



Amendment C

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

**AMENDMENT C TO THE AGREEMENT FOR
HOME REPAIR, RECONSTRUCTION, OR RELOCATION PROGRAM
CONSTRUCTION MANAGERS
BETWEEN THE
PUERTO RICO DEPARTMENT OF HOUSING
AND
LEMOINE DISASTER RECOVERY, L.L.C.
Contract No. 2020-DR0032
Amendment B Contract No. 2020-DR0032C**



This **AMENDMENT C TO AGREEMENT FOR HOME REPAIR, RECONSTRUCTION, OR RELOCATION PROGRAM CONSTRUCTION MANAGERS** (Amendment or Amendment C) is entered into in San Juan, Puerto Rico, this 24 day of May, 2024, by and between the **PUERTO RICO DEPARTMENT OF HOUSING (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 Guaynabo, Puerto Rico, in his capacity as Secretary; and **LEMOINE DISASTER RECOVERY, L.L.C. (CONTRACTOR)**, with principal offices in 1906 Eraste Landry Road #200, Lafayette, LA, herein represented by Robert Michael Rice, in his capacity as President of Disaster Services, of legal age, married, and resident of Baton Rouge, LA, duly authorized by Corporate Resolution dated May 22, 2024; collectively, the **Parties**.

I. RECITALS AND GENERAL AWARD INFORMATION

WHEREAS, on December 6, 2019, PRDOH and the CONTRACTOR entered into an Agreement for Communications Services, registered as Contract No. 2020-DR0032, for a maximum amount not to exceed **fifty million dollars (\$50,000,000.00)** from **Account Number: r01h07rrr-doh-lm 6090-01-000**, ending on December 5, 2022 (**Agreement**).

WHEREAS, on December 1, 2022, the Parties agreed to amend the Agreement through Amendment A, registered as contract number 2020-DR0032A, to extend the term for an additional twelve (**12**) months, ending on December 4, 2023. The budget of the Agreement was not modified by Amendment A.

WHEREAS, on December 4, 2023, the Parties agreed to amend the Agreement through Amendment B, registered as contract number 2020-DR0032B, to extend the term for an additional six (**6**) months, ending on June 4, 2024. Also, modifications and changes to several articles of the Agreement were incorporated via Amendment B. The budget of the Agreement was not modified by Amendment B.

WHEREAS, as per Article XXXVIII 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, this Amendment C 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.

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

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 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. All other provisions of the original Agreement, including its attachments, shall continue to be in full force and effect.

III. SCOPE OF AMENDMENT

The PRDOH identified the Contractor has completed all assigned construction works at this time and it's not expected to be assigned additional projects under this contract. Therefore, the parties have determined to extend the term to provide the Contractor with ample time for the completion of the remaining pending administration tasks. The Parties requested a term extension of **six (6) months**, ending on **December 4, 2024**.

Also, the contract value will be reduced to twenty-five million dollars (**\$25,000,000.00**) to align it more closely to the final expected funding to be used. Therefore, paragraph A of **Article II. TERM OF AGREEMENT**, and paragraph B of **Article IV. COMPENSATION AND PAYMENT** are modified by this Amendment. Finally, this Amendment also includes updated versions of **Attachment I** (Contractor Certification) and **Attachment J** (Non-Conflict of Interest Certification). All other provisions of the original Agreement remain unaltered.

IV. AMENDMENTS

- A. The Parties agree to amend **Article II. TERM OF AGREEMENT**, paragraph A to extend the Term of the Agreement as follows:

A. This Agreement shall be in effect and enforceable between the parties from the date of its execution. The term of the Agreement is for a performance period of sixty (60) months, ending on December 4, 2024.

- B. The Parties agree to replace **Article IV. COMPENSATION AND PAYMENT**, paragraph B, with the following:

*B. The PRDOH will pay the CONTRACTOR, for allowable services performed during the term of this Agreement, a maximum amount not to exceed **TWENTY-FIVE MILLION DOLLARS (\$25,000,000.00)**; Account Number: **R01H07RRR-DOH-LM 6090-01-000**.*

- C. A revised **Attachment I** (Contractor Certification) is hereto incorporated by reference into the Agreement and made part of the Agreement in place of the original **Attachment I** (Contractor Certification). (**Attachment I** of this Amendment C).

- D. A revised **Attachment J** (Non-Conflict of Interest Certification) is hereto incorporated by reference into the Agreement and made part of the

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Agreement in place of the original **Attachment J** (Non-Conflict of Interest Certification). (**Attachment II** of this Amendment C).

