA shall only pay allowable costs if those costs are: (i) reasonable and necessary to accomplish the Work and for the Goods and Services provided; and (ii) equal to the actual net cost to GWA (i.e., the price paid minus any items of value received by GWA that reduce the cost actually incurred).

The U.S. Department of the Treasury has issued a 2024 Compliance Supplement for Assistance Listing 21.027 Coronavirus State and Local Fiscal Recovery Funds ("Compliance Supplement"). The Compliance Supplement provides guidance to auditors and grant recipients regarding the American Rescue Plan Act ("ARPA"), State and Local Fiscal Recovery Funds ("SLFRF"), and applicable federal regulations and also provides a guide on how to audit the federal funds.

The procurement requirement under the Compliance Supplement states that "recipients may use award funds to enter into contracts to procure goods and services necessary to complement one or more of the eligible purposes . . . recipients are expected to have procurement policies and procedures in place that comply with the procurement standards outlined in the Uniform Guidance." Uniform Guidance procurement methods are stated in 2 CFR Part 200 Subpart D - Procurement Standards.

In addition, under Procurement Standards 2 CFR §200.324(c), procurement funded by federal funds "must not use the cost plus a percentage of cost and percentage of construction cost methods of contracting."

iv. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and GEDA's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, GEDA may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. GEDA shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§3.C**.

v. The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the Government of Guam to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. **Close-Out.** GWA shall close out this Award within 30 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, GWA shall submit to GEDA all Deliverables (including documentation) as defined in this Agreement and GWA's final reimbursement request or invoice. GEDA will withhold 5% of allowable costs set forth in reimbursement requests or invoices submitted by GWA during the final 3 months of the performance period until all final documentation has been submitted and accepted by GEDA as substantially complete.

6. REPORTING - NOTIFICATION

A. **Quarterly Reports.** In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, GWA shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress reports shall be in accordance with the procedures developed and prescribed by GEDA. Progress reports shall be submitted to GEDA not later than five (5) Business Days following the end of each calendar quarter or at such time as otherwise specified by GEDA.

B. **Performance and Final Status.** GWA shall submit all financial, performance, and other reports to GEDA no later than the closeout described in §5C, containing an evaluation and review of GWA's performance and the final status of GWA's obligations hereunder.

C. **Violations Reporting.** GWA shall disclose, in a timely manner, in writing to GEDA and DOA, all violations of federal, state, or Guam criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The Federal Awarding Agency may seek to impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. GWA RECORDS

A. **Maintenance and Inspection.** GWA shall make, keep, and maintain all official records, documents, communications, notes and other written materials, electronic media files, and communications pertaining in any manner to this Agreement for a period of five years following the completion of the close-out of this Agreement. GWA shall permit GEDA or DOA and its delegees to audit, inspect, examine, excerpt, copy, and transcribe all such records at all reasonable times and places during the term of this Agreement, unless GEDA or DOA determines that an audit or inspection is required without notice at a different time to protect the interests of GEDA, DOA or the Government of Guam.

B. **Monitoring.** GEDA will monitor GWA's performance of its obligations under this Agreement using procedures as determined by GEDA. GWA shall allow GEDA and DOA to perform all monitoring required by the Uniform Guidance and otherwise, based on GEDA and/or DOA's risk analysis of GWA. GEDA shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. GEDA shall monitor GWA's performance in a manner that does not unduly interfere with GWA's performance of the Work.

C. **Final Audit Report.** GWA shall promptly submit to GEDA a copy of any final audit report of an audit performed on GWA's records that relates to or affects this Agreement or the Work, whether the audit is conducted by GWA or a third party.

8. CONFIDENTIAL INFORMATION AND RECORDS

A. **Confidentiality.** Each Party shall treat the confidential information of the other Party with the same degree of care and protection it affords to its own confidential information unless a different standard is set forth in this Agreement. Each Party shall notify the other Party immediately if it receives a request or demand from a third party for records or information of the other Party.

B. **Other Entity Access and Nondisclosure Agreements.** GWA may provide Government of Guam records to its agents, employees, assigns, and Subcontractors as necessary to perform the Work, but shall restrict access to Government of Guam Confidential Information to those agents, employees, assigns, and Subcontractors who require access to perform their obligations under this Agreement. GWA shall ensure all agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement and that the nondisclosure provisions are in force at all times the agent, employee, assign, or Subcontractor has access to any Government of Guam Confidential Information. GWA shall provide copies of those signed nondisclosure provisions to the Government of Guam upon execution of the nondisclosure provisions if requested by the State.

9. CONFLICTS OF INTEREST

A. **Actual Conflicts of Interest.** GWA shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of GWA under this Agreement. GWA acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the Government of Guam's interests. Absent GEDA's prior written approval, GWA shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of GWA's obligations under this Agreement.

10. **INSURANCE.** GWA shall ensure that each Subcontractor shall obtain and maintain insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the Government of Guam or GWA.

