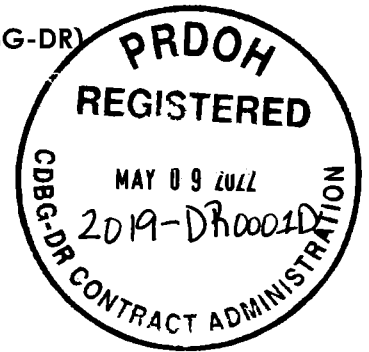




COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR)

**AMENDMENT D to AGREEMENT FOR
GRANT MANAGEMENT SERVICES
BETWEEN THE
PUERTO RICO DEPARTMENT OF HOUSING
AND
HORNE, LLP**

As amended by Contract No. 2019-DR-0001C



THIS AMENDMENT D to AGREEMENT FOR GRANT MANAGEMENT SERVICES, (hereinafter referred to as the "Agreement") is entered into in San Juan, Puerto Rico, this 2 of May _____, 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 **HORNE, LLP** (hereinafter, the "CONTRACTOR"), with principal offices in 269 Ponce de León Avenue, Hato Rey, Puerto Rico 00917-1918, herein represented by Samir El Hage-Arocho, in his capacity as Partner, of legal age, married, professional and resident of Canóvanas, Puerto Rico duly authorized by Resolution by the CONTRACTOR.

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I. RECITALS AND GENERAL AWARD INFORMATION

WHEREAS, on May 3, 2019, the Parties entered into an Agreement for Grant Management Services for a period of thirty-six (36) months from the day of its execution, ending on May 2, 2022, registered as Contract Number 2019-DR0001. The PRDOH and the CONTRACTOR, agreed that, for allowable Grant Management Services performed during the term of the Agreement, PRDOH would pay a maximum amount not to exceed **ONE HUNDRED TWENTY-TWO MILLION FIVE HUNDRED THREE THOUSAND SIX HUNDRED AND EIGHTY-NINE DOLLARS (\$122,503,689.00)**.

WHEREAS, as per Article XXXIII of the Agreement, the agreement may be amended in writing and signed by a duly authorized representative of each party. Nonetheless, the amendment shall not invalidate the Agreement, nor release the Parties from their obligations under the Agreement.

WHEREAS, on April 17, 2020, the Agreement was amended through Amendment A registered as Contract No. 2019-DR0001A, to amend the **Attachment G** ("Compensation Schedule"), as well to conform the Agreement to federal, state and local regulations and statutes. Neither the amount, account, nor the term of the Agreement were modified in Amendment A.

WHEREAS, on September 16, 2021, the Agreement was amended through Amendment B, registered as Contract No. 2019-DR0001B, to amend **Attachment D** ("Scope of Work"), as well to conform the Agreement to federal, state and local regulations and statutes. Neither the amount, account, nor the term of the agreement were modified in Amendment B.

WHEREAS, on February 25, 2022, the Agreement was amended through Amendment C, registered as Contract No. 2019-DR0001C, to amend and rename **Attachment E** ("Insurance Requirements (DV-OSPA-78-5)"), as well to conform the Agreement to federal, state and local regulations and statutes.

Whereas, The Parties wish to amend the Agreement to extend the term of the contract for an additional twenty-four (24) months and inject additional funds up to the amount of **FORTY-FIVE MILLION FIVE HUNDRED SIXTY THOUSAND THIRTY-NINE DOLLARS AND THIRTY-FIVE CENTS (\$45,560,039.35)**.

WHEREAS, this Amendment D also adapts the agreement to federal, state, and local regulations and statutes. See below.

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

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. SCOPE OF THE AMENDMENT

The contract's three (3) year performance period is currently set to end on May 2, 2022, unless otherwise extended. The PRDOH may, at its sole discretion, extend the Agreement's term for an additional term of twenty-four (24) months upon mutual written agreement of the parties. PRDOH wants to extend the performance period of the Agreement for an additional term ending on May 3, 2024. The amendment also includes an allocation of \$45,060,039.35 additional funds for Grant Management Services and \$500,000.00 for Grant Management Software Subscription Services, for a total allocation of \$45,560,039.35 additional funds, and a total allocation of \$168,063,728.35. Also, adapts the Agreement to federal, state, and local regulations and statutes

III. Amendments:

A. *The Parties wish to replace **Attachment G** (Compensation Schedule)*

The Parties agree to replace **Attachment G** (Compensation Schedule) to amend Section B "Grant Management System" to add an additional 1,000 canopy licenses at a unit cost of \$500.00 each, for a total of \$500,000.00. The Compensation Schedule will remain the same concerning Section A "Main Services". Section B "Grant Management System" of the Schedule will also be amended regarding the total hours for Technical Support that increase 10,000 hours: from 18,000 to 28,000. (**See Attachment A**)

B. The Parties agree to replace **Section II "Term of Agreement"**, paragraph A and C with the following:

A. This Agreement shall be in effect and enforceable between the parties from the date of its execution. The term of this Agreement will be for a performance period of sixty (60) months, ending in May 3, 2024.

