

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR

Received:

Feb 16, 2021

9:48 PM

IN RE: PRELIMINARY STUDIES FOR
NEW COMBINED CYCLE POWER PLANT
IN PALO SECO

CASE NO.: NEPR-MI-2021-0003

SUBJECT: Compliance with February 1
Order

MOTION IN COMPLIANCE WITH ORDER ENTERED ON FEBRUARY 1, 2021

COMES NOW, the Puerto Rico Electric Power Authority, through the undersigned counsel, and respectfully submits and requests as follows:

1. On February 1, 2021, the Energy Bureau of the Public Service Regulatory Board (the “Energy Bureau”) entered a Resolution and Order opening the captioned matter (the “February 1 Order”) and directed the Puerto Rico Electric Power Authority (PREPA) to answer several requests for information regarding the status of the development of the studies for a new combined cycle gas turbine in the San Juan area. The Energy Bureau also directed PREPA to submit information regarding the contractors that have been retained to complete the related tasks.

2. In compliance with paragraphs i and ii of the February 1 Order, PREPA submits the report titled New Combined Cycle Planning and Studies Monthly Progress Status Report and a also, a Gantt Chart that reflects the progress of each task. Exhibits A and B.

3. Further, PREPA informs that Sargent & Lundy LLC and Sargent & Lundy Puerto Rico LLC (collectively referred to as “S&L”) are the only companies that have been retained by PREPA to assist with the studies for a new combined cycle gas turbine in the San Juan area. The S&L contracts are attached as Exhibit C.

WHEREFORE, PREPA respectfully requests the Energy Bureau to find that PREPA has complied with the February 1 Order.

In San Juan, Puerto Rico, this 16th day of February 2021.

s/ Katuska Bolaños-Lugo

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Exhibit A



**Puerto Rico
Electric Power
Authority**

Puerto Rico Electric Power Authority (PREPA)

**New Combined Cycle Planning and Studies
Monthly Progress Status Report
February 15, 2021**

Introduction and Outline

Introduction:

- The Puerto Rico Energy Bureau’s Integrated Resources Plan (IRP) Final Resolution and Order, approved on August 24, 2020, establishes a limit of \$5 million in expenses for preliminary economic, siting, permitting and planning analysis of a combined cycle plant and fuel delivery infrastructure.
- PREPA is currently performing planning and studies for the construction of a new dual-fuel, combined cycle power plant in the San Juan area with a capacity between 300 and 400 MW and is not to exceed the Energy Bureau-approved \$5 million.
- PREPA has two FY21 contracts with Sargent & Lundy with tasks related to this project.
 - 1) The first contract includes grid feasibility studies, among other engineering and economical tasks and is valued at \$9 MM.
 - 2) The second contract includes Generation and T&D FEMA-approved projects and is valued at \$6.1 MM. It contains an approved task order of \$1.686 MM to perform tasks related to the new combined cycle planning and studies.
- This report outlines PREPA’s progress on this phase of the project and provides the following four elements requested by the Energy Bureau:
 - 1) A proper and adequate detailed description of the specific tasks and studies;
 - 2) The progress of such tasks;
 - 3) Gantt Chart of the timeline for the completion of the required preliminary work; and
 - 4) Copies of the contract originally executed for the preliminary work.

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Project Scope, Objectives and Benefits

The New Combined Cycle Planning and Studies Project Scope

- This phase of the project is designed to perform a preliminary economic, siting, permitting, and planning analysis of a new combined cycle plant and its fuel delivery infrastructure and/or energy storage, as mandated by the PREB.
- The Budget is not to exceed \$5 million for this phase and is scheduled from November 16, 2020 to May 15, 2021.

Project Objectives

- Assess and determine an optimal generation solution to mitigate severe storm hazards such as those experienced during and after Hurricane Maria.
- Assess the capability of PREPA's power grid to accommodate increased levels of renewable generation and its impact in the overall system stability and the need of thermal generation for grid stability.
- Illustrate the cost effectiveness of performing preliminary permitting and engineering activities for a new combined cycle plant while not interfering with or delaying the procurement of solar PV (or other renewable energy) and battery energy storage resources.

Project Benefits

- Protect against the uncertainty of near-future solar PV and battery energy storage price outcomes, or other potential reliability concerns by continuing with these planning and studies in parallel with the renewable procurements.
- Determine the most cost-effective generation solution¹ for the northern part of the island.
- Determine the most optimal generation solution¹ that mitigates the hazards from major catastrophic events (e.g., hurricanes).

[1] Note: In collaboration with and seeking the approval of the Energy Bureau.



Project Overview

Management Notes:

- Developed standard monthly report and delivered the four elements requested by the Energy Bureau per the February 1, 2021, Resolution and Order.
- Developed project organization, governance and oversight for the New Combined Cycle projects planning and studies phase.
- Developed detailed schedule for the project and making progress on multiple project tasks.

Scope

25%

Planning Analysis

78%

In Progress

On-Budget

On-Schedule

Siting

10%

In Progress

On-Budget

On-Schedule

Permitting

15%

In Progress

On-Budget

On-Schedule

Preliminary Economic

10%

In Progress

On-Budget

On-Schedule

Financials

Approved Budget Baseline	\$5,000,000
Total Expenses From Previous Periods	\$174,762
Expenses This Period	\$106,320
Total Expenses	\$281,082
Total Expenses / Approved Budget Baseline	5.62%

Max. Monthly Headcount (based on January)



11

PREPA's Headcount



12

Contractor's Headcount

23

Max. Total Headcount

Schedule Metrics

11/16/2020

Project Start Date

26

Total Scheduled Tasks

26

Pending Tasks On-Track

5/15/2021

Project End Date

0

YTD Tasks Completed

0

Pending Tasks Delayed

43%

Time Elapsed

0

Tasks Due in February

0

Pending Tasks Overdue

Significant Upcoming Milestones

Description	Target Period
Determine the effect of the renewables' growth in the grid and its potential solutions	2021 Q2
Determine if units will be decommissioned and replaced by the new combined cycle	2021 Q2
Develop a long-term gas agreement plan	2021 Q2
Prepare proposed relocation of the new combined cycle and present to stakeholders	2021 Q2



Puerto Rico Electric
Power Authority

Project Tasks By Workstream

ID	Task Description	Resources Assigned	% Complete	Scheduled Start	Scheduled Finish	Status
Planning Analysis Workstream						
1	Renewable Energy Integration and New Combined Cycle Feasibility Study	Sargent & Lundy	60%	11/16/2020	3/31/2021	On Track
2	Thermal Generation Retirement, Addition, and Conversion Plan	Sargent & Lundy	80%	12/18/2020	3/31/2021	On Track
3	Environmental (Permitting) Due Diligence Report	Sargent & Lundy	80%	12/18/2020	3/31/2021	On Track
4	New Combined Cycle Power Plant Location Selection Report	Sargent & Lundy	80%	12/18/2020	3/31/2021	On Track
5	Feasibility Study, Retirement Plan, Environmental Due Diligence Report, and Location Selection Report Approval From PREPA	PREPA	0%	4/30/2021	4/30/2021	On Track
Siting Workstream						
6	Geotechnical Investigation	Sargent & Lundy	20%	1/11/2021	3/31/2021	On Track
7	Site Survey	Sargent & Lundy	20%	1/11/2021	3/31/2021	On Track
8	Design Criteria Update	Sargent & Lundy	90%	1/11/2021	3/15/2021	On Track
8	3D Model	Sargent & Lundy	0%	1/11/2021	4/30/2021	On Track
9	General Arrangement	Sargent & Lundy	10%	1/11/2021	4/30/2021	On Track