A. **Workers' Compensation.** Workers' compensation insurance is required by Guam law, and employers' liability insurance covers all Subcontractor employees acting within the course and scope of their employment.

B. **General Liability.** Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

i. $1,000,000 each occurrence;

ii. $1,000,000 general aggregate;

iii. $1,000,000 products and completed operations aggregate; and

iv. $50,000 any 1 fire.

C. **Automobile Liability.** Automobile liability insurance covering any auto (including owned, hired, and non-owned autos) with a minimum limit of $1,000,000 each accident combined single limit.

D. **Additional Insured.** The Government of Guam, GEDA, and the Guam Waterworks Authority shall be named as additional insureds on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of GWA's Subcontractors.

E. **Primacy of Coverage.** Coverage required of each Subcontractor shall be primary over any insurance or self-insurance program carried by GWA or the Government of Guam.

F. **Cancellation.** All insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to GWA, and GWA shall forward such notice to GEDA and DOA in accordance with section 12 (Notices and Representatives) within seven days of GWA's receipt of such notice.

G. **Subrogation Waiver.** All insurance policies secured or maintained by GWA's Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against GWA or the Government of Guam, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. **Certificates.** GWA shall provide to GEDA and DOA certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that if GWA's subcontract is not in effect as of the Effective Date, GWA shall provide to GEDA and DOA certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following GWA's execution of the subcontract. No later than fifteen (15) days before the expiration date of GWA's or any Subcontractor's coverage, GWA shall deliver to GEDA and DOA certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by GEDA or DOA, GWA shall, within seven (7) Business Days following the request by GEDA or DOA, supply to GEDA or DOA evidence satisfactory to DOA of compliance with the provisions of this section.

11. **DISPUTE RESOLUTION.** The failure of a Party to perform its respective obligations in accordance with the provisions of this subgrant agreement is a breach of this subgrant agreement. In the event of disputes concerning performance hereunder or otherwise related to this subgrant agreement, the Parties shall attempt to resolve them at the agency level. Except as herein specifically provided otherwise or as required or permitted by federal regulations related to any Federal Award that provided any of the Grant Funds, disputes concerning the performance of this subgrant agreement that cannot be resolved by agency representatives shall be referred in writing to the Office of the Governor for resolution.

    Following a decision by the Office of the Governor, and in the event the Parties remain unable to resolve the dispute, the Parties may file a complaint to a competent court of jurisdiction for further claim, action, or resolution.

12. **NOTICES and REPRESENTATIVES.** Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise

provided in this Agreement, notices shall be effective upon delivery of the written notice.

13. GENERAL PROVISIONS

A. **Assignment.** GWA's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of GEDA and DOA. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of GWA's rights and obligations approved by GEDA and DOA shall be subject to the provisions of this Agreement.

B. **Subcontracts.** All subawards and subcontracts entered into by GWA in connection with this Agreement shall comply with all applicable federal and Guam laws and regulations and shall provide that they are governed by the laws of Guam and shall be subject to all provisions of this Agreement. In GWA's Monthly Report, as required by Section 7, GWA shall notify GEDA of any and all subawards or subcontracts in connection with its obligations under this Agreement. GWA shall submit to GEDA a copy of each such subaward or subcontract upon request by GEDA.

C. **Binding Effect.** All provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. **Captions and References.** The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. **Counterparts.** This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. **Entire Understanding.** This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever unless embodied herein.

H. **Modification.** GEDA may modify the terms and conditions of this Agreement by issuance of an Amended Agreement, which shall be effective upon GWA's written approval of the Amended Agreement. The Parties may also agree to modification of the terms and conditions of the Agreement in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Guam law.

I. **Statutes, Regulations, Fiscal Rules, and Other Authority.** Any reference in this Agreement to a statute, regulation, rule, fiscal policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. GWA shall strictly comply with all applicable Federal and Guam laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

J. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

K. **Survival of Certain Agreement Terms.** Any provision of this Agreement that imposes an obligation on a Party after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

L. **Waiver.** A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

M. **Standard and Manner of Performance.** GWA shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in GWA's industry, trade, or profession.

N. **Licenses, Permits, and Other Authorizations.** GWA shall secure and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents, and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

O. **Federal Provisions.** GWA shall comply with all applicable requirements of Exhibits B and C at all times during the term of this Agreement.

P. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of Guam. The Parties agree that any legal action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the courts of Guam, and the Parties hereby irrevocably consent to the jurisdiction of such courts.

IN WITNESS of the above provisions, the Parties have executed this Agreement on the last of the dates below stated.

For the Guam Economic Development Authority:	For the Guam Waterworks Authority:
MELANIE R. MENDIOLA	JW **MIGUEL C. BORDALLO, P.E.**
CEO/Administrator	General Manager
3/31/2025	4/1/2025
Date	Date

EXHIBIT A. STATEMENT OF WORK AND BUDGET

1. **PURPOSE.** GEDA is entering into this subaward of ARPA funds with GWA to fund the installation of water and wastewater infrastructure for the Mangilao Medical Campus ("MMC") project. For details on the ARPA funding, see Interagency Grant Agreement executed by and between DOA and GEDA executed on December 31, 2024.

