

Amendment A

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY AND MITIGATION (CDBG-DR/CDBG-MIT)

AMENDMENT A TO THE RENTAL AGREEMENT FOR PARKING SPACES BETWEEN THE PUERTO RICO DEPARTMENT OF HOUSING AND OSP CONSORTIUM, LLC

Contract No. 2023-DR0016 Amendment A Contract No. 2023-DR0016A



This <u>AMENDMENT A</u> to the RENTAL AGREEMENT FOR PARKING SPACES (Amendment or Amendment A) is entered into in San Juan, Puerto Rico, this 24 of March , 2023, by and between the <u>PUERTO RICO DEPARTMENT OF HOUSING</u> (PRDOH), a public agency created under Act No. 97 of June 10, 1972, as amended, 3 LPRA § 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 <u>OSP Consortium</u>, <u>LLC</u> (CONTRACTOR), with principal offices in 1519 Ave Ponce de León, Suite 311, San Juan, Puerto Rico, herein represented by Elberto Berdut Nieves, in his capacity as an authorized representative, of legal age, married, and resident of Trujillo Alto, Puerto Rico, duly authorized by Resolution dated March 16, 2017, by the CONTRACTOR.

I. RECITALS AND GENERAL AWARD INFORMATION

WHEREAS, on September 26, 2022, the PRDOH and the CONTRACTOR entered into a Rental Agreement for Parking Spaces, registered under Contract No. 2023-DR0016, for a maximum amount not to exceed SIX HUNDRED SIXTY-SIX THOUSAND DOLLARS (\$666,000.00); from MITA12ADM-DOH-NA, R02A01ADM-DOH-NA /4140-04-000, ending on September 26, 2025 (Agreement or Rental Agreement).

WHEREAS, as per Article XXXIX 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, it is the intention of the Parties that this Amendment 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, each party represents that the person executing this Amendment has the necessary legal authority to do so on behalf of the respective party.

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. SAVINGS CLAUSE

The information included in this Amendment A serves the purpose of modifying and amending certain terms and conditions under the Agreement, as established in the following Articles III and IV of this Amendment A. All other provisions of the original Agreement, including its attachments, shall continue to be in full force and effect.

III. SCOPE OF AMENDMENT



The CDBG-DR/MIT Operations Divisions determine that an amendment to the Agreement is required in order to lease fifty (50) more parking spaces at a monthly rental of ONE HUNDRED DOLLARS (\$100.00) each, increasing the total number of parking spaces to two hundred (200). The total cost for the extra parking spots will be FIVE THOUSAND DOLLARS (\$5,000.00) each month, which implies an increase in the contract's overall cost by ONE HUNDRED FORTY FIFTY THOUSAND DOLLARS (\$145,000.00) for a maximum amount not to exceed EIGHT HUNDRED ELEVEN THOUSAND DOLLARS (\$811,000.00). Additionally, Attachment A (Proposal) is being replaced by a modified Attachment A (Proposal), Attachment B (Scope of Services) is being replaced by a modified Attachment B (Scope of Services), Attachment E (Contractor Certification) is being replaced by a modified Attachment F (Non-Conflict of Interest Certification) is being incorporated by reference into the Agreement.