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/MIT 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.

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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/MIT and state funding, recapture of CDBG-DR/MIT and/or state funds, overpayment of CDBG-DR/MIT 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.

XIV. 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 that 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.

XV. COMPLIANCE WITH THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO (FOMB) POLICY

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 the 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.

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

PUERTO RICO DEPARTMENT OF HOUSING

LEMOINE DISASTER RECOVERY, L.L.C.

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William O. Rodríguez Rodríguez
William O. Rodríguez Rodríguez (May 24, 2024 17:10 EDT)

William O. Rodríguez Rodríguez, Esq.
Secretary
Tax ID No. 66-0558579
Unique Entity ID: FFNMUBT6WCM1

R. Michael Rice
R. Michael Rice (May 23, 2024 18:11 CDT)

Robert Michael Rice
President of Disaster Services
Tax ID No. 82-3063616
Unique Entity ID: C182PM2K1463



**ATTACHMENT I
APPENDIX C
CONTRACTOR CERTIFICATION
FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO
CONTRACTS REVIEW POLICY**

LEMOINE DISASTER RECOVERY, L.L.C.

The following is hereby certified to the Oversight Board regarding the request for authorization to amend the contract for the Home Repair, Reconstruction, or Relocation Program Construction Managers by and between the **Puerto Rico Department of Housing** and **Lemoine Disaster Recovery, L.L.C.**:

1. The expected subcontractor(s) in connection with the proposed contract¹ is (are) the following:

a. Name of individual or firm, including names of principals and principal stakeholders.

"Principal stakeholders" shall mean all entities or individuals with an ownership or membership interest, as the case may be, equal to or higher than ten percent (10%) in a subcontractor. "Principals" shall mean persons and entities that have full authority to act on behalf of each subcontractor)

BIM Contractors, LLC: Eng. Cesar Acevedo and Eng. Gerardo Ortiz are the principal stakeholders for BIM Contractors. Eng. Cesar Acevedo is 50% Owner and Eng. Gerardo Ortiz is 50% Owner.

b. Principal terms and conditions of the contractual relation and role of the subcontractor

LDR has entered into a Master Subcontractor Agreement and project work order documents with BIM Contractors, LLC in connection with LDR's contract with the Puerto Rico Department of Housing. This agreement outline payment terms and conditions, project and performance standards, change order requirements, insurance and indemnity requirements and other basic contract provisions. This agreement also include flow down provisions incorporating the federal provisions and requirements related to the R3 CDBG-DR Program including, but not limited to, FLSA, CWHSSA, Executive Order OE-2018- 033, and Davis Bacon and Related Acts (DBRA).

c. Amount of proposed contract payable to each subcontractor

- The amount of proposed contract payable to BIM Contractors, LLC is \$99,769.26

2. Neither the contractor nor any of its owners², partners, directors, officials, or employees, has agreed to share or give a percentage of the contractor's compensation under the contract to, or otherwise compensate, any third party, whether directly or indirectly, in

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.

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connection with the procurement, negotiation, execution or performance of the contract, except as follows:

a. Name of individual or firm, including names of principals or owners of the latter

N/A

b. Principal terms and conditions of the compensation sharing arrangement

N/A

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 contractor, beneficial treatment under the contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).

5. Neither the contractor, 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.

6. Any incorrect, incomplete or false statement made by the contractor's representative as part of this certification shall cause the nullity of the proposed contract, and the contractor 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 under penalty of perjury 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 on this 3RD day of APRIL of 2024.

 |  | 04 | 03 | 24
Signature | Date

Seth Lemoine
Printed Name

Chief Operations Officer
Position



ATTACHMENT J

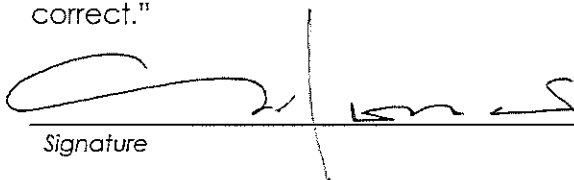
NON-CONFLICT OF INTEREST CERTIFICATION

LEMOINE DISASTER RECOVERY, L.L.C.

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 foregoing is complete, true, and correct."


Signature

Seth Lemoine
Printed Name

04 | 03 | 24
Date

Chief Operations Officer
Position