



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

**AMENDMENT B TO AGREEMENT FOR
CALL CENTER OPERATIONS SERVICES
BETWEEN THE
PUERTO RICO DEPARTMENT OF HOUSING
AND
LINKACTIV, LLC**

Contract No. 2020-DR0006

As amended by Contract No. 2020-DR0006A



THIS AMENDMENT B TO THE CALL CENTER OPERATIONS SERVICES AGREEMENT, (hereinafter referred to as the "**Amendment**") is entered into in San Juan, Puerto Rico, this 11th day of July _____, 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 Ricardo Vázquez-Morales, of legal age, single, and resident of San Juan, Puerto Rico, in his capacity as Subsecretary; and **LINKACTIV, LLC** (hereinafter, the "**CONTRACTOR**"), with principal offices Amelia Industrial Park, Diana St., Lot #18 and #19, Guaynabo, Puerto Rico, herein represented by Francisco Brigantty Merced, in his capacity as Chief Operating Officer, of legal age, married, and resident of Toa Alta, Puerto Rico, duly authorized by Resolution by the CONTRACTOR, (collectively, "**the Parties**").

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I. RECITALS AND GENERAL AWARD INFORMATION

WHEREAS, on July 16, 2019, the PRDOH and the CONTRACTOR entered into an Agreement, which was registered under Contract No. 2020-DR0006, for the performance of Call Center Operations Services in connection with the CDBG-DR Program (the "**Agreement**"). The PRDOH and the CONTRACTOR agreed that, for allowable Call Center Operations Services performed during the term of the Agreement, PRDOH would pay a maximum amount not to exceed **TWENTY MILLION AND FIVE HUNDRED AND FIFTY-FIVE THOUSAND, FIFTEEN DOLLARS (\$20,555,015.00)** to the CONTRACTOR from **ACCOUNT NUMBER B-17-DM-72-0001 4190-10-000**. That Agreement is for a period of **thirty-six (36) months**, from the day of its execution, ending on July 15, 2022.

WHEREAS, on September 9, 2020, the Agreement was amended through Amendment A, registered as Contract Number 2020-DR0006A, to clarify that the CONTRACTOR can extend the services contemplated in the Scope of Services, to the development and approval of the Action Plan for the Community Development Block Grant for Mitigation (**CDBG-MIT**). The term nor the overall amount of the Agreement was not modified in Amendment A.

WHEREAS, the Parties wish to amend the Agreement to extend the term of the Agreement for an additional **twelve (12) months**, ending on **July 14, 2023**. In addition, the Parties wish to allow a redistribution of funds based on operational needs. The overall amount of the Agreement is not modified in this Amendment B.

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

WHEREAS, this Amendment B 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 B.

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

This Amendment B results in an extension of the term for an additional **twelve (12) months** and a redistribution of funds based on operational needs.

III. AMENDMENTS

A. The Parties wish to replace **Attachment D** (Cost Form) of the Agreement with a modified **Attachment D** (Cost Form) hereto incorporated by reference into the Agreement. (**Attachment I** of this **Amendment B**). This Amendment does not constitute an increase in the budget. The redistribution of funds is based on operation needs. The redistribution is breakdown as follows:

- Call center startup costs were fully disbursed and used by the CONTRACTOR.
- The number of estimated hours per month per resource was reduced.
- Total staffing amount increased by \$463,126.09 bringing the total allocation from \$19,374,817.91 to \$19,810,944.00.
- Other costs (Call Center Maintenance Costs) were reduced by \$463,104.16 bringing the total allocation from \$1,207,175.16 to \$744,071.00.
- The required budget to comply with the tasks for the twelve (**12**) months extension is \$4,952,736.00. There is a budget of more than \$5M in the current agreement. Therefore, this Amendment does not constitute an increase in the budget.