2. **NOTIFICATION**

   To GEDA:

   Melanie R. Mendiola, CEO/Administrator
   mel.mendiola@investguam.com
   Guam Economic Development Authority
   ITC Building, Suite 511
   590 S. Marine Corps Drive
   Tamuning, Guam 96913

   To GWA:

   Miguel C. Bordallo, P.E., General Manager
   Email: mcbordallo@guamwaterworks.org
   Guam Waterworks Authority
   P.O. Box 3010
   Hagåtña, Guam 96932

3. **PERFORMANCE PERIOD.** The performance period and expiration date are stated on the Agreement cover page. GEDA shall not be responsible or liable for goods or services delivered or performed prior to issuance of this Agreement.

4. **DEFINITIONS**

- **"ARPA"** means the American Rescue Plan Act of 2021.
- **"SLFRF"** means State and Local Fiscal Recovery Fund.

5. **PERSONNEL**

   A. **Responsible Administrator.** GWA's performance hereunder shall be under the direct supervision of Miguel C. Bordallo, P.E., General Manager of GWA, who is hereby designated as the responsible administrator of this project. The responsible administrator may delegate oversight of the Work – not including contracting authority–to another GWA employee, if prior notice of the delegation is provided to GEDA and the delegee meets at least the following minimum qualifications:

      1. College degree or a minimum of four years' experience in government administration, procurement, project administration, and/or construction management.
      2. Strong oral and written communication and interpersonal skills.
      3. Strong organizational and problem-solving skills.
      4. Familiarity with Guam governmental operations.

B. Other Personnel

1. GWA represents that, in addition to the expertise of its current employees, GWA will leverage the available expertise of other Government of Guam agencies where it believes such expertise can be productively applied.

2. Further notwithstanding the above, GEDA and GWA agree that efficient, effective completion of the scope of work will require GWA to procure professional services including but not limited to design and engineering services as well as inspection and construction management services, and that such procured professional services are eligible expenses for Grant Funds.

C. Secondment from Other Government of Guam Agencies. If GWA determines that it would be advantageous to formally second staff with particular expertise from another Government of Guam agency to GWA, GWA may make such request to the contact designated by GEDA and in the manner prescribed by GEDA, who will forward such request to DOA. The request should, at a minimum, include the expertise requested, together with any suggestions for Government of Guam staff possessing the needed expertise, the anticipated timeframe of the secondment, and the proposed funding source for the secondment.

D. Procured Professional Services. GEDA and GWA expressly contemplate that GWA will contract for the provision of certain professional services in support of the Work and the Services, including but not limited to architectural and engineering design, environmental assessment, construction, and construction management and inspection services.

6. WORK TASKS AND DELIVERABLES

A. Work tasks. GWA will develop a project strategy for efficient completion of the Work, consistent with the below budget narrative. GWA will procure, as necessary, professional and construction services and, if required, organize the assistance of other Government of Guam agencies and, as appropriate, enter into memoranda of agreement with those agencies and other entities. GWA will oversee all activities, ensure that all activities are consistent with this Agreement and process invoices for payment as required in memoranda of agreement with other agencies and entities. GWA will, in coordination with the GEDA and the Office of the Governor, lead public communication efforts. GWA will be the lead communicator with Guam regulatory and inspection agencies for the project. GWA will oversee the budget against project completion and will coordinate the preparation of periodic reports as described below.

GEDA is authorized by 12 GCA § 50103 to finance, acquire, construct, reconstruct, rehabilitate, or improve hospital facilities, and provide such hospital facilities to serve the general public and to make reasonably accessible to all the people of Guam modern and efficient hospital facilities. To assist in achieving this objective, GEDA is subawarding grant funds to and/or contracting with other entities, including GWA, to complete the initial phase of the Mangilao Medical Campus Project, including design and construction of primary utility infrastructure (electrical power, water and wastewater), and prepare an Environmental Condition of Property report which analyzes environmental, archaeological, physical, geology and other characteristics of the MMC property or portions thereof in compliance with local and federal laws and regulations. The MMC property will be identified by DOA.

Preliminary analysis indicates that the proposed location for the medical campus lacks basic infrastructure to support not only the MMC but also developments within the surrounding area.

Potable Water and Wastewater

The Guam Waterworks Authority (GWA) provides water and wastewater infrastructure on Guam. The hospital campus water demand has been calculated as double the Guam Memorial Hospital's current water consumption, in addition to public health and behavioral health water consumption. The sewer load is estimated to be 90 percent of the water demand.

GEDA will execute an interagency agreement with GWA to design and construct water and wastewater improvements and apportion sufficient water and wastewater capacity to meet the needs of the MMC.