IV. AMENDMENTS

- A. The Parties agree to replace Article IV. COMPENSATION AND PAYMENT, Paragraph B as follows:
 - B. The PRDOH will pay the CONTRACTOR, for allowable services performed during the term of this Rental Agreement, a maximum amount not to exceed EIGHT HUNDRED ELEVEN THOUSAND DOLLARS (\$811,000.00) from Account Numbers: MITA12ADM-DOH-NA/ R02A01ADM-DOH-NA; 4140-04-000. The monthly fee for the period of September 26, 2022 through March 31, 2023 was EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500.00). Through Amendment A, the Parties agree to a new monthly fee of TWENTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$23,500.00) due to the fifty (50) parking increase at a rate of ONE HUNDRED DOLLARS (\$100.00) per parking space for the remainder of the term of the Rental Agreement, April 1, 2023-September 26, 2025.
- **B.** Attachment A (Proposal) is being replaced by a modified Attachment A (Proposal) hereto incorporated by reference into the Agreement (See Attachment I of this Amendment A).
- C. Attachment B (Scope of Services) is being replaced by a modified Attachment B (Scope of Services hereto incorporated by reference into the Agreement. (See Attachment II of this Amendment A).
- D. Attachment E (Contractor Certification) is being replaced by a modified Attachment E (Contractor Certification) hereto incorporated by reference into the Agreement (See Attachment III of this Amendment A).
- **E.** A new Attachment named **Attachment F** (Non-Conflict of Interest Certification) is incorporated by reference into the Agreement (See **Attachment IV** of this **Amendment A**).
- F. The Parties agree to amend Article XXIV. CERTIFICATION OF COMPLIANCE WITH LEGAL REQUIREMENTS to add a new paragraph O. Non-Conflict of Interest Certification as follows:
 - O. Non-Conflict of Interest Certification: The CONTRACTOR shall comply with Attachment F (Non-Conflict of Interest Certification), attached herein and made an integral part of the Rental Agreement, which outlines several situations that may reasonably be considered as conflicts of interest. The aforementioned certification aids PRDOH, in its role as grantee, to identify,



evaluate, disclose, and manage apparent potential, or actual conflicts of interest related to CDBG-DR/MIT projects, activities, and/or operations.

V. HEADINGS

The titles of 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.

VI. FEDERAL FUNDING

The fulfillment of the Agreement, as amended, is based on those funds being made available to the PRDOH as the lead administrative agency for Recovery. All expenditures under the Agreement, as amended, must be made in accordance with the Agreement, as amended, the policies and procedures promulgated under the CDBG-DR/MIT Programs, and any other applicable laws. Further, the CONTRACTOR acknowledges that all funds are subject to recapture and repayment for non-compliance.

VII. 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.

VIII. 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.

IX. 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 thereto. 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.

X. 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.

XI. 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.



XII. COUNTERPARTS

This Amendment may be executed in any number of counterparts, each of which 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.

XIII. SURVIVAL OF TERMS AND CONDITIONS

The terms and conditions of this Amendment related to the following subjects shall survive the termination or expiration of this Amendment: interpretive provisions; consideration; warranties; general affirmations, federal assurances, federal and state certifications; CDBG-DR and state funding, recapture of CDBG-DR and/or state funds, overpayment of CDBG-DR and/or state funds; ownership and intellectual property, copyright; records retention methods and time requirements; inspection, monitoring, and audit; confidentiality; public records; indemnification and liability; infringement of intellectual property rights; independent contractor relationship; compliance with laws; notices; choice of law and venue; severability; dispute resolution; consolidations, merger, change of name, and dissolution. Terms and conditions that, explicitly or by their nature, evidence the Parties' intent that they should survive the termination or expiration of this Amendment shall so survive.

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

PUERTO RICO DEPARTMENT OF HOUSING

OSP CONSORTIUM, LLC

William O. Rodríguez Rodríguez

William O. Rodríguez Rodríguez, Esq. Secretary E X Iberto Berdut (Mar 21, 2023 16:01 EDT)

Elberto Berdut Nieves Authorized Representative

OSP Consortium LLC

PO Box 190085 San Juan, PR 00919 787-919-7305



February 23, 2023

Lcda. Karen M. Cruz Gonzalez
Director of Operations
CDBG-DR Program
RE: Proposal for parking facilities on 429 Barbosa Avenue

Dear Lcda. Cruz,

OSP Consortium ("Lessor") is pleased to submit to the Puerto Rico Housing Authority CDBG-DR Program ("PRH" or "Lessee") a proposal to Lease 200 parking spaces in the parking structure known as Plaza Barbosa Shopping at 429 Barbosa Avenue in San Juan, Puerto Rico.

