



COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR)

**AMENDMENT A TO AGREEMENT FOR
INCREASED CAPACITY - ENVIRONMENTAL SERVICES
BETWEEN THE
PUERTO RICO DEPARTMENT OF HOUSING
AND
BEHAR YBARRA & ASSOCIATES, LLC
Contract No. 2021-DR0175**



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THIS **AMENDMENT A TO AGREEMENT FOR INCREASED CAPACITY - ENVIRONMENTAL SERVICES**, (hereinafter referred to as the "**Amendment**") is entered into in San Juan, Puerto Rico, this 18 day of March, 2022, by and between the **PUERTO RICO DEPARTMENT OF HOUSING** (hereinafter, "**PRDOH**"), a public agency created under Law No. 97 of June 10, 1972, as amended, 3 L.P.R.A. § 441 *et seq.*, known as the Department of Housing Governing Act with principal offices at 606 Barbosa Avenue, San Juan, Puerto Rico, herein represented by William O. Rodríguez Rodríguez, attorney, of legal age, single, and resident of San Juan, Puerto Rico, in his capacity as Secretary; and **BEHAR YBARRA & ASSOCIATES, LLC** (hereinafter, the "**CONTRACTOR**"), with principal offices in Perseo Street 554 Cond. Iberia 1 Suite J-3 Altamira, San Juan, Puerto Rico 00920, herein represented by Miguel A. Pérez Correa, in his capacity as Member, of legal age, married, and resident of Canóvanas, Puerto Rico duly authorized by Resolution by the CONTRACTOR (collectively, **the Parties**).

I. RECITALS AND GENERAL AWARD INFORMATION

WHEREAS, on April 21, 2021, the PRDOH and the Contractor entered into an Agreement, which was registered under Contract No. 2021-DR0175, for the performance of increased capacity - environmental services in connection with the CDBG-DR Program (the "Agreement").

WHEREAS, the PRDOH and the Contractor, agreed that, for allowable Increased Capacity - Environmental Services performed during the term of the Agreement, PRDOH would pay a maximum amount not to exceed **FIVE MILLION FOUR HUNDRED TWELVE THOUSAND NINE HUNDRED THIRTY-EIGHT DOLLARS (\$5,412,938.00)**; to the Contractor from **ACCOUNT NUMBER R01H07RRR-DOH-LM 4190-10-000**, ending on April 20, 2024.

WHEREAS, with this Amendment A the Parties wish to amend the Agreement to replace Attachment D (Cost Form) with an amended Attachment D (Cost Form).

WHEREAS, this Amendment also conforms the Agreement to federal, state, and local regulations and statutes.

WHEREAS, this Amendment A is not intended to affect nor does it constitute an extinctive novation of the obligations of the parties under the Agreement but is rather a modification and amendment of certain terms and conditions under the Agreement.

WHEREAS, the Parties wish to amend the Agreement, as amended, and become subject to the terms of the Agreement, as amended, and this Amendment A.

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, the PRDOH and the CONTRACTOR agree as follows:

II. AMENDMENT:

- A. The Parties agree to amend **Article I. TYPE OF CONTRACT** to replace **Attachment D** (Cost Form) with an amended **Attachment D** (Cost Form). (See **Attachment I** of this Amendment A).
- B. The Parties agree to amend **Article XXIII. CERTIFICATION OF COMPLIANCE WITH LEGAL REQUIREMENTS**, paragraph k, as follows:

***K. Ethics.** CONTRACTOR also acknowledges receipt and agrees to obey with the Anticorruption Code for the New Puerto Rico known in Spanish as "Código Anticorrupción para el Nuevo Puerto Rico".*

- C. The Parties agree to amend **Article XXVIII. SECTION 3 CLAUSE**, as follows:


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XXVIII. SECTION 3 CLAUSE


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

B. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

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

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 75.

E. The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

F. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 75.

G. Noncompliance with HUD's regulations in 24 C.F.R. part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

H. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (46 U.S.C. § 5307) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and sub contracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

I. The Contractor agrees to submit, and shall require its subcontractors to submit to them, quarterly reports to the PRDOH detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 Workers and Targeted Section 3 Workers.

- D. The Parties agree to add a new **Article LIV. MEMORANDUM NO. 2021-029; CIRCULAR LETTER NO. 013-2021 OF THE OFFICE OF THE CHIEF OF STAFF OF THE GOVERNOR (SECRETARÍA DE LA GOBERNACIÓN) & THE OFFICE OF MANAGEMENT AND BUDGET (OFICINA DE GERENCIA Y PRESUPUESTO)**, as follows:

XXVI. MEMORANDUM NO. 2021-029; CIRCULAR LETTER NO. 013-2021 OF THE OFFICE OF THE CHIEF OF STAFF OF THE GOVERNOR (SECRETARÍA DE LA GOBERNACIÓN) & THE OFFICE OF MANAGEMENT AND BUDGET (OFICINA DE GERENCIA Y PRESUPUESTO):

A. The PRDOH certifies that the CONTRACTOR was selected as the provider of the services described in this agreement, pursuant to OE 2021-029.

B. The Parties certify that they acknowledge the provisions stated in OE 2021-029 and CC 013-2021. Any failure to comply with the requirements set forth in OE 2021-029 and CC 013-2021 will result in the termination of this agreement.