Based on the initial review of the water demand analysis by GWA, the medical campus would require the following off-site water infrastructure:

- Two (2) Wells design and exploration
- 6-inch water line extensions to 2 new wells
- Storage tank(s) with total volume of 2.5 million gallons and piping
- Pumping system

Offsite Wastewater Facilities preliminarily include:

- Lalo Street gravity sewer main upgrade
- Route 10 gravity sewer main upgrade (pipes & manholes)
- Barrigada sewer pump station upgrade
- Barrigada force main upgrade
- Route 8 gravity sewer upgrade
- Route 1 gravity sewer upgrade (pipes & manholes)
- Hagåtña Main sewer pump station
- Hagåtña Main force main

The design process that will be instituted by GWA will confirm water and wastewater infrastructure requirements.

B. Specific deliverables:

1. Architectural and engineering design of plans and construction specifications for potable water infrastructure to bring needed infrastructure to the campus site, including as necessary Offsite Water System improvements to include design and exploration of two (2) water wells, six-inch water line extensions to two (2) new wells, storage tank(s) with total volume of 2.5 million gallons and piping, pumping system and potable water facilities as determined to be advisable in consultation with the Guam Waterworks Authority and the Guam Environmental Protection Agency.

2. Architectural and engineering design of plans and construction specifications for wastewater disposal infrastructure to bring needed infrastructure to the campus site, including as necessary offsite sewer system improvements, new sewer pump stations, force mains, gravity sewer upgrades, gravity sewer main upgrade (pipes and manholes), sewer pump station upgrades, and related work as determined to be advisable in consultation with the Guam Waterworks Authority and the Guam Environmental Protection Agency.

7. REPORTING

A. Annual and Final Report(s). GWA will fulfill the performance and financial reporting requirements as outlined in this section.

B. Performance and Financial Reporting Requirements Due Date(s)

1. **Core Performance.** Within 30 days of the execution of this Agreement, GWA will prepare for review and acceptance by GEDA a master calendar with an anticipated schedule for the

performance and completion of all core activities required for successful and timely completion of the Work, including but not limited to the specific deliverables detailed above. The Core Performance schedule will subdivide the project as a whole, assigning percentages to appropriate milestones quantified to appropriately state, on a weekly basis, the percentage complete the project as a whole is against the scheduled percentage of completion.

2. **Monthly.** Due by the 15th of the month, GWA will submit its Monthly Report to GEDA. The Monthly Report will include ((i) the Core Performance actual and scheduled percentages; (ii) milestones achieved in the last month; (iii) planned activities for the next two months; (iv) an abbreviated budget overview of expenses paid to date, unpaid expenses incurred, and Grant Funds that remain. The Monthly Report will also list vendor invoices received in the previous month and expected vendor billings for the next two months. The Monthly Report will also list Government of Guam staff other than GWA staff employed on the project in the previous month and any expected other-than-GWA Government of Guam staff participation requested for the next two months. Each Monthly Report should also include a brief narrative of the previous month's project successes and, as appropriate, a brief analysis of any challenges encountered.

3. **Quarterly.** GWA will submit a quarterly Grant Itemization Report with evidence of expenditures in a form that complies with U.S. Department of Treasury reporting requirements and meet with GEDA to resolve any questions or comments. If the U.S. Department of Treasury changes reporting requirements, GWA agrees to comply with the revised requirements.

4. **Annually.** GWA shall submit an annual report as specified below. These reports shall include but are not limited to a summary of the following: Progress as to Specific Deliverables

   - Budget v. Actuals
   - Anticipated potential upcoming challenges
   - Project utilization of non-GWA Government of Guam resources
   - Upcoming project efficiency or other opportunities
   - Economic impact reporting

The annual reports are due according to the schedule below:

- Report 1: May 15, 2025
- Report 2: May 15, 2026

GWA shall provide GEDA with an explanation and action plan for any performance measurements that are not on target.

BUDGET AND PAYMENT

Payments shall be made in accordance with the provisions set forth in the Grant and its attached exhibits, including this Exhibit A. The maximum amount payable under the terms and conditions of this Agreement shall not exceed $62,902,250.00. Any amount in excess of these totals must be agreed to by both parties and must be provided by a properly executed option or amendment to this Agreement.

Water. The Guam Waterworks Authority (GWA) has provided a cost estimate estimating the cost to meet the estimated water consumption for the MCC, which entails development of an offsite water system, including well design, well construction, water line extensions, storage tanks, and a pumping system.

WATER COST ESTIMATE		
Well design and exploration		$ 1,950,000.00
Well construction – 2 wells		$ 11,700,00.00
6-inch water line extension to 2 new wells		$ 2,340,000.00
Storage tank(s)		$ 7,215,000.00
Pumping system		$ 2,925,000.00
TOTAL		**$ 26,130,000.00**

Wastewater. GWA has additionally provided alternative cost estimates based on whether an easement is attained from the U.S. military for a sewer connection point on Lalo Street in Mangilao or GWA is required to connect to a gravity sewer line near Dimas Street in Mangilao. The cost estimate utilized herein is based on the more conservative alternative that would require GWA to connect near Dimas Street. In the event an easement is attained from the U.S. military for a sewer connect point on Lalo Street, the amounts needed to complete the wastewater needs of the MMC may be reduced and funds may be reprogrammed for other project needs.