- Following the list of requirements provided by PRH, below are the terms and conditions of Lessor's proposal: Allocation of 200 enumerated parking spaces which will be identified as Departamento de la Vivienda ("DV") for the exclusive use of PR Housing for the CDBG-DR program.
- Lessor will provide Public Responsibility and Liability insurance within the hours of the operation from 7am thru 6:30pm during hours of operations
- Lessor will provide an on-site unarmed security guard from 7am until 7pm during hours of operation. Among the security guard responsibilities are opening access gates at the beginning of operating hours, patrol rounds on occupied floors and closing the access gates at the end of operating hours.
- Hours of Operation are non-holiday Monday through Fridays.
- Lessor will provide Security cameras on occupied floors and/or ramps including access gates.
- Lessor will build and provide a canopy on the waiting area.
- Lessor will provide one (1) working elevator that will serve ground level thru the highest floor occupied by PRH.
- Lessor will keep necessary lighting outside the structure and inside all ramps as well as floors occupied by PRH.
- The parking structure will comply with all government required fire safety equipment and code.
- Lessor will mark each parking space with yellow painted lines.
- Lessor will provide one unisex bathroom facility in the parking structure
- Lessor represents that it has the capability, if the need arises, to increase the number of leased parking spaces to 250. Any additional parking spaces will be leased for the remainder of the Lease.

OSP Consortium LLC

PO Box 190085 San Juan, PR 00919 787-919-7305



The Lease agreement will be guaranteed for a minimum of 36 months with an option by Lessee to extend such term by notifying the Lessor in writing on or before 120 days from the expiration of the Lease agreement.

The monthly rate for the 200 spaces including is:

\$23,500.00

(Twenty Three Thousand Five Hundred Dollars)

Any additional spaces will be charged at \$100.00 a month per space.

This is a non-binding proposal. All definitive terms will be included in a mutually executed contract. I place myself at your convenience to answer any questions that may arise. Please feel free to call me at (787) 919-7305 or via email at eberdut@ciacpr.com

Thank you for the opportunity,

Elberto Berdut

Authorized Representative

OSP Consortium LLC





SCOPE OF SERVICES

Parking Spaces Rental Agreement
(Revised for Amendment to Contract)

Community Development Block Grant – Disaster Recovery
Community Development Block Grant-Mitigation
Puerto Rico Department of Housing

1. Introduction and Overview

The Puerto Rico Department of Housing (**PRDOH**) seeks to acquire a parking spaces rental agreement for two hundred (200) parking spaces for the Community Development Block Grant - Disaster Recovery (**CDBG-DR**) and Community Development Block Grant - Mitigation (**CDBG-MIT**) Programs.

The Vendor will be directly responsible for ensuring the accuracy, timeliness, and completion of all tasks assigned under this contract.

2. Parking Services

The PRDOH has received an influx of new staff members with the growth of the CDBG-DR Program, and with the addition of the CDBG-MIT Program, more staff will be added to the PRDOH workforce as part of the Additional Implementation Plan Capacity Assessment Requirements included in the MIT Grant Agreement. The parking structure within the PRDOH Headquarters has a limited number of spaces that will not support the new PRDOH workforce.

Considering the aforementioned, and to ensure the safety of the employees, PRDOH is looking into renting an additional two-hundred (200) parking spaces in close proximity to the PRDOH Headquarters. The PRDOH reserves the right to increase the number of parkings to up to a total of two hundred and fifty (250) during the life of the contract.

3. Requirements

- PRDOH will inform the Vendor of the personnel authorized to use the parking spaces and ensure to keep the list updated periodically. The Vendor must maintain and document the PRDOH employees authorized to use the parking spaces.
- The PRDOH is seeking a designated representative or point of contact from the vendor for all services related to the parking services.
- All prices submitted by the vendor shall include all expenses including incidentals and taxes. The agency will not cover any additional cost, only the unit price submitted for the services to be acquired will be taken into consideration. The agency will not be responsible for reimbursement or for per-diem expenses.
- It is required that Vendors submitting quotes for the CDBG-DR and CDBG-MIT programs be registered in the System for Award Management (SAM) to be considered. Such registration is free of charge for the Vendors. For registration in SAM the Vendor can access: https://sam.gov/content/home.