C. The CONTRACTOR certifies that it has informed PRDOH of any current contractual relationship with any government entities of the Government of Puerto Rico. The CONTRACTOR certifies that said entities are all the entities of the Government of Puerto Rico with which they maintain a contractual relationship. In addition, the CONTRACTOR recognizes and accepts that omitting any information regarding any current contractual relationship with any


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governmental entity could result in the termination of this agreement if so required by PRDOH.

D. The CONTRACTOR certifies that it has informed the PRDOH whether or not the entity is a public corporation whose shares are exchanged in a stock exchange properly regulated. In the event that the CONTRACTOR certifies that it is not a public corporation that exchanges shares in a stock change, the CONTRACTOR certifies it has completed the applicable certification as stated in CC-013-2021.

E. All other terms and conditions of the Agreement remain unchanged.

F. Each party represents that the person executing this Amendment A has the necessary legal authority to do so on behalf of the respective party.


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III. HEADINGS

The titles to the paragraphs of this Amendment are solely for reference purposes and the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Amendment.


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IV. COMPLIANCE WITH LAW

It is the intention and understanding of the Parties hereto that each and every provision of law required to be inserted in the Agreement, as amended, should be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted and if, through mistake or otherwise, any such provision is not inserted herein or is not inserted in correct form, then the Agreement, as amended, shall forthwith, upon the application of any Party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of any Party.

V. SUBROGATION

The Contractor acknowledges that funds provided through the Agreement, as amended, are Federal funds administered by HUD under the CDBG-DR Program and that all funds provided by the Agreement, as amended, are subject to audit, disallowance, and repayment. Any disagreement with adverse findings may be challenged and subject to Federal regulation, however, the Contractor shall promptly return any and all funds to the PRDOH, which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause. This clause shall survive indefinitely the termination of the Agreement, as amended.

VI. COMPTROLLER REGISTRY

The PRDOH shall remit a copy of this Amendment to the Office of the Comptroller for registration within **fifteen (15)** days following the date of execution of this Amendment and any subsequent amendment hereto. The services object of this Amendment may not be invoiced or paid until this Amendment has been registered by the PRDOH at the Comptroller's Office, pursuant to Act No. 18 of October 30, 1975, as amended by Act No. 127 of May 31, 2004.

VII. ENTIRE AGREEMENT

The Agreement and this Amendment constitute the entire agreement among the Parties for the use of funds received under the Agreement and this Amended Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written among the Parties with respect to the agreement.

VIII. SEVERABILITY

If any provision of this Amendment shall operate or would prospectively operate to invalidate the Amendment in whole or in part, then such provision only shall be deemed severed and the remainder of the Amendment shall remain operative and in full effect.

IX. COUNTERPARTS

This Amendment may be executed in any number of counterparts, each of whom shall be deemed to be an original, however, all of which together shall constitute one and the same instrument. If the Amendment is not executed by the PRDOH within **thirty (30) days** of execution by the other party, this Amendment shall be null and void.

IN WITNESS THEREOF, the parties hereto execute this Amendment in the place and on the date first above written.



PUERTO RICO DEPARTMENT OF HOUSING

BEHAR YBARRA & ASSOCIATES, LLC

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William O. Rodríguez Rodríguez
William O. Rodríguez Rodríguez (Mar 18, 2022 11:29 EDT)
William O. Rodríguez Rodríguez, Esq.
Secretary

Miguel A. Pérez Correa
Miguel A. Pérez Correa
Member
DUNS No. 969107429



Revised Attachment D – Cost Form

Increased Capacity - Environmental Services

Behar Ybarra & Associates, LLC.

Per Unit Tasks

Task	Quantity	Unit Price	Total Cost
Environmental Surveys and Assessments (Site-Visits) ⁽¹⁾	3,000	\$178.50	\$2,146,500.00
Environmental Review (Tier 2 Review) ⁽¹⁾		\$537.00	
Re-evaluation of Project Intent	750	\$355.25	\$266,437.50
Sub-Total			\$2,412,938.00
Allowance for Specialized Services			\$3,000,000.00
Total			\$5,412,938.00

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Professional Staff Rates for Specialized Services on Stand-By

Staff Position	Hourly Rate
Project Manager	\$180.00
Senior Environmental Engineer	\$170.00
Associate Environmental Engineer	\$100.00
Senior Environmental Scientist	\$120.00
Associate Environmental Scientist	\$95.00
Environmental Technician	\$65.00
Lead/Asbestos Inspector	\$110.00
SHPO Professional	\$110.00
Archaeologist	\$110.00
Archaeologist (inclusive of all monitoring related activities, including reporting).	\$110.00
Wetland Specialist	\$110.00
Biological Expert	\$110.00
Floodplain Specialist	\$110.00
GIS Specialist	\$95.00

Notes:

(1) Environmental Consultant's compensation of R3 Application's Tier 2 Environmental Review will be divided into two (2) payments. The first payment may be issued upon completion of the environmental site visit and desktop review of the Storm-Damaged Property to determine: flood zone designation (FIRM, PFIRM, and ABFE), if the property is in a floodplain or not, if the property is classified as a historic property or is located in a historical district, and the year built of the property; among other relevant environmental considerations for the Program to responsibly evaluate, develop, and present a feasible scope of work for the Application. The second payment will be issued upon completion and approval by PRDOH's Certifying Officers of the Tier 2 Environmental Review for the Application. The process of the Tier 2 Environmental Review for the Application will be started by the Environmental Consultant upon Applicant acceptance of a preliminary Scope of Work presented by the Program.









Amendment A- Increased Capacity Environmental Services Behar Ybarra

Final Audit Report

2022-03-18

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