GWA has additionally identified capital improvement projects it is planning to undertake for the Barrigada gravity system and force main, which will also be necessary for the MMC project, and may provide an opportunity for cost-sharing between the developer and GWA.

Amounts included herein reflect the sum of estimated developer costs and 50% of estimated amounts for potential cost shares with GWA for the Barrigada gravity system project.

WASTEWATER COST ESTIMATE	
Route 15 new sewer pump station	$2,500,000.00
Route 15 new force main to Dimas Street	$6,800,000.00
Route 15 SMH upgrades	$390,000.00
Route 10 gravity sewer main (pipes)	$5,265,000.00 (50% of potential cost share)
Added Route 10 gravity sewer main upgrade to Mangilao SPS	$4,680,000.00
Added Route 10 SMH upgrades to Mangilao SPS	$195,000.00
Route 10 gravity sewer main upgrade (manholes)	$292,500.00 (50% of potential cost share)
Mangilao sewer pump station upgrade	$625,000.00 (50% of potential cost share)
Mangilao SPS force main upgrade	$2,100,000.00 (50% of potential cost share)
Added Route 10 gravity line upgrade (AMC to Lalo)	$3,607,500.00 (50% of potential cost share)
Added Route 10 SMH upgrade (AMC to Lalo)	$146,250.00 (50% of potential cost share)
Barrigada sewer pump station upgrade	$625,000.00 (50% of potential cost share)
Barrigada force main upgrade	$4,558,500.00 (50% of potential cost share)
Route 1 gravity sewer upgrade (pipes)	$4,500,000.00
Route 1 gravity sewer upgrade (manholes)	$487,500.00

TOTAL	**$36,772,250**

Matching Funds

No match required.

Grant Funds

2025-GEDA-GWA-0001 $62,902,250.00

8. ADMINISTRATIVE REQUIREMENTS

A. Accounting

1. At all times from the Effective Date of this Grant until completion of the Work, GWA shall maintain properly segregated books of Grant Funds, matching funds (if any), and other funds associated with the Work.

2. All receipts and expenditures associated with said Work shall be documented in a detailed and specific manner, and shall accord with the Work Budget set forth herein.

3. GWA shall assume responsibility for seeing that all funding is expended, accounted for and reported, consistent with underlying agreements, program objectives and with allowable cost, applicable rules and regulations addressed by 2 CFR 200 and originating grant award provisions.

4. Adjustments of budget expenditure amounts in excess of ten percent (10%) must be authorized by GEDA in an amendment to this Agreement properly executed and approved pursuant to GEDA procedures.

5. In no event shall GWA's total consideration exceed the amount indicated in the "Budget" above.

6. Reimbursement requests must include the standard reimbursement summary sheet and supporting documentation of the amounts listed on the summary sheet, including but not limited to an original ticked general ledger from the host accounting system.

B. Monitoring. GEDA shall monitor this Work on an as-needed basis. GEDA may choose to audit the business activities performed under this Grant. GWA shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Grant. Such books and records shall contain documentation of the participant's pertinent activity under this Grant in a form consistent with good accounting practice.

C. Discretionary Audit. GEDA, or any of its duly authorized representatives, including an independent Certified Public Accountant of GEDA's choosing, or the federal government or any of its properly delegated or authorized representatives shall have the right to inspect, examine, and audit GWA's (and any of GWA's contractor's) records, books, accounts and other relevant documents. Such a discretionary audit may be requested at any time and for any reason from the effective date of this Agreement until three (3) years after the date final payment for the project is received by GWA or the applicable federal audit period, whichever is later. The cost of a discretionary audit will be borne by the GEDA.

D. **Mandatory Audit.** Whether or not GEDA calls for a discretionary audit as provided above, GWA shall provide GEDA copies of annual audit reports for the period of the project. In addition, GWA shall supply GEDA with copies of all correspondence from any auditor related to any findings relevant to the project. If an audit reveals evidence of non-compliance with applicable requirements, or other issues pertaining to the administration of federal funds, GEDA reserves the right to institute compliance, or other appropriate measures, to address audit findings.

E. **Specific Terms and Conditions**

1. Completion of Work and Funding Reimbursement: GWA must complete as much of the work as possible towards the Deliverables and Tasks outlined in Exhibit A, Section 6 within the specified expenditure period; however, any work that remains unfinished after December 31, 2026, will not result in any penalties or breach except that:

   (a) Costs incurred after December 31, 2026, will not be eligible for reimbursement by GEDA; and,

   (b) Any unspent funds remaining after December 31, 2026, must be returned to GEDA, unless an extension is granted by law.

2. Expenses incurred by GWA in association with this project **prior to the Effective Date** and **after December 31, 2026,** are not eligible Grant expenditures under this grant and will not be reimbursed by GEDA.

3. GWA will maintain an office conveniently located and easily accessible to the community.

4. GWA will maintain a publicly listed telephone in the name of the "Guam Waterworks Authority." The phone will be answered "Guam Waterworks Authority" or "GWA."