4. Services



The PRDOH expects that the Vendor can carry out all services described in this section. The services to be provided shall include, but are not limited to, the following:

- **4.1.** Parking services should be available between the hours of 7:30 AM thru 6:30 PM Monday thru Friday.
- **4.2.** The parking facilities should be available and ready for occupation.
- 4.3. All areas leading to the parking spaces should be well-lighted and safe.
- **4.4.** The parking spaces should be secured and in good condition.
- **4.5.** The parking structure must provide proper lighting for the safety and security of the PRDOH employees.
- 4.6. All parking spaces provided should have proper markings.
- 4.7. Availability of already installed Camera Security System.
- **4.8.** Security guards must available between the hours of 7:30 AM 6:30 PM for the safety and security of the PRDOH employees.
- **4.9.** The parking structure must provide a pedestrian pick-up area prepared for inclement weather.
- **4.10.** The access to the parking structure should be limited by the use of a mechanical arm barrier, or similar equipment.
- **4.11.** Vendor must possess Public Liability and Accident Insurance to cover the CDBG-DR and CDBG-MIT program employees.

5. Deliverables

The services to be provided shall include, but are not limited to, the following:

- **5.1.** 200 Parking Spaces available between the hours of 7:30 AM 6:30 PM
- **5.2.** Security guards must available between the hours of 7:30 AM 6:30 PM

6. Contract Term

The PRDOH anticipates awarding the contract for an initial term of two (2) years. The PRDOH may, at its sole discretion, extend the contract term for an additional three (3) annual extensions. The PRDOH reserves the right without limitations, to (i) cancel this contract, if it deems that doing so is in the best interest of the public; (ii) amend the contract(s) of the Vendor(s) to, among others, extend its original duration and/or increase the number of parking spaces.

7. Payment

Payments shall be issued for services provided previously approved by the PRDOH. It is the Vendor's responsibility to provide all services as set forth under the Scope of Services. The Vendor shall submit an invoice to PRDOH after delivery of the services is provided. Said invoice must be submitted including all required invoice supporting documents, including but not limited to, services documentation, and invoice. If PRDOH determines that the submitted invoice and supporting documentation is acceptable, then the invoice will be approved for payment.

An authorized representative of the PRDOH will review each invoice and, if adequate, will approve and process its payment. Payments to the Selected Vendor shall be made

Scope of Services Parking Services Rental Agreement CDBG-DR and CDBG-MIT Programs Page 3 of 3



by electronic funds transfer (EFT). PRDOH reserves the right to conduct any audits it deems necessary. The Selected Vendor agrees to cooperate fully with any such audit or audits.

The services rendered under the Vendor agreement shall be payable within forty-five (45) days from the date the invoice is reviewed and approved by PRDOH.

8. PRDOH's Reservation of Rights

The PRDOH reserves the right, without limitations, to:

- (i) Waive any informality within this process, or terminate this process at any time, if deemed to be in its best interests.
- (ii) Cancel and reissue the process or another version of it, if it deems that doing so is in the Public Interest.
- (iii) To reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to, if:
 - a. Funding is not available.
 - b. Legal restrictions are placed upon the expenditure of monies for this category.
 - c. PRDOH's requirements in good faith change after award of the contract.
- (iv) To require additional information from vendor to determine level of responsibility.
- (v) To negotiate any price from the awarded vendor in response to a specific order under this solicitation.
- (vi) To modify the quantity of the listed items and/or services during the term of the contract without in compliance with policies and procedures.
- (vii) Amend the contract(s) of the selected vendor(s) to, among others, extend its original duration, as further explained in this process, or to extend the scale of its scope to include work under subsequent CDBG-DR and CDBG-MIT action plans as related to the services requested herein, or to reduce the scale of its scope to decrease work as a consequence of underperformance or inexcusable delates related to the services requested herein.