B. The Parties agree to amend **Article II. TERM OF AGREEMENT**, paragraph A, with the following:

A. *This Agreement shall be in effect and enforceable between the parties from the date of its execution. The term of the original Agreement was for a performance period of **thirty-six (36) months**, ending in July 15, 2022. The Parties hereby agree to extend the period of performance for an additional period of performance of **twelve (12) months**, ending on July 14, 2023.*

C. The Parties agree to amend **Article IV. COMPENSATION AND PAYMENT** to add new paragraph L, as follows:

L. *The services rendered under the Agreement, shall be payable within forty-five (**45**) business days from the date the invoice is received and approved by a PRDOH representative for payment. If PRDOH raises any objections, PRDOH will return the invoice for corrections and the CONTRACTOR shall modify the invoice and return it within five (**5**) business days. Once the CONTRACTOR returns the modified invoice, the PRDOH shall resume and conclude the payment process within the next forty-five (**45**) business days.*


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**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)**

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.

G. The Parties agree to add a new **Article LV. CONSOLIDATIONS, MERGERS, CHANGE OF NAME, OR DISSOLUTIONS**, as follows:

**LV. CONSOLIDATIONS, MERGERS, CHANGE OF NAME, OR
DISSOLUTIONS**

A. Consolidation or Merger

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH moves for a consolidation or merger with another entity (private or public), by its discretion or otherwise, written notice of such decision or event shall be delivered to the PRDOH **at least fifteen (15) business days prior to the effective date** of the consolidation or merger. The notice shall include, but not limited to, a description of: the expected effective date of the consolidation or merger; name of each of the constituent entities moving to consolidate or merge into the single resulting or surviving entity; the proposed name of the resulting entity (in case of a consolidation) or the name of the surviving entity (in case of a merger) if necessary; reference to the projected capacity of the resulting or surviving entity to comply with the terms, conditions, obligations, tasks, services, and performance goals or requirements included in the Agreement as well as its Exhibits or Attachments; and a brief summary of the proposed plan to achieve


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the transition of duties (Scope of Work or Scope of Services), tasks, and performance goals or requirements to the resulting or surviving entity.

Upon the consolidation or the merger becoming effective, and supporting evidence of such event is notified to PRDOH, execution of an Amendment to the Agreement may follow. The Amendment would include, but not limited to, modifications to the clauses that refer to the identity, personal circumstances, address, and any other information related to the signing party deemed relevant by PRDOH for the execution of the Amendment. **No amendment to the Agreement will be necessary if the Subrecipient, Contractor, or Subcontractor becomes the surviving entity following a merger.**

Failure to comply with any of the before mentioned conditions, may result in the activation of the termination clauses provided in the Agreement.

B. Change of Name

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH initiates a change of name process, written notice of such decision or event shall be delivered to the PRDOH **at least fifteen (15) business days** prior to the effective date of such event. The notice shall include, but not limited to, a description of: the expected effective date of the change of name; the proposed name; inform of any change of address; and reference of any change in the capacity of the entity to comply with the terms, conditions, obligations, tasks, services, and performance goals or requirements included in the Agreement, as well as its Exhibits or Attachments.

Upon the change of name becoming effective, and supporting evidence of such event is notified to PRDOH, execution of an Amendment to the Agreement may follow. The Amendment would include, but not limited to, modifications to the clauses that refer to the identity, personal circumstances, address, and any other information related to the signing party deemed relevant by PRDOH for the execution of the Amendment.

Failure to comply with any of the before mentioned conditions, may result in the activation of the termination clauses provided in the Agreement.

C. Dissolution

In the event that the signing party (e.g. Subrecipient, Contractor, or Subcontractor) of the Agreement with the PRDOH moves for dissolution of the entity, written notice of such decision or event shall be delivered to the PRDOH **at least fifteen (15) business days** prior to the effective date of such event. The notice shall include, but not limited to, a description of the expected effective date of the dissolution; and contact information of one or more of its directors, officials or agents. Upon dissolution, becoming effective, and supporting evidence of such event is notified to PRDOH, termination of the Agreement will follow. Consequently, the signing party acknowledges and agrees to provide to the PRDOH, after termination of the Agreement, the assistance reasonably requested to facilitate the orderly transfer of responsibility for performance of the tasks or services to the PRDOH or a third party designated by the PRDOH. Moreover, all finished or unfinished records (files, data, work product) connected with this Agreement will be turned over to PRDOH following the Agreement termination.