5. GWA's office will be staffed and operational during normal business hours.

6. All advertising or other promotional materials developed or distributed in connection with conferences or other meetings or gatherings must contain the following statement: "Reasonable accommodations for persons with disabilities will be made, if requested in advance."

7. GWA employees, volunteers, and paid consultants must sign and abide by the applicable conflict of interest policy as set forth in 4 GCA Chapter 15.

8. The responsible administrator or his delegate must actively participate in any calls scheduled by GEDA or DOA concerning the Grant Work and must respond to all email inquiries from either as soon as reasonably possible.

9. All off-island travel using grant funds must be approved by GEDA and DOA before travel occurs.

9. **Additional Terms and Conditions.** All terms and provisions from the following Exhibits apply in full effect for this Grant Award:

This Exhibit A: Statement of Work and Budget

Exhibit B: Federal Provisions

Exhibit C. Agreement with Subrecipient of Federal Recovery Funds

EXHIBIT B. FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.

1.2. The Government of Guam is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with federal statutes, Award Terms and Conditions, applicable Treasury Rules, and reporting requirements, as applicable.

1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipients), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.

1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or Government of Guam agency or institutions of higher education.

2. DEFINITIONS.

2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.

2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

2.1.2. "Entity" means:

2.1.2.1. a Non-Federal Entity;

2.1.2.2. a foreign public entity;

2.1.2.3. a foreign organization;

2.1.2.4. a non-profit organization;

2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);

2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);

2.1.2.7. a Federal agency, but only as a subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or

2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).

2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.

2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US

Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

2.1.5. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1

2.1.6. "Grant" means the Grant to which these Federal Provisions are attached.

2.1.7. "Grantee" means the party or parties identified as such in the Grant to which these Federal Provisions are attached.

2.1.8. "Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a subrecipient.

2.1.9. "Nonprofit Organization" means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

2.1.9.2. Is not organized primarily for profit; and

2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.

2.1.10. "OMB" means the Executive Office of the President, Office of Management and Budget.

2.1.11. "Pass-through Entity" means a non-Federal Entity that provides a Subaward to a subrecipient to carry out part of a Federal program.

2.1.12. "Prime Recipient" means the Government of Guam or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.

2.1.13. "Subaward" means an award by a Prime Recipient to a subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

2.1.14. "Subrecipient" or "Subgrantee" means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient or a subgrantor to support the performance of the Federal project or program for which the Federal funds were awarded. A subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program. For SLFRF Grants, a subrecipient relationship continues to exist for Expenditure Category 6.1 Revenue Replacement.

2.1.15. "System for Award Management (SAM)" means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at http://www.sam.gov.

2.1.16. "Transparency Act" means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

2.1.17. "Uniform Guidance" means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to GWAs unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

2.2. "Unique Entity ID Number" means the Unique Entity ID established by the federal government for a Grantee/Subgrantee at https://sam.gov/content/home

3. COMPLIANCE.

3.1. GWA shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The Government of Guam, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

3.2. Per US Treasury Final Award requirements, grantee programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.

4.1. SAM. GWA shall maintain the currency of its information in SAM until GWA submits the final financial report required under the Award or receives final payment, whichever is later. GWA shall review and update SAM information at least annually.

4.2. UEI. GWA shall provide its Unique Entity ID to GEDA and shall update GWA's information in SAM.gov at least annually.

5. REPORTING.

5.1. If GWA is a subrecipient of the Award pursuant to the Transparency Act, GWA shall report data elements to SAM, to GEDA and to DOA as required in this Exhibit. No direct payment shall be made to GWA for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of GWA's obligations under this Grant.

6. SUBRECIPIENT REPORTING REQUIREMENTS

6.1. Subrecipient shall report as set forth below.

6.1.1. To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM ***for each*** Federal Award Identification Number (FAIN) assigned by a Federal agency to a Recipient no later than the end of the month following the month in which the Subaward was made:

6.1.1.1. Subrecipient Unique Entity ID;

6.1.1.2. Subrecipient Unique Entity ID if more than one electronic fund transfer (EFT) account;

6.1.1.3. Subrecipient parent's organization Unique Entity ID;

6.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

6.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

6.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.

6.1.2. To Recipient. A Subrecipient shall report to its Recipient, upon the effective date of the Grant, the following data elements:

6.1.2.1. Subrecipient's Unique Entity ID as registered in SAM.

6.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

6.2. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and DOA. DOA may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, DOA will provide notice of such additional reporting requirements via Exhibit D: SLFRF Reporting Modification Form.

7. PROCUREMENT STANDARDS.

7.1. Procurement Procedures. A subrecipient shall use its own documented procurement procedures which reflect applicable Guam law and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.

7.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.