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C. The term of this Agreement shall not exceed the lifetime of the initial Grant Agreement between PRDOH and HUD, unless the term of the initial Grant Agreement is extended by HUD, in which case the Agreement shall not exceed said extended period.

C. The parties agree to replace **Section IV**, paragraph B and I of the "**Compensation and Payment**", as follow:

B. The PRDOH shall pay the CONTRACTOR, for allowable services performed during the term of this Agreement, a maximum amount not to exceed **ONE HUNDRED SIXTY ONE MILLION-SEVEN HUNDRED NINETY THREE THOUSAND SEVEN HUNDRED TWENTY EIGHT DOLLARS WITH THIRTY FIVE CENTS (\$161,793,728.35)**, for the Grant Management Services from **Account Number 4190-10-000**; plus **SIX MILLION TWO HUNDRED SEVENTY THOUSAND DOLLARS (\$6,270,000.00)** for the Grant Management Software Subscription Cost from **Account Number 4190-22-000**; for a Grand Total of: **ONE HUNDRED SIXTY-EIGHT MILLION SIXTY-THREE THOUSAND SEVEN HUNDRED TWENTY-EIGHT DOLLARS AND THIRTY-FIVE CENTS (\$168,063,728.35)**.

(...)

I. CONTRACTOR shall be liable to the PRDOH for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Agreement if costs are disallowed due to CONTRACTOR negligence. CONTRACTOR shall reimburse such disallowed costs from funds other than those CONTRACTOR received under this Agreement, up to the amount paid to the CONTRACTOR for the service that was deemed an ineligible cost.

D. The parties agree to replace paragraph B to **Section VIII**, "**Documentation and Recordkeeping**", and add paragraph E as follow:

DOCUMENTATION AND RECORDERKEEPING

B. Access to Records: The CONTRACTOR agrees to provide the Government of Puerto Rico, PRDOH, HUD's Secretary, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(...)

E. PII Policy: The CONTRACTOR must comply with the PRDOH CDBG-DR Personal Identifiable Information Policy, as found in the CDBG-DR Website (www.cdbg-dr.pr.gov), which is herein included and made integral part of this Agreement, as it may be updated from time to time.

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E.The parties agree to add paragraph M, N and O to **Section XXI, "Certification of Compliance with Legal Requirements"**, as follows:

(...)

M. Clause of Governmental Ethics Certification of Absence of Conflict of Interests - The CONTRACTOR certifies that: (1) No public servant of this executive agency has a pecuniary interest in this contract, purchase or commercial transaction. (2) No public servant of this executive agency has requested me or accepted from me, directly or indirectly, for him (her), for any member of his family unit or for any person, gifts, bonuses, favors, services, donations, loans or anything else of monetary value. (3) No public servant (s) requested or accepted any good of economic value, linked to this transaction, from any person of my entity as payment for performing the duties and responsibilities of their employment. (4) No public servant has requested from me, directly or indirectly, for him (her), for any member of her family unit, or for any other person, business or entity, some of economic value, including gifts, loans, promises, favors or services in exchange for the performance of said public servant is influenced in my favor or of my entity. (5) I have no kinship relationship, within the fourth degree of consanguinity and second by affinity, with any public servant who has the power to influence and participate in the institutional decisions of this executive agency.

N. 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".

O. Other payments or compensation: The CONTRACTOR certifies that it does not receive payment or compensation for regular services rendered as an official or public employee to another government entity, agency, public corporation or municipality, and knows the ethical standards of his profession and assumes responsibility for his actions.

F.The Parties agree to replace **Section XX. SECTION 3 CLAUSE**, as follows:

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


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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.


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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.

G. The parties agree to add Section LV:


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LV. MEMORANDUM NO. 2021-003; CIRCULAR LETTER 001-2021 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)


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A. Interagency Services Clause: Both contracting parties acknowledge and agree that services retained may be provided to any entity of the Executive Branch with which the contracting entity makes an interagency agreement or by direct provision of the Office of the Chief of Staff of the Governor (Secretaría de la Gobernación). These services will be performed under the same terms and conditions in terms of hours of work and compensation set forth in this Agreement. For purposes of this clause, the term "Executive Branch entity" includes all agencies of the Government of Puerto Rico, as well as public instrumentalities and corporations and the Office of the Governor.