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- H. The Parties agree to add a new **Article 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.

- I. The Parties agree to add a new **Article 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


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the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed Amendment and original Agreement.

- J. On April 4, 2022, the Federal Government permanently discontinued the use of the DUNS Number as the primary means of identity identification for Federal awards government-wide and replaced it with the Unique Entity Identifier (**UEI**). Accordingly, the Parties agree to replace the DUNS Numbers with the following Unique Entity Identifier:

*PUERTO RICO DEPARTMENT OF HOUSING
Unique Entity ID: FFMUBT6WCM1*

*LINKACTIV, LLC
Unique Entity ID: RMAEPVEL5YK6*

- K. All other terms and conditions of the Agreement remain unchanged.
- L. Each party represents that the person executing this Amendment B has the necessary legal authority to do so on behalf of the respective party.


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IV. 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.

V. 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.

VI. 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.

VII. 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.

VIII. 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, as amended by Act No. 127 of May 31, 2004.

IX. 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.

X. 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.

XI. COMPLIANCE WITH INSURANCE & BONDING REQUIREMENTS

PRDOH will execute this Amendment conditioned to the submission by the CONTRACTOR of the required insurance policies within **thirty (30) days** of the signing of this Amendment. Failure to comply with the submission of the insurance policies may result in the withholding of reimbursements or the termination of the Agreement.

XII. SURVIVAL OF TERMS AND CONDITIONS

The terms and conditions of this Agreement, as amended, related to the following subjects shall survive the termination or expiration of this Agreement, as amended: 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 Agreement, as amended, shall so survive.

XIII. 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.


**REMAINDER OF PAGE INTENTIONALLY LEFT IN BLANK
SIGNATURES ON THE FOLLOWING PAGE**

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

PUERTO RICO DEPARTMENT OF HOUSING

LINKACTIV, LLC

Ricardo Vázquez Morales


Francisco Brigantty (Jul 8, 2022 16:09 EDT)

Ricardo Vázquez-Morales, CPA
Subsecretary

Francisco Brigantty Merced
Chief Operating Officer


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**Exhibit P
COST FORM
Call Center Operations Services
Community Development Block Grant – Disaster Recovery
CDBG-DR-RFP-2018-02**

Contractor: LinkActiv, LLC.

Hourly Rates⁴

Position	Qty. of Resources [A]	Hours Per Month Per Resource [B]	Rate Per Hour ¹ [C]	Monthly Cost ³ [D = AxBxC]
Manager	1	170	\$41.44	\$7,044.80
Supervisor	4	184	\$31.20	\$22,963.20
CSR	80	184	\$26.00	\$382,720.00
Monthly Cost				\$412,728.00
Sub-Total Cost				\$19,810,944.00
Other Costs				Total Cost
Call Center Start-up ²				\$131,000.00
Call Center Maintenance Cost				\$613,071.00
Sub-Total				\$744,071.00
Total				\$20,555,015.00

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Notes

- (1) Rates per Hour and Unit Prices include all expenses, fringe benefits, supervision, trainings, quality assurance, among others, as well as any overhead and profit of the contractor in the provision of the services.
- (2) Call Center Start-up cost was assigned for the first year of the agreement and has been reimbursed in its total within the established date.
- (3) The total Maximum Monthly Cost represents the maximum amount to be paid by the PRDOH to the Contractor for any month of the staff time services. If at any given time the contractor projects that the Maximum Monthly Cost will be exceeded, then the Contractor must inform the PRDOH and, depending on the circumstance, the PRDOH may approve the excess in cost.
- (4) Quantity of resources and hours per resource are estimated. The Contractor may, to comply with Call Center requirements hire a different number of resources at more or less hours per month than stated in the Cost Form. Nonetheless, at no time whatsoever shall the Maximum Monthly Cost be exceeded by the Contractor without prior authorization of the PRDOH (see Note 3).





Amendment B to LinkActiv, LLC

Final Audit Report

2022-07-11

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By:	Maria M. Rivera Nieves (mmrivera@vivienda.pr.gov)
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"Amendment B to LinkActiv, LLC" History

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