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

7.4. Never contract with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never contract with the enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed $50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

7.5. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Subrecipient is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

8. ACCESS TO RECORDS.

8.1. GWA shall permit GEDA and/or DOA and their auditors to have access to GWA's records and financial statements as necessary for DOA to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

9. SINGLE AUDIT REQUIREMENTS.

9.1. If GWA expends $750,000 or more in Federal Awards during GWA's fiscal year, GWA shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

9.2. Election. GWA shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program- specific audits). GWA may elect to have a program-specific audit if GWA expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

9.2.1. Exemption. If GWA expends less than $750,000 in Federal Awards during its fiscal year, GWA shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the Government of Guam, and the Government Accountability Office.

9.2.2. Subrecipient Compliance Responsibility. GWA shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. GWA shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

10. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

10.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions.

Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.

10.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60- 1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.

10.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

10.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of "funding agreement" under 37 CFR 401.2 (a) and the Prime Recipient or subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements," and any implementing regulations issued by the Federal Awarding Agency.

10.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

10.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). An Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

10.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never Contract with the Enemy" in

2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed $50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

10.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

10.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

11. CERTIFICATIONS.

11.1. Subrecipient Certification. GWA shall sign a "Government of Guam Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit C and submit to GEDA with signed grant agreement.

11.2. Unless prohibited by Federal statutes or regulations, GEDA and/or DOA may require GWA to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if GWA fails to meet a requirement of the Federal award. GWA shall certify in writing to the Government of Guam at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

12. EVENT OF DEFAULT AND TERMINATION.

12.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and GEDA may terminate the Grant upon 45 days prior written notice if the default remains uncured five calendar days following the termination of the 45-day notice period. This remedy will be in addition to any other remedy available to the GEDA under the Grant, at law or in equity.

12.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

12.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

12.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

12.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-

Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

12.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass- through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

12.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

Exhibit C. AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The Government of Guam has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and GEDA, a subrecipient of ARPA funds awarded to the Government of Guam, and your organization is signing and certifying the same terms and conditions included in the Government of Guam's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from GEDA, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name: GUAM WATERWORKS AUTHORITY

Authorized Representative: MIGUEL C. BORDALLO

Title: GENERAL MANAGER

Signature: ____________ 4/1/2025

TERMS AND CONDITIONS

1. **USE OF FUNDS.**

   A. GWA understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.

   B. GWA will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. **PERIOD OF PERFORMANCE.** The period of performance for this subaward is shown on page one of this Agreement. GWA may use funds to cover eligible costs incurred, as set forth in Treasury's implementing regulations, during this period of performance.

3. **REPORTING.** GWA agrees to comply with any reporting obligations established by Treasury as they relate to this award. GWA also agrees to comply with any reporting requirements established by the Governor's Office and DOA.

4. **MAINTENANCE OF AND ACCESS TO RECORDS.**

   A. GWA shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of GWA in order to conduct audits or other investigations.

   C. Records shall be maintained by GWA for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. **PRE-AWARD COSTS.** Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. **ADMINISTRATIVE COSTS**. GWA may use funds provided under this award to cover both direct and indirect costs. GWA shall follow guidance on administrative costs issued by the Governor's Office and DOA.

7. **COST SHARING.** Cost sharing or matching funds are not required to be provided by GWA.

8. **CONFLICTS OF INTEREST.** The Government of Guam understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. GWA and Contractors must disclose in writing to the DOA or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. §200.112. DOA shall disclose such conflict to Treasury.

9. **COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS.**

   A. GWA agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and GWA shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

B. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

C. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C.§§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. **REMEDIAL ACTIONS.** In the event of GWA's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.

11. **HATCH ACT.** GWA agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C.§§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. **FALSE STATEMENTS.** GWA understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. **DEBTS OWED THE FEDERAL GOVERNMENT.**

A. Any funds paid to GWA (1) in excess of the amount to which the GWA is finally determined to be authorized to retain under the terms of this award; (2) or paid to GWA by GEDA or DOA that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by GWA, GEDA, or DOA, as determined by the Treasury, shall constitute a debt to the federal government.

B. Any debts determined to be owed to the federal government must be paid promptly. by the party that is identified by the Treasury to owe the debt. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the GWA knowingly or improperly retains funds that are a debt as defined in paragraph 13(A). Treasury will take any actions available to it to collect such a debt.

14. **DISCLAIMER.**

A. The United States expressly disclaims any and all responsibility or liability to GWA or third persons for the actions of GWA or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.

B. The acceptance of this award by GWA does not in any way establish an agency relationship between the United States and GWA.

15. PROTECTIONS FOR WHISTLEBLOWERS.

A. In accordance with 41 U.S.C. § 4712, GWA may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

B. The list of persons and entities referenced in the paragraph above includes the following:

i. A member of Congress or a representative of a committee of Congress;

ii. An Inspector General;

iii. The Government Accountability Office;

iv. A Treasury employee responsible for Agreement or grant oversight or management;

v. An authorized official of the Department of Justice or other law enforcement agency;

vi. A court or grand jury; or

vii. A management official or other employee of GWA, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

C. GWA shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

16. INCREASING SEAT BELT USE IN THE UNITED STATES. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), GWA should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company- owned, rented or personally owned vehicles.