Project Tasks By Workstream (Cont'd)

ID	Task Description	Resources Assigned	% Complete	Scheduled Start	Scheduled Finish	Status
Siting Workstream (Cont'd)						
10	Heat Balance Analysis	Sargent & Lundy	10%	1/11/2021	4/30/2021	On Track
11	Water Balance Analysis	Sargent & Lundy	0%	3/1/2021	4/30/2021	On Track
12	Flood Study	Sargent & Lundy	0%	3/1/2021	4/30/2021	On Track
13	Process Flow Diagrams (P&IDs)	Sargent & Lundy	0%	3/1/2021	4/30/2021	On Track
14	Single Line Diagram	Sargent & Lundy	0%	2/1/2021	4/30/2021	On Track
15	Architectural Conceptual Design	Sargent & Lundy	0%	3/1/2021	4/30/2021	On Track
16	Site Development Conceptual Design	Sargent & Lundy	0%	3/1/2021	4/30/2021	On Track
17	Site Grading and Drainage	Sargent & Lundy	0%	3/15/2021	4/30/2021	On Track
18	Major Foundation Conceptual Design	Sargent & Lundy	0%	4/1/2021	4/30/2021	On Track
19	Electrical Arrangements	Sargent & Lundy	0%	3/1/2021	4/30/2021	On Track



Project Tasks By Workstream (Cont'd)

ID	Task Description	Resources Assigned	% Complete	Scheduled Start	Scheduled Finish	Status
Permitting Workstream						
20	COE Environmental Application – Consultation	Sargent & Lundy	15%	1/1/2021	4/30/2021	On Track
21	NEPA EA Report – Consultation	Sargent & Lundy	15%	1/1/2021	4/30/2021	On Track
22	Air Permit Application – Consultation	Sargent & Lundy	15%	1/1/2021	4/30/2021	On Track
23	NPDES Permit Application – Consultation	Sargent & Lundy	15%	1/1/2021	4/30/2021	On Track
Preliminary Economic Workstream						
24	Project Cost Estimate – Full Combined Cycle Project	Sargent & Lundy	10%	1/11/2021	4/30/2021	On Track
25	Project Schedule – Full Combined Cycle Project	Sargent & Lundy	10%	1/11/2021	4/30/2021	On Track



Project Tasks By Workstream (Cont'd)

ID	Task Description	Resources Assigned	% Complete	Scheduled Start	Scheduled Finish	Status
Close-Out Tasks						
26	Final Report of all Deliverables Upon Completion for PREB	PREPA, Sargent & Lundy	0%	5/15/2021	5/15/2021	On Track
27	New Combined Cycle Planning and Studies Phase One Results Submitted to COR3 ²	PREPA	0%	8/12/2021	8/12/2021	On Track
28	New Combined Cycle Planning and Studies Phase One Results Submitted to FEMA ²	PREPA	0%	10/12/2021	10/12/2021	On Track

[2] Note: These milestones are expected to be completed after the end date of the New Combined Cycle Planning and Studies project and during later phases of the New Combined Cycle Project. These milestones completion dates assume PREB approval is received to continue with the New Combined Cycle project.