B. Termination Clause: The Chief of Staff (Secretario de la Gobernación) of the Governor shall have the power to terminate this Agreement at any time.

C. Contract Review Policy of the Financial Supervision and Administration Board for Puerto Rico: The parties acknowledge that the contractor has submitted the certification entitled "Contractor Certification Requirement" required in accordance with the Contract Review Policy of the Financial Oversight and Management Board (FOMB) for Puerto Rico, effective as of November 6, 2017 as amended on October 30, 2020, signed by the Contractor's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor's Certification Requirement" is included as **Attachment H** to this contract.

H. The Parties agree to add the following Section LVI:

LVI. 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 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.


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I. The Parties agree to add Section LVII. **COMPLIANCE WITH THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO (FOMB) POLICY: REVIEW OF CONTRACTS, AS MODIFIED ON APRIL 30, 2021, REGARDING PROFESSIONAL SERVICES**, as follows:

LVII. COMPLIANCE WITH THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO (FOMB) POLICY: REVIEW OF CONTRACTS, AS MODIFIED ON APRIL 30, 2021, REGARDING PROFESSIONAL SERVICES:

The FOMB Policy requires that all agreements that contemplate recurring professional services that may be performed by appropriately trained government staff include a provision of compliance with the adequate transfer of skills and technical knowledge to the pertinent public sector personnel. This requirement shall not apply to contracts which contemplate non-recurring professional services or specialized professional services that may not be performed by existing staff at the applicable governmental entity, including as a result of independence requirements.

Accordingly, given that the agreements under CDBG-DR are non-recurring professional services or specialized professional services, the PRDOH certifies that the transfer of skills and technical knowledge required by the Certified Fiscal Plan is inapplicable given the non-recurring or specialized nature of the contracted services.

As mentioned before, HUD allocated funds for disaster recovery assistance to the Government of Puerto Rico under the CDBG-DR Program. These funds are intended to provide financial assistance to address unmet needs that arise and that are not covered by other sources of financial aid. In addition, with these allocations of funding under the Grant Agreement, the PRDOH will conduct a comprehensive recovery to benefit the residents of Puerto Rico.

J. The Parties agree to add Section LVIII. **COMPLIANCE WITH THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO (FOMB) POLICY: REVIEW OF CONTRACTS**, as follows:

LVIII. COMPLIANCE WITH THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO (FOMB) POLICY, REVIEW OF CONTRACTS:

As part of the PRDOH contract process, and pursuant to Section 204(b)(2) of the "Puerto Rico Oversight, Management, and Economic Stability Act," 48 U.S.C. §2101, et seq., also known as "PROMESA", the Financial Oversight and Management Board for Puerto Rico (FOMB) require approval of certain contracts and amendments to assure that they "promote market competition" and "are not inconsistent with the approved fiscal plan." For the approval process, the FOMB requests, among other information, the Contractor Certification Requirement for its evaluation.

In compliance with the above, the CONTRACTOR represents and warrants that the information included in the Contractor Certification Requirement is complete, accurate and correct, and that any misrepresentation, inaccuracy or falseness in such Certification will render the contract null and void and CONTRACTOR will have the obligation to reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed Amendment and original Agreement.

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

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

IV. HEADINGS

The titles to the paragraphs of this Amendment D 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.

V. 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.

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VI. 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.

VII. 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 D 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.

VIII. 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.

IX. 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.

X. 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) calendar days** of execution by the other party, this Amendment shall be null and void.

SIGNATURES ON THE FOLLOWING PAGE


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

DEPARTMENT OF HOUSING

HORNE, LLP

William O. Rodríguez Rodríguez
William O. Rodríguez Rodríguez (May 2, 2022 16:11 EDT)

Samir El Hage
Samir El Hage (May 2, 2022 14:11 EDT)

William O. Rodríguez Rodríguez, Esq.,
Secretary

Samir El Hage-Arocho
Partner

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HORNE LLP AMENDMENT D revisado

Final Audit Report

2022-05-02

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|-----------------|--|
| Created: | 2022-05-02 |
| By: | Radames Comas Segarra (rcomas@vivienda.pr.gov) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABA AwTjhn9XDoVulw_6gwJD8tyCrMEPdwokl |

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