17. REDUCING TEXT MESSAGING WHILE DRIVING. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), GWA should encourage its employees, Subrecipients, and Contractors to adopt and enforce policies that ban text messaging while driving, and GWA should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, GWA provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to GWA's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. GWA ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

2. GWA acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). GWA understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, GWA shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. GWA understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the GWA's programs, services, and activities.

3. GWA agrees to consider the need for language services for LEP persons when GWA develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

4. GWA acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon GWA and GWA's successors, transferees, and assignees for the period in which such assistance is provided.

5. GWA acknowledges and agrees that it must require any sub-grantees, contractors,

subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the GWA and GWA's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. GWA understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates GWA, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used to a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates GWA for the period during which it retains ownership or possession of the property.

7. GWA shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. GWA shall comply with information requests, on-site compliance reviews and reporting requirements.

8. GWA shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. GWA also must inform the Department of the Treasury if GWA has received no complaints under Title VI.

9. GWA must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between GWA and the administrative agency that made the finding. If GWA settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If GWA has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If GWA makes sub-awards to other agencies or other entities, GWA is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document Government of Guam agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT D

https://www.guampdn.com/news/ag-spending-on-new-hospital-illegal-funds-could-be-clawed-back-from-vendors/article_5a5875cc-f7fe-11ef-9fe7-dba81a19f04e.html

TOP STORY

AG: Spending on new hospital illegal, funds could be 'clawed back' from vendors

By Joe Taitano II Pacific Daily News
Mar 4, 2025

Attorney General Douglas Moylan gestures as he addresses senators during a public hearing on a bill at the Guam Congress Building in Hagåtña on April 1, 2024.

Rick Cruz/Pacific Daily News

Attorney General Douglas Moylan says government officials may be subject to criminal prosecution and vendors could see money "clawed back" if any funding is put towards the "illegal project" of constructing a hospital in Mangilao.

Moylan said government officials who could certify the spending of any funds on the hospital project and any vendors have been put on notice that the Office of the Attorney General considers the project illegal.

"They will assume the consequences of the law if in fact they are breaking them," Moylan said.

Gov. Lou Leon Guerrero has obligated some $104.5 million in federal American Rescue Plan money to install infrastructure for the new hospital and medical campus.

Both the Office of the Governor and the Guam Housing and Urban Renewal Authority have moved to dismiss Moylan's federal court lawsuit alleging illegalities in the transfer of federal funds and condemnation of land for a new hospital in Mangilao.

Adelup has called Moylan "simply wrong" on the matter, called his legal analysis "underbaked and unsound," and asserted all laws were followed in acquiring land for the hospital.

The AG has already promised not to approve any contract for the construction of the new hospital.

Now, Moylan says his office believes any use of funds towards the project will itself be illegal.

Last week, the Consolidated Commission on Utilities gave the green light for the Guam Power Authority to accept $35.4 million in ARP money to install a substation and underground power lines at the site of the Mangilao hospital.

Any mention of a "medical campus" was struck from the resolution authorizing GPA to accept grant money from the Guam Economic Development Authority, with commissioners and GPA arguing the project will benefit the entire community of Mangilao.

The grant-funded project will not require approval from the AG, and is not expected to warrant any legal challenge of merit, GPA legal counsel Marianne Woloschuk advised the commission.

Likewise, the Guam Waterworks Authority has been authorized to take $750,000 in ARP money to start planning and surveying for water and sewer infrastructure at the hospital site.

"When any certifying officer receives a notice from an attorney general that's empowered and elected by the people of Guam that an act is illegal, they better look twice," Moylan said, when asked about the projects.

He pointed to the two legal opinions his office has prepared finding illegalities on the condemnation of the hospital land, and violations of the Open Government Law when GHURA accepted $12.5 million from the Office of the Governor for the project.

Moylan said the utilities' advice from their own attorneys "does not obviate them from the importance and significance of an attorney general opinion saying it's illegal."

"If they continue to proceed, and the people of Guam are hurt with the loss of money, millions of dollars. They're not just going to walk away from this," Moylan said.

That was especially true if the District Court of Guam found that the hospital and medical campus project was, in fact, illegal, the AG said.

Attorneys for the government have accused Moylan in court filings of being politically motivated in his opposition to the new hospital.

"It is clear from AG Moylan's inconsistent actions that he does not actually have a legal objection to the governor's use of ARPA funds without legislative approval, he has a political objection to her specific decision to direct ARPA funds to a particular project: the Mangilao Medical Campus Project," attorneys wrote in motions to dismiss filed in January.

Moylan said any future action on the hospital project spending will be decided at the discretion of prosecutors and the Government Corruption Division at his office.

Vendors that might bid on any hospital work should "think twice," he said.

"To the vendors...if they are engaging in these bids and stuff, they may be gone after to return the money," Moylan added.

Reach reporter Joe Taitano II at JTaitano@guampdn.com.

Joe Taitano II
Reporter