END OF DOCUMENT





ATTACHMENT E

CONTRACTOR CERTIFICATION REQUIREMENT

OSP CONSORTIUM, LLC

- 1. Contractor (or Subrecipient) Certification Requirement:
- 1. The expected subcontractor(s) in connection with the contract¹ is (are) the following:

(Name of individual or firm) VIVA Idi Servicios de Seguridad (Principal terms and conditions of the contractual relation and role of the subcontractor) Security for the Parking Structure 7Am - 7pm. (Amount of proposed contract payable to each subcontractor) \$39,000.00

- 2. Neither the Contractor (or subrecipient) nor any of its owners², partners, directors, officials, or employees, has agreed to share or give a percentage of the contractor's (or subrecipient's) compensation under the contract³ to, or otherwise compensate, any third party, whether directly or indirectly, in connection with the procurement, negotiation, execution or performance of the contract.
- 3. To the best knowledge of the signatory (after due investigation), no person has unduly intervened in the procurement, negotiation, or execution of the contract, for its own benefit or that of a third person, in contravention of applicable law.
- 4. To the best knowledge of the signatory (after due investigation), no person has: (i) offered, paid, or promised to pay money to; (ii) offered, given, or promised to give anything of value to; or (iii) otherwise influenced any public official or employee with the purpose of securing any advantages, privileges or favors for the benefit of such person in connection with the contract (such as the execution of a subcontract with the Contractor, beneficial treatment under the contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).

¹ As used herein, the term "contract" is inclusive of any amendments, modifications, or extensions.

² For purposes of this Certification, a contractor's "owner" shall mean any person or entity with more than a ten percent (10%) ownership interest in the Contractor.

³ As used herein, the term "contract" is inclusive of any amendments, modifications, or extensions.



- 5. Neither the Contractor (or subrecipient), nor any of its owners, partners, directors, officials, or employees or, to the best of its knowledge (after due investigation), its representatives or sub-contractors, has required, directly or indirectly, from third persons to take any action with the purpose of influencing any public official or employee in connection with the procurement, negotiation, or execution of the contract, in contravention of applicable law.
- 7. Any incorrect, incomplete, or false statement made by the contractor's (or subrecipient's) representative as part of this certification shall cause the nullity of the proposed contract and the contractor (or subrecipient) must reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed contract.

The above certifications shall be signed <u>under penalty of perjury</u> by the Chief Executive Officer (or equivalent highest rank officer) in the following form:

"I hereby certify under penalty of perjury that the foregoing is complete, true, and correct."

By: Elberto Berdut Nieves

Position: Authorized Representative

Signature:

Date: 2/22/23

¹ The Contractor is required to disclose the names of the entities of the Government of Puerto Rico with whom it has contracts until the Agreement is signed.





ATTACHMENT F

NON-CONFLICT OF INTEREST CERTIFICATION

OSP CONSORTIUM, LLC

The CONTRACTOR certifies that:

- 1. No public servant of this executive agency has a pecuniary interest in this contract, subrecipient agreement, 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 his or her family unit, or for any other person, business, or entity, something 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.

"I hereby certify under penalty of perjury that the forcerect."	- 1
Signature	2 2 2 3 Date
Elberto Berdut Nieves	Authorized Representative
Printed Name	Position

AMENDMENT A RENTAL PARKING AGREEMENT

Final Audit Report

2023-03-24

Created:

2023-03-21

By:

Arleene Rodríguez (amrodriguez@vivienda.pr.gov)

Status:

Signed

Transaction ID:

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- Signer w.rodriguez@vivienda.pr.gov entered name at signing as William O. Rodríguez Rodríguez 2023-03-24 7:03:39 PM GMT
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