Project Organization Structure

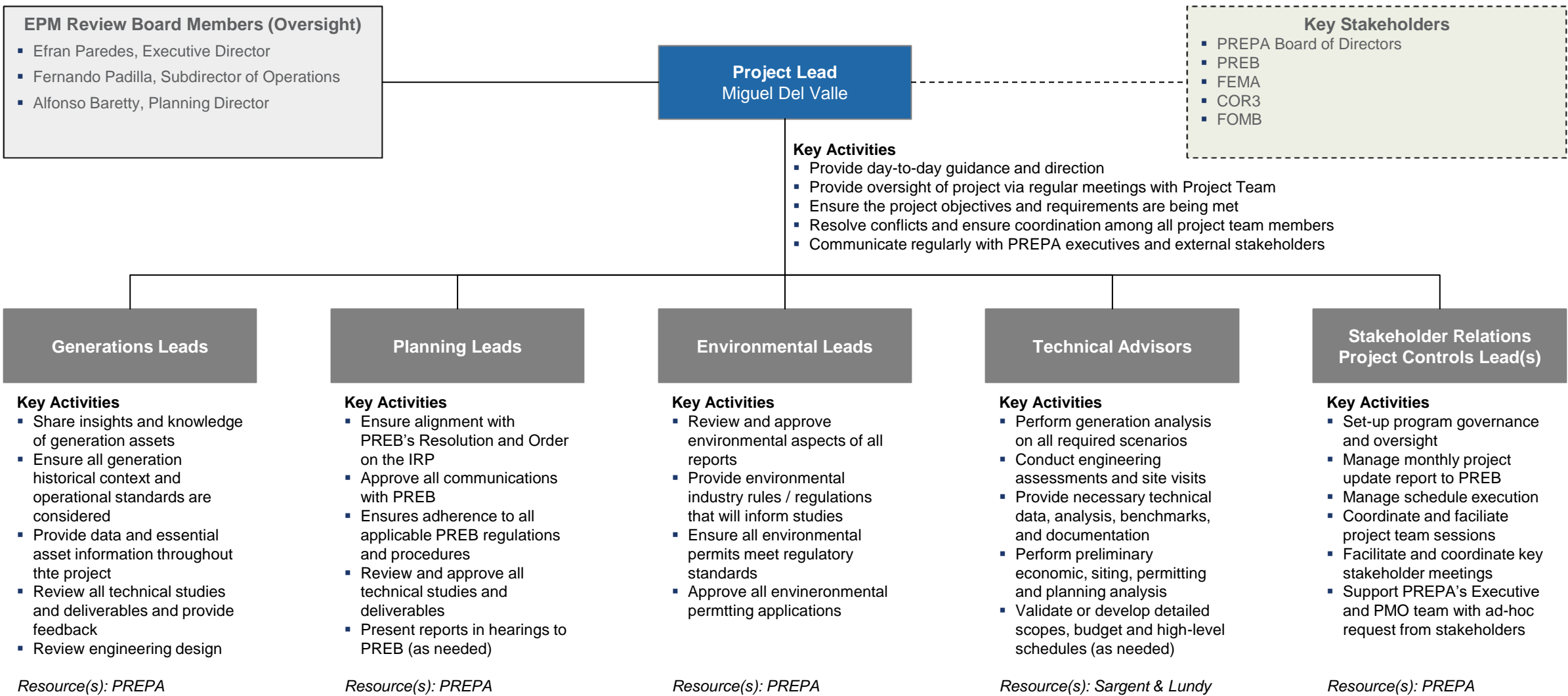


Exhibit B

**New Combined Cycle Planning and Studies
Monthly Progress Status Report
February 15, 2021**

ID	Task Name	Duration	Start	Finish	% Complete	Qtr 4, 2020 Oct	Nov	Dec	Qtr 1, 2021 Jan	Feb	Mar	Qtr 2, 2021 Apr	May	Jun
1	New Combined Cycle Planning and Studies	130 days	Mon 11/16/20	Sat 5/15/21	25%									
2	Planning Analysis Workstream	120 days	Mon 11/16/20	Fri 4/30/21	78%									
3	Renewable Energy Integration and New Combined Cycle Feasibility Study	98 days	Mon 11/16/20	Wed 3/31/21	60%									
4	Thermal Generation Retirement, Addition, and Conversion Plan	74 days	Fri 12/18/20	Wed 3/31/21	80%									
5	Environmental (Permitting) Due Diligence Report	74 days	Fri 12/18/20	Wed 3/31/21	80%									
6	New Combined Cycle Power Plant Location Selection Report	74 days	Fri 12/18/20	Wed 3/31/21	100%									
7	Feasibility Study, Retirement Plan, Environmental Due Diligence Report, and Location Selection Report Approval From PREPA	1 day	Fri 4/30/21	Fri 4/30/21	0%									
8	Siting Workstream	80 days	Mon 1/11/21	Fri 4/30/21	10%									
9	Geotechnical Investigation	58 days	Mon 1/11/21	Wed 3/31/21	20%									
10	Site Survey	58 days	Mon 1/11/21	Wed 3/31/21	20%									
11	Design Criteria Update	46 days	Mon 1/11/21	Mon 3/15/21	90%									
12	3D Model	80 days	Mon 1/11/21	Fri 4/30/21	0%									
13	General Arrangement	80 days	Mon 1/11/21	Fri 4/30/21	10%									
14	Heat Balance Analysis	45 days	Mon 3/1/21	Fri 4/30/21	10%									
15	Water Balance Analysis	45 days	Mon 3/1/21	Fri 4/30/21	0%									
16	Flood Study	45 days	Mon 3/1/21	Fri 4/30/21	0%									
17	Process Flow Diagrams (P&IDs)	45 days	Mon 3/1/21	Fri 4/30/21	0%									
18	Single Line Diagram	65 days	Mon 2/1/21	Fri 4/30/21	0%									
19	Architectural Conceptual Design	45 days	Mon 3/1/21	Fri 4/30/21	0%									
20	Site Development Conceptual Design	45 days	Mon 3/1/21	Fri 4/30/21	0%									
21	Site Grading and Drainage	35 days	Mon 3/15/21	Fri 4/30/21	0%									
22	Major Foundation Conceptual Design	22 days	Thu 4/1/21	Fri 4/30/21	0%									
23	Electrical Arrangements	45 days	Mon 3/1/21	Fri 4/30/21	0%									
24	Permitting Workstream	66 days	Mon 2/15/21	Sat 5/15/21	15%									
25	COE Environmental Application – Consultation	80 days	Mon 1/11/21	Fri 4/30/21	15%									
26	NEPA EA Report – Consultation	80 days	Mon 1/11/21	Fri 4/30/21	15%									
27	Air Permit Application – Consultation	80 days	Mon 1/11/21	Fri 4/30/21	15%									
28	NPDES Permit Application – Consultation	80 days	Mon 1/11/21	Fri 4/30/21	15%									
29	Preliminary Economic	80 days	Mon 1/11/21	Fri 4/30/21	10%									
30	Project Cost Estimate	80 days	Mon 1/11/21	Fri 4/30/21	10%									
31	Project Schedule	80 days	Mon 1/11/21	Fri 4/30/21	10%									
32	Close-out Workstream	0 days	Sat 5/15/21	Sat 5/15/21	0%									
33	Final Report of all Deliverables Upon Completion for PREB	1 day	Sat 5/15/21	Sat 5/15/21	0%									

Exhibit C

Execution Version

GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY

PROFESSIONAL SERVICES CONTRACT

by and between

THE PUERTO RICO ELECTRIC POWER AUTHORITY (PREPA)

and

SARGENT & LUNDY PUERTO RICO, L.L.C.

AS CONSULTANT

DATED December 4, 2020

[Handwritten signature]

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- A. Services
- B. Form of Task Order
- C. Approved Subcontractors
- D. Conditions Precedent
- E. Form of Conditions Precedent Certificate
- F. Certification Regarding Debarment, Suspension and Other Responsibility Matters
- G. Certification Regarding Lobbying For Contracts, Grants, Loans, And Cooperative Agreements
- H. Form of Invoice
- I. Form of Contractor Certification

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GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY
PROFESSIONAL SERVICES CONTRACT

APPEAR

THE PUERTO RICO ELECTRIC POWER AUTHORITY (“PREPA”), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended (“Act 83”), represented in this act by its Interim Executive Director, Efran Paredes Maisonet, of legal age, married, and a resident of Bayamón, Puerto Rico; and Sargent & Lundy Puerto Rico, L.L.C (“Consultant”), a limited liability company organized and existing under the laws of the Commonwealth of Puerto Rico, United States of America, and registered to do business in Puerto Rico, represented in this act by its Manager, Vincent T. Heinz, of legal age, married, and a resident of the State of Illinois, authorized by virtue of the Power of Attorney dated September 28, 2020; (each, a “Party” and collectively the “Parties”).

WITNESSETH

WHEREAS:

- A. PREPA, by virtue of Act 83 has the authority to engage those professional, technical and consulting services necessary and convenient to the activities, programs, and operations of PREPA; and
- B. Consultant has delivered, or shall deliver, within fifteen (15) days of the Effective

Date (defined below), to PREPA a true and complete original version of each of



the certificates and sworn statements, duly notarized and signed by Consultant's authorized representative, set forth in Article 26 (*Compliance with the Commonwealth of Puerto Rico Contracting Requirements*) and Section 27.2 (*Sworn Statement*), in accordance with Article 4 (*Contract Term*) of this Professional Services Contract (the "**Contract**");

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Contract, hereinafter stated, the Parties agree themselves, their personal representatives, and successors to enter into this Contract under the following:

TERMS AND CONDITIONS

Article 1 Services

1.1 General. Subject to Section 1.2 (*Commencement of Services*), Consultant shall perform any portion of, or all (as PREPA may require) of the services set forth in Annex A (*Services*), including the preparation and submission to PREPA of specific deliverables (the "**Deliverables**"), related to the implementation of a Section 404 Hazard Mitigation Project, Section 406 Hazard Mitigation Work or a Section 428 Project (each, a "**Stafford Act-Funded Project**") as well as other services described in this Contract (collectively, the "**Services**"), within the time frame set forth in a task order (each, a "**Task Order**"), each substantially in the form of Annex B (*Form of Task Order*), as mutually agreed by the Parties; provided, however, that no Task Order will amend or modify this Contract in any respect, except to describe the scope of Services, the schedule therefor and the applicable Task Order amount. In this Contract:

- a. "**Section 404 Hazard Mitigation Project**" means a project for the implementation of measures on PREPA's facilities to reduce the risk of loss



of life and property from future disasters, funded by the Federal Emergency Management Agency (“FEMA”) under Title IV, Section 404 (*Hazard Mitigation*) of the Stafford Act (Title 42 of the United States Code, Sections 5170c et seq.);

- b. “**Section 406 Hazard Mitigation Work**” means work, performed in conjunction with the repair of the disaster-damaged portion of the electrical system in Puerto Rico, which reduces the potential of future, similar disaster damages to such system, funded by FEMA under Title IV, Section 406 (Repair, Restoration, and Replacement of Damaged Facilities) of the Stafford Act (Title 42 of the United States Code, Sections 5172, et seq.); and

- c. “**Section 428 Project**” means a project for the repair, restoration, and replacement of damaged facilities forming part of the electrical system in Puerto Rico, funded by FEMA under Title IV, Section 406 (Repair, Restoration, and Replacement of Damaged Facilities) of the Stafford Act (Title 42 of the United States Code 5172, et seq.) administered according to alternative procedures adopted under Title IV, Section 428 (Public Assistance Program, Alternative Procedures) of the Stafford Act (Title 42 of the United States Code, Sections 5189 et seq.), which includes, among other things, making grants on the basis of fixed cost estimates.

1.2 Commencement of Services. Consultant shall not commence the performance of Services relating to a Stafford Act-Funded Project unless and until a Task Order covering such project has been executed by the Parties. Consultant acknowledges

and agrees that PREPA has no obligation to (a) enter into any Task Order under this Contract, or (b) remit payment for Services rendered in relation to any Stafford Act-Funded Project except for those Services performed pursuant to a duly executed Task Order relating to such project.

1.3 Cooperation. At the direction of PREPA, the Consultant may be required to work with other consultants, contractors, suppliers or other type of firms. Consultant shall cooperate with PREPA's other consultants, contractors, suppliers or other type of firms and ensure that its activities do not interrupt or interfere with the work of such other consultants, contractors, suppliers or other type of firms.

1.4 As Required Task Orders. Consultant acknowledges that (a) Services may be performed pursuant to multiple Task Orders relating to the Stafford Act-Funded Projects "as required" on a regional basis (*i.e.* for all types of facilities – transmission, distribution, substations, etc. – in a region) or by type of facility (*i.e.* 230/115kV transmission lines), and (b) PREPA reserves the right to engage multiple consultants for professional design, architectural and engineering services that relate to the same Stafford Act-Funded Project, depending on the construction contracting method selected by PREPA for such project.

1.5 Design Documentation. For each final submission by Consultant of design drawings and specifications for a Stafford Act-Funded Project under this Contract, Consultant shall ensure that (a) a Professional Engineer, registered in the Commonwealth of Puerto Rico, who serves as a member of the College of Engineers and Land Surveyors of Puerto Rico in the discipline applicable to such submission, shall have signed and sealed such submission, and (b) such design complies with the DCD (as



defined in Section 3.1 of Annex A), Federal, state, and local regulations and all applicable laws and permits.

Article 2 Services Coordination

2.1 General. The Consultant shall coordinate all of the Services of Consultant in relation to the terms and conditions of this Contract through the PREPA Representative (defined below) or the person delegated by the PREPA Representative in writing.

2.2 PREPA Representative. PREPA designates Mireya Rodriguez Fernandez as its representative and single point of contact with respect to the Contract, and who shall have complete authority to act on behalf of PREPA on all matters pertaining to the Services, including giving instructions and making changes thereto (the “**PREPA Representative**”). PREPA shall provide Consultant with prompt written notice of any change in PREPA's designation of its representative.

2.3 Consultant Representative. Consultant designates Vincent T. Heinz as its representative and single point of contact with respect to the Contract, and who shall have complete authority to act on behalf of Consultant on all matters pertaining to the Services, including signing any amendments or written change orders (the “**Consultant Representative**”). Consultant shall promptly provide PREPA with written notice of any change in the Consultant Representative, which change will be subject to PREPA's prior written approval, which shall not be unreasonably withheld. If, at any time, PREPA objects to the newly designated Consultant Representative, then Consultant shall replace such representative with a person reasonably acceptable to PREPA.



Article 3 Subcontracts

3.1 General. The Consultant shall not subcontract any of its rights and obligations under this Contract without PREPA's prior written authorization. Annex C (*Approved Subcontractors*) sets forth the list of subcontractors pre-approved by PREPA for the performance of certain portions of the Services as specified therein. PREPA shall have the discretion to reject any proposed subcontractor not listed in Annex C for any reason whatsoever. In each case where Consultant enters into a subcontract with an approved subcontractor for the performance of any portion of the Services, Consultant shall (a) deliver to PREPA an unredacted, certified true and correct copy of the execution version of such subcontract, no later than five (5) days after the execution of such subcontract, and (b) ensure that such subcontract includes as a condition for its legal validity and enforceability (i) a provision whereby PREPA has the right to substitute, subrogate or assume Consultant's rights under the subcontract, in the event that PREPA declares the Consultant in default under Section 5.2 (*For Default*) or material breach of any of the Contract terms and conditions, and (ii) a provision establishing for the subcontractor the obligation to comply with all Consultant's obligations under the Contract (*mirror image clause*) as and to the extent such obligations are applicable to the performance of Services under such subcontract. Consultant shall invoice for Services performed by subcontractors in accordance with the position titles and rates stated in Section 6.2 (*Rates*), and the related amounts shall count toward the Contract Amount.

3.2 Certifications. For each subcontractor that enters into a subcontract with Consultant for the performance of any part of the Services, Consultant shall provide PREPA with such subcontractor's certificate of formation and good standing certificates

as proof that they are duly authorized to do business in Puerto Rico and have complied with its annual corporation report filing obligations. Consultant shall ensure and certify to PREPA that all of its authorized subcontractors comply with Puerto Rico laws and regulations, specifically those provisions related to the required government certifications.

3.3 Debarred & Suspended Parties. Consultant shall not award any subcontract (see 2 CFR 180.220) to a party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

3.4 Liability. Consultant shall be fully responsible to PREPA for the performance of any work or services by any subcontractor as well as for the acts and omissions of subcontractors, their directors, officers, agents and representatives, and of persons directly or indirectly employed by any of them.

3.5 No Third-Party Beneficiary. No subcontractor shall be intended to be or shall be deemed a third-party beneficiary of this Contract.

3.6 No Contractual Relationship. Nothing contained herein shall (a) create any contractual relationship between any subcontractor and PREPA, or (b) obligate PREPA to pay or cause the payment of any amounts to any subcontractor.

Article 4 Contract Term

The term of this Contract shall extend from the date ("**Effective Date**") of satisfaction by Consultant, and/or waiver by PREPA, of the conditions precedent set forth in Annex D (*Conditions Precedent*) (as evidenced by a certificate signed by an authorized representative of PREPA in the form set forth in Annex E (*Form of Conditions Precedent Certificate*)) until June 30, 2021 ("**Contract Term**"). Consultant shall satisfy all such conditions precedent upon, and in any case no later than fifteen (15) days after, signing this Contract. At the exclusive option of PREPA and subject to the availability of funds and authorizations required by PREPA, PREPA may, with at least sixty (60) days prior written notice, (a) elect to extend the Contract Term for an additional annual fiscal period, for a maximum extension of two (2) annual fiscal periods after the end of the original Contract Term, or (b) require Consultant to enter into a new professional services agreement upon the same terms and conditions as set forth in this Contract; provided, however, in either case of (a) or (b), the Parties shall agree upon a reasonable adjustment to the rate schedule set forth in Section 6.2 (*Rates*) for the extended or new Contract Term, as applicable.

Article 5 Termination

5.1 For Convenience. PREPA shall have the right to terminate this Contract or any Task Order in whole or in part, at any time, with at least thirty (30) days prior written notice by registered mail, return receipt requested, or overnight express mail to the Consultant. If such notice is given, the Contract shall terminate upon the expiration of the thirty (30) days, and PREPA shall be obligated to pay all fees and expenses incurred up to the day of effective termination and through demobilization (if applicable), and




reasonable cancellation charges (if applicable) by subcontractors set forth in the applicable subcontract pre-approved by PREPA in writing prior to the execution of such subcontract, in accordance with and subject to the terms of this Contract. The rights, duties and responsibilities of the Parties shall continue in full force and effect during the thirty (30) day notice period. The Consultant shall have no further right to compensation for the terminated portion of the Contract except for what has been accrued for Services properly rendered and expenses properly incurred under the Contract until said date of effective termination.

5.2 For Default. PREPA shall have the right to terminate this Contract, or any Task Order, upon the occurrence of any of the following events: (a) Consultant's negligence or dereliction of duties; (b) Consultant's breach of any of the provisions of this Contract concerning assignment or subcontracting, (c) Consultant's material breach of any representation, warranty or other obligation arising out of this Contract; (d) a prolonged delay caused by Consultant in performing its obligations hereunder or any Task Order; (e) failure to carry out an instruction from PREPA in relation to the performance of the Services; (f) Consultant's failure to comply, or act or omission that causes PREPA to fail to comply, with any applicable laws, and (g) the commencement of any insolvency, receivership or bankruptcy proceedings by or against Consultant; or (h) abandonment or repudiation by Consultant of this Contract or any Task Order. Termination of the Contract shall take effect fifteen (15) days from the date of delivery to Consultant of a notice of termination for default from PREPA, confirming the occurrence of any of the foregoing events, unless Consultant cures such default prior to the lapse of such fifteen (15) day period or proceeds diligently with a cure in the event such default is not reasonably

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capable of being cured within the fifteen (15) day period (but in no event longer than an additional fifteen (15) days). A termination under this Section 5.2 (*For Default*) and Consultant's liability for additional costs and expenses shall be without prejudice to other remedies which may be available to PREPA under this Contract, at law, or otherwise. If any court or tribunal finds that any termination by PREPA of this Contract for default under this Section 5.2 (*For Default*) failed to comply with the requirements of this Contract or otherwise deems such termination unenforceable, then such termination for cause shall be deemed to be a termination for convenience under Section 5.1 (*For Convenience*).

5.3 Post-Termination Obligations. Upon a termination by PREPA of this Contract or any Task Order, Consultant shall: (a) discontinue the performance of the terminated Services in an orderly manner; (b) issue no further subcontracts with respect to such terminated Services, except with the written consent of PREPA; (c) assign to PREPA those subcontracts for which PREPA requests assignment in writing; (d) procure cancellation terms satisfactory to PREPA of all subcontracts affected by such terminated Services that are not assigned to PREPA; (e) cooperate with PREPA in the efficient transition of the terminated Services and Deliverables; (f) properly protect and secure the Services as required by PREPA; (g) promptly forward to PREPA all Work Product (as defined in Section 12.1 (*Title*)), developed or conceived by Consultant prior to the date of such termination; and (h) take any other action with respect to the terminated Services which PREPA may reasonably direct. For the avoidance of doubt, PREPA shall not be liable for any cancellation charges under any circumstances, except for reasonable cancellation charges by subcontractors as expressly set forth in Section 5.1 (*For Convenience*).



5.4 Payment. In the event of termination of this Contract, Consultant shall, as its sole and exclusive remedy, be entitled to payment as follows:

- a. In the event PREPA terminates this Contract for default pursuant to Section 5.2 (*For Default*), PREPA shall pay Consultant only the compensation earned to the time of notice of termination, less any additional costs and expenses incurred by PREPA by reason of such breach, including additional costs incurred by having to obtain a replacement consultant to complete the Services.
- b. In the event that PREPA terminates this Contract for convenience pursuant to Section 5.1 (*For Convenience*), PREPA shall owe Consultant only the compensation earned up to the time of notice of such termination plus reasonable, direct close-out costs that have been appropriately supported by Consultant through written documentation and which costs are necessary to bring the Services to an orderly conclusion.
- c. In no event shall PREPA be liable to Consultant for any unabsorbed overhead, contingency, risk, or anticipatory profit as a result of any termination or expiration of this Contract.

Article 6 Payment

6.1 Contract Amount. In accordance with the terms and conditions contained herein, PREPA agrees and Consultant accepts that the total amount to be paid under the Contract shall not exceed a cumulative amount of six million one hundred thousand U.S. dollars (\$6,100,000), including reimbursable expenses (the "**Contract Amount**"). PREPA shall charge all payments under this Contract to its internal account no. 01-1747-

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17556-555-664. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be required to make advance payments for any future service to be rendered by Consultant under the Contract. Nothing herein shall preclude the Parties from agreeing to increase said amount in writing and signed by both Parties.

6.2 Rates. PREPA will pay for the Services rendered by Consultant according to the following fixed hourly rate schedule:

TITLE	HOURLY RATE (USD)
Program Manager	\$ 246.00
Project Manager	\$ 186.54
Administrative Manager	\$ 133.24
Design Manager	\$ 169.12
Documents Control Manager	\$ 107.62
Environmental & Permitting Compliance Mgr	\$ 153.74
Health and Safety Manager	\$ 138.38
Information Technology Mgr	\$ 112.74
Project Control Manager (schedule, costs)	\$ 153.74
Archaeologist	\$ 158.88
Architect	\$ 143.50
Biologist	\$ 158.88
Civil Engineer - Power Line Design	\$ 126.08
Civil Engineer - Substation Design	\$ 126.08
Computer Aided Design Drafter	\$ 92.24
Document Control Specialist	\$ 87.12
Electrical Engineer - Substation Design	\$ 126.08
Engineering Discipline Lead	\$ 145.54

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TITLE	HOURLY RATE (USD)
Environmental & Permitting Specialist	\$ 148.62
Geotechnical Engineer	\$ 153.74
Health and Safety Officer	\$ 123.00
Hydrological / Hydraulic Engineer	\$ 153.74
Information Technology Specialist	\$ 97.38
Office Coordinator, Supervisor of Admin Personnel	\$ 92.24
Project Controls Specialist (schedule, costs)	\$ 128.12
Secretary, Administrative Support	\$ 82.00
Skilled Labor	N/A
Structural Engineer	\$ 126.08
Surveyor	TBS
Unskilled Labor	N/A

6.3 Notification. The Consultant shall promptly notify PREPA in writing when the billing under the Contract amounts to seventy-five percent (75%) of the Contract Amount. Upon the issuance of such written notification, the Consultant, in coordination with PREPA, will ensure that the aggregate invoice amounts for all Services rendered shall never exceed the Contract Amount, except when authorized by written amendment agreed upon by both Parties. In addition, the Consultant shall present an itemized list of the remaining billable Services under the Contract.

6.4 Withholding. Consultant acknowledges and agrees that PREPA may, in addition to any other rights under this Contract, deduct or withhold any amount due or payable under this Contract that Consultant owes or that PREPA disputes, including

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amounts related to any loss due to: (a) liens or other encumbrances on all or a portion of PREPA's property which are filed by Consultant or any subcontractor or any other person or entity acting through or under any of them; (b) a claim arises for warranty or defects regarding the Services rendered or goods provided under this Contract and Consultant fails to resolve such claim in accordance with Section 13.2 (*Corrective Work*); (c) any uncured material breach by Consultant of any term or provision of this Contract; (d) the assessment of any fines or penalties against PREPA as a result of Consultant's failure to comply with applicable laws; (e) amounts incorrectly paid by PREPA to Consultant in any prior invoice or for which there was insufficient or inaccurate supporting information; (f) failure of Consultant to make payments to subcontractors as required under their respective subcontracts; or (g) other costs or liabilities which PREPA has incurred for which Consultant is responsible.

Article 7 Fees, Expenses and Disbursements

7.1 Non-Billable Time. PREPA should not be billed for (a) time spent in processing conflict searches, or preparing billing statements, or in responding to PREPA inquiries concerning Consultant's invoices; or (b) travel time (except to the extent Consultant is performing Services under this Contract during such travel time). Moreover, PREPA requires that only services be billed on an hourly basis in accordance with Consultant's fixed hourly rate schedule. Accordingly, PREPA shall not be billed for the administrative tasks of creating, organizing, reviewing and/or updating files; receiving, reviewing, and/or distributing mail; faxing or copying documents; checking electronic mail or converting information to disk, not directly related to the Contract.



7.2 Reimbursable Expenses. Subject to Section 7.3 (*Non-Reimbursable Expenses*), PREPA shall reimburse the Consultant for actual costs and expenses related to matters assigned to Consultant and for necessary and reasonable out-of-pocket disbursements, subject to the limitations and exceptions set forth below. The Consultant shall maintain a system in place that requires those who bill time and disbursements to PREPA matters do so promptly and accurately.

7.3 Non-Reimbursable Expenses. PREPA will not reimburse Consultant for: (a) costs included in a “miscellaneous” or “other” category of charges; (b) overhead costs and expenses for overtime expended by support staff (secretaries, administrative/clerical personnel, internal messengers, and other similar services) other than at the rates set out for such staff in Section 6.2 (*Rates*), word processing and/or proofreading, cost of supplies or equipment, and/or other similar costs of doing business; (c) time spent attending education seminars or training programs; or (d) mark-ups or surcharges on any cost or expenses. In addition, if communications are sent to PREPA using more than one medium, PREPA does not expect to pay for the cost of both communications. For instance, if Consultant sends a piece of correspondence to PREPA by email, PREPA shall not reimburse Consultant for the cost of that same correspondence sent via regular or expedited mail.

7.4 Additional Reimbursable Expenses. PREPA will reimburse Consultant for separately itemized expenses and disbursements, supported by reasonable documentation, in the following categories:

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- a. Messenger/courier service - PREPA will reimburse actual charges billed to Consultant for deliveries (including overnight deliveries) where this level of service is required because of time constraints imposed by PREPA or because of the need for reliability given the nature of the items being transported. Appropriate summaries of messenger/courier expenses must reflect the date and cost of the service and the identity of the sender and the recipient or the points of transportation.
- b. Travel - Subject to the provisions for per diem in paragraph (f) below, PREPA will reimburse actual charges for transportation and hotels reasonable and necessary for effective services to PREPA. PREPA will not pay for any first-class or business-class travel. Summaries of transportation expenses should reflect the identity of the user, the date and amount of each specific cost, and the points of travel. Summaries of lodging expenses should include the identity of the person making the expenditure, the date and amount, and the nature of the expenditure.
- c. Travel expense reimbursement applies to personnel providing the Services to PREPA; travel expenses for family members or guests are not chargeable to PREPA or reimbursable.
- d. Air Travel - The cost of air travel will be reimbursed up to an amount that is no more than the advanced purchase of the lowest available economy airfare (including applicable taxes). The Consultant shall submit a copy of the original airline itinerary and paid invoice. Airfare may only be invoiced following completion of travel. In the event that a scheduled trip has to be



cancelled or rescheduled by PREPA's order, PREPA will assume the cost of the penalty fee.

- e. Airfare necessary to attend PREPA's official business will be paid by PREPA according to these guidelines.
- f. Maximum Per Diem Rates:
 - i. Meals: - eighty U.S. dollars (\$80) per person for each day for persons travelling or working in Puerto Rico or other location as directed and approved by PREPA under the Contract. PREPA will not reimburse for alcoholic beverages;
 - ii. Lodging (standard non-smoking room): - two hundred fifty U.S. dollars (\$250) per person, per night including government fees and taxes. The Consultant may use an economical alternative of lodging, including temporary rentals of apartments or rooms (Airbnb like rentals). For any travel period longer than five (5) days, temporary rentals shall be coordinated when this temporary rental (including all taxes and applicable fees) is less expensive than hotel accommodation, and evidence of said temporary rental shall be provided; and
 - iii. Ground Transportation in Puerto Rico: - shall be reimbursable at cost, including Uber type services, taxis or car rentals (rental cars require a previous approval by PREPA) and associated driving expenses such as, but not limited to parking fees, highway tolls, and fuel.

- g. Reimbursable expenses shall not exceed ten percent (10%) of the Contract Amount in one (1) year and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses.
- h. Photocopying/printing - PREPA will reimburse actual charges for in-house or outside binding, and printing services and costs of photocopying services, which are not to exceed the actual five cents (\$0.05) per page for black and white copies, and twenty-five cents (\$0.25) per page for color copies. Summaries of expenditures for copying should reflect both the number of copies made and the cost per copy.
- i. Third-Party Services - The approval of PREPA must be obtained in writing prior to retaining any third-party services (excluding subcontractors, which is governed by Article 3 (*Subcontracts*) above). The Consultant shall be responsible for requiring that there is no Conflict of Interest (defined below) between any third party and PREPA or between any third-party clients and PREPA. In addition, all arrangements with third-party vendors should include an appropriate undertaking of confidentiality and data privacy. Invoices from third-party vendors should be paid directly by Consultant, incorporated into its invoice to PREPA and should include appropriate detail. Copies of third-party invoices may be requested by PREPA and should be retained in accordance with PREPA's guidelines.
- j. PREPA reserves the right to question the charges on any bill (even after payment) and to obtain a discount or refund of those charges that are not in compliance with the terms of the Contract. At PREPA's request, copies

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of bills and records reflecting reimbursable expenses that are not specifically listed in Article 7 (*Fees, Expenses and Disbursements*) as per diem shall be provided.

Article 8 Invoices

8.1 Invoicing Procedure.

- a. Consultant shall submit its invoices on a monthly basis for the work already performed during the preceding month. Consultant will provide to PREPA an invoice for each billing period which will include a description of the Services rendered and the number of hours spent by each person, and all supporting documentation (including the relevant Task Order(s), monthly summary sheet, invoices and receipts, certifications, and other reasonable documentation) as reasonably required by PREPA. The invoice for professional services shall be itemized and must be duly certified by an authorized representative of the Consultant.
- b. Together with each invoice, Consultant shall report all personnel costs on monthly summary sheets, which shall (a) reference the Task Order to which it relates; (b) include the classifications as per Section 6.2 (*Rates*) of the Contract, and (c) include the following information with regards to each individual, at a minimum: (i) detailed information of the Services performed, (ii) the number of hours worked daily; and (iii) the state, territory or province where the Services were performed, for each personnel. The monthly summary sheets shall be used to monitor the progress of the Services.



8.2 Invoice Review. PREPA will review the invoices and notify Consultant in writing of any invoicing issues within forty-five (45) days after receipt thereof. Upon PREPA's request, Consultant shall furnish such further information as may be reasonably requested by PREPA. Unless disputed in writing by PREPA within such forty-five (45) day period, and if each invoice is in compliance with the requirements set forth in this Contract, PREPA will proceed with payment of all undisputed amounts owed. Payment of undisputed amounts owed will be due sixty (60) days after receipt of Consultant's invoice and all required supporting documentation and certifications. PREPA reserves the right to conduct the audits to the extent necessary to verify the accuracy of such invoices, and it will not be subject to finance charges regarding invoice payments subject to an audit.

8.3 Invoice Certification. All invoices submitted by Consultant shall be substantially in the form of Annex H. Consultant shall make, and shall require that subcontractors providing Services (who must be approved by PREPA) also make the following certification in any invoices submitted in connection with the Services:

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No Interest Certification:

"We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Contract. The only consideration to be received in exchange for the performance of the Services provided is the agreed-upon price that has been negotiated with an authorized representative of PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received".

Consultant's Signature

This is an essential requirement and those invoices without this certification will not be processed for payment.

8.4 Consultant's Suspension for Non-Payment.

- a. Notwithstanding anything to the contrary in this Contract, Consultant shall have the responsibility at all times to prosecute the Services diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Services to be delayed; provided, however, subject to PREPA's right to withhold or offset payment to Consultant under this Contract, if PREPA fails to pay undisputed invoiced amounts due and owing to Consultant exceeding two hundred fifty thousand U.S. dollars (\$250,000) and PREPA has failed to cure such failure within thirty (30) days after Consultant's written notice to PREPA to cure such failure, Consultant may suspend performance of Services under the applicable Task Order until Consultant receives payment for such undisputed invoiced amounts.
- b. Section 8.4a sets forth Consultant's sole right to suspend the Services under a Task Order.

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- c. If PREPA disputes any portion of an invoice, then such dispute shall be resolved in accordance with Article 28 (*Dispute Resolution*).
- d. In the event the Services are suspended in accordance with Section 8.4a, Consultant will be entitled to a change order adjusting only the scheduled completion date(s) as set forth in the applicable Task Order to the extent such suspension impacts Consultant's performance of the Services under such Task Order.

Article 9 Assignment & Transfer

9.1 Funds. If Consultant decides to assign or transfer funds, due or payable, to which it is entitled for Services rendered or goods provided during the Contract Term, Consultant shall notify PREPA of such assignment, in accordance with the provisions of Act 21-2012. Said notice shall clearly indicate the rights granted, including a copy of the contract under which the assignment or transfer of such receivable is made, the exact amount to be assigned or transferred, and specific identification information regarding the assignee (full name of the person or company), address and any other contact information. Consultant also acknowledges and agrees that PREPA's payment obligation under any assignment of funds will cease upon payment of the outstanding amounts under this Contract. PREPA shall not be required to make payments or transfer any funds for an amount that exceeds the payment to which Consultant is entitled under this Contract. Consultant shall include with its notice of assignment pursuant to this Section 9.1 (*Funds*), a cashier's check or money order for two hundred dollars (\$200), payable to "Puerto Rico Electric Power Authority", to cover administrative costs in processing such assignment. Except as otherwise set forth in this Section 9.1 (*Funds*),



Consultant shall not assign or transfer any of its rights or obligations under this Contract without the prior written approval of PREPA.

9.2 Transformation. The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that in the eventuality of the execution of a Partnership Contract, Sale Contract, or any other PREPA Transaction (as these terms are defined in Act 120-2018), PREPA may sell, assign, convey, transfer, pledge, mortgage, sublease, delegate, hypothecate, or otherwise dispose (each, a “Transfer”) any of its rights, title, or interest in this Contract as permitted by applicable law and at any time, and without Consultant’s consent or cost, expense or incremental liability to PREPA or Consultant, to any future operator of Puerto Rico’s electric power transmission and distribution system or any of its affiliates, or to any governmental agency, body, public corporation, or municipality of Puerto Rico; provided, that PREPA shall notify Consultant no later than thirty (30) days before the effective date of any such Transfer. Consultant shall execute any document reasonably required by PREPA to formalize such Transfer. -----

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Article 10 Information and Material Facts

10.1 General. Except for certain information expressly identified as rely upon information in a separate exhibit to a Task Order (“**Rely Upon Information**”), Consultant shall review and verify any and all information provided by or on behalf of PREPA or otherwise made available to Consultant (including, without limitation, engineering information, design information, soil testing and subsurface investigations).

In either case, PREPA will exercise reasonable efforts to advise Consultant in writing of any developments of which PREPA becomes aware, and which PREPA considers may have a material effect with respect to the information and/or facts provided to Consultant.

10.2 Exclusions. Notwithstanding anything to the contrary, Rely Upon Information shall not include (a) information provided by or on behalf of PREPA after the effective date of the applicable Task Order, (b) the information in Annex A, or (c) the scope of Services under the applicable Task Order. Documents referenced in or attached to a “Rely Upon Information” document are not themselves “Rely Upon Information” unless specifically designated as such.

Article 11 Information Disclosure and Confidentiality

11.1 Confidentiality. Consultant shall keep confidential, and use only for the purposes contemplated by the terms of the Contract, the confidential information (as defined below). Consultant shall maintain all PREPA confidential information in strict confidence and take all reasonable steps to ensure that neither it nor any of its subcontractors, nor any employee, representative, advisor or agent of Consultant or a subcontractor, discloses or distributes such information in violation of the terms of this Contract.

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11.2 Non-Disclosure. Consultant agrees that, except as otherwise authorized in writing by PREPA, Consultant will not, and ensure that each of its subcontractors will not, at any time after the expiration or early termination of this Contract disclose any confidential information to any person whatsoever, or permit any person whatsoever to examine and/or make copies of any reports prepared by Consultant or a subcontractor until the fifth (5th) anniversary of the date of final payment by PREPA under this Contract. Upon the expiration or early termination of this Contract, Consultant will turn over to PREPA all documents, papers, and other matters in its and each subcontractor's possession or under its or a subcontractor's control that relate to the performance of the Services. Notwithstanding the foregoing, Consultant may retain one file copy of any confidential information for its records, other than in respect of any critical energy infrastructure information ("CEII"), which must be returned to PREPA as set forth herein.

11.3 Confidential Information. The term "confidential information" shall include, but not be limited to, all information (a) provided to Consultant by or on behalf of PREPA labeled "confidential," "proprietary," or a similar designation (b) in connection with PREPA's business affairs, trade secrets, facilities or operations, and CEII gathered by Consultant, and (c) Work Product (defined below) produced by Consultant. The term "confidential information", however, will not include information that:

- a. is or becomes public other than through a breach of this Contract;
- b. is known to Consultant prior to the date of this Contract and with respect to which Consultant does not have any obligation of confidentiality; or
- c. is independently developed by Consultant without use of, or reference to, confidential information.

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11.4 Injunctive Relief. Consultant acknowledges that disclosure of any confidential information of PREPA will give rise to irreparable harm to PREPA which is inadequately compensable in damages. Accordingly, PREPA may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies, which may be available. Nothing herein shall be construed as prohibiting PREPA from pursuing any other legal remedies available, including the recovery of compensatory damages from Consultant.

11.5 Exclusion. The above provisions do not apply with respect to information, which Consultant must disclose under applicable law and regulations, court order, subpoena or governmental directives, in which case Consultant shall provide PREPA prompt notice of such request in order to procure for PREPA a reasonable opportunity to oppose such disclosure. Consultant agrees (if permitted by law) to expeditiously notify and submit to PREPA a copy of any court order or subpoena and to the extent possible provide any reasonable assistance to PREPA (in the form of documents) related to responding to any such court order or subpoena.

Article 12 Rights and Title to Work Product

12.1 Title. Subject to Section 12.2 (*Rights*), all reports, documents, analyses, investigations and any other work product or by-product (including Deliverables) (collectively, "**Work Product**") conceived or developed by the Consultant as a part of the Services under this Contract shall constitute "*works made for hire*" and all rights, titles and interest in Work Product shall vest in PREPA (irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product) as and when PREPA compensates Consultant as required by Article 6

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(*Payment*) for such Work Product. PREPA shall have the right to use, modify, copy, refer, share, disclose or provide to any third party, as PREPA may determine, the Work Product without further consideration or Consultant's consent. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for PREPA or if ownership of all right, title and interest in the Work Product would not otherwise vest in PREPA upon payment therefor, then Consultant shall, subject to Section 12.2 (*Rights*) and payment as required by Article 6 (*Payment*), assign such ownership and copyrights in the Work Product, regardless of whether fully or partially complete, to PREPA without further consideration, and PREPA shall thereafter own all right, title and interest in the Work Product, including all copyright interests. In the event that PREPA subsequently uses or modifies any Work Product (including any Consultant Intellectual Property and Subcontractor Intellectual Property contained therein, as both are defined in Section 12.2 (*Rights*)) for any other project not covered by this Contract, without Consultant's direct involvement or written authorization, (a) PREPA will, where permitted by law, remove the original professional seals, trademarks, logos, and other indications on the Work Product that identifies Consultant, its employees, and its subcontractors, and (b) such use of the Work Product (including any Consultant Intellectual Property and Subcontractor Intellectual Property contained therein) shall be at PREPA's sole risk.

12.2 Rights. As between PREPA and Consultant, Consultant shall retain ownership of all proprietary intellectual property rights owned by Consultant or its affiliates outside this Contract, including all pre-existing proprietary standards, specifications, drawings, reference materials, software, program settings, methodologies, know-how or other engineering tools used, modified or adapted for performance of the Services

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(collectively, "**Consultant's Intellectual Property**") and nothing in this Section 12.2 (*Rights*) shall result in a transfer of ownership of any Consultant's Intellectual Property or the proprietary intellectual property owned and developed by a Consultant subcontractor outside this Contract ("**Subcontractor Intellectual Property**").

12.3 License. With respect to such Consultant's Intellectual Property and Subcontractor Intellectual Property relating to the Work Product, Consultant hereby grants PREPA an irrevocable, non-exclusive, perpetual and royalty-free license with rights to sublicense (including the right to assign its rights without further consent) to use, modify (except any proprietary software of Consultant or any subcontractor), copy, and disclose such Consultant's Intellectual Property and Subcontractor Intellectual Property for any purpose. All subcontracts shall contain provisions consistent with this Section 12.3 (*License*). Consultant warrants that it is entitled to grant licenses under any Consultant's Intellectual Property and Subcontractor Intellectual Property necessary for PREPA to exploit and have exploited its full rights regarding the use of Consultant's and any subcontractor's work product (including Deliverables) for any purpose. Notwithstanding the foregoing, PREPA covenants not to modify, prepare derivative works of, reverse engineer, or otherwise decompile any of Consultant's Intellectual Property (including proprietary software) or Subcontractor Intellectual Property except as and only to the extent required by law.

12.4 PREPA Materials. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by PREPA or other consultants, suppliers or contractors shall, as between PREPA and Consultant, at all times remain the property of PREPA, and Consultant shall not make use of any such

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documents or other media for any other project or for any other purpose than as set forth herein. All such documents and other media, including all copies thereof, shall be returned to PREPA upon the earlier of completion of the Services or the termination of this Contract, except that Consultant may, subject to its confidentiality obligations retain one record set of such documents or other media.

12.5 Indemnity. Consultant shall defend, indemnify and hold harmless PREPA for any suit or action brought by a third party against either Party based on a claim that any Work Product or use thereof violates or infringes on any domestic or foreign patent, copyright, trademark, intellectual property (or any by-product of the foregoing), or constitutes an improper use of third party confidential information. The Party subject to the claim or that becomes aware of a potential claim shall promptly notify in writing the other Party, and give the authority, information, and assistance reasonable and necessary for the defense of such claim.

Article 13 Warranties

13.1 General. Consultant warrants that:

- a. it has the necessary expertise, including enough and competent supervisory and other personnel and all necessary facilities to efficiently and timely perform and complete the Services;
- b. it has satisfied itself as to the Contract requirements and general nature of the scope of Services, as well as the general and reasonably observable location conditions, and Consultant is familiar with all other matters which could affect the performance of the Services;



- c. it shall perform the Services in accordance with the applicable standards of care and diligence at the time of performance of the Services, normally practiced and recognized by national professional engineering firms in performing services of a similar nature;
- d. it shall perform the Services in accordance with all applicable laws, applicable codes and standards (including Design Criteria Documents (as defined below)), approvals and permits; and
- e. the Services will comply with the requirements of (i) the Contract, (ii) RFP 99708 Professional Architectural Engineering Services, issued by PREPA on December 4, 2019 (as updated and clarified by PREPA thereafter, the “RFP”), and (iii) to the extent that PREPA instructions pursuant to any Task Order so require, the Performance Metrics, the System Operation Principles and the System Remediation Plan, in each case as the Transmission and Distribution System Operation and Maintenance Agreement, dated June 22, 2020, between PREPA and the Operator thereunder define such terms (collectively, as amended, revised and/or updated from time to time, the “T&D System Operator Requirements”), provided that to the extent of any conflict between the terms and conditions of this Contract and the T&D System Operator Requirements, Consultant shall exercise reasonable efforts to notify PREPA thereof and the provisions of this Contract shall prevail unless otherwise agreed in writing.

13.2 Corrective Work. In the event that any part of the Services provided by Consultant fail to comply with the warranties set forth in Section 13.1 (*General*), whether

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based in contract or tort, Consultant shall re-perform such deficient Services, at its own and exclusive cost, as promptly as reasonably practicable; provided that PREPA shall have notified Consultant of such non-compliance no later than (a) sixty (60) days from the date on which a member of PREPA's senior management first became aware of such non-compliance, but (b) in no event later than the second (2nd) anniversary of the completion or earlier termination of the applicable Task Order (collectively, the "**Warranty Period**"). Without limitation to Consultant's indemnification obligations under this Contract or PREPA's rights pursuant to Section 5.2 (*For Default*), the re-performance of deficient Services by Consultant shall be understood as a waiver by PREPA to any other remedy it may have under this Contract or under the law or equity for any damages that Consultant may have caused to PREPA by breach of warranty under Section 13.1 (*General*), except in the event Consultant fails to re-perform as promptly as reasonably practicable any deficient Services in accordance with this Section 13.2 (*Corrective Work*), in which case PREPA will be entitled to obtain a replacement consultant to re-perform such Services at Consultant's expense. Upon the expiration of the Warranty Period, Consultant shall have no remaining obligation to re-perform any Services that PREPA has not identified for re-performance as of the expiration of the Warranty Period.

13.3 Other Warranties. Except as otherwise expressly stated in the Contract, no other warranty, express or implied, is made or intended by this Contract, by furnishing oral or written reports of findings made, or by any other act of Consultant.

Article 14 Responsibility for Damages

The Parties agree that their responsibilities for damages under this Contract will be governed in accordance with Article 19 (*Applicable Law and Venue*).



Article 15 Independent Contractor

Consultant shall be considered as an independent contractor, for all material purposes under this Contract, and all persons engaged or contracted by Consultant for the performance of its obligations herein (other than a subcontractor), shall be considered as its employees or agents, and not as employees or agents of PREPA. As an independent contractor, Consultant shall not be entitled to any fringe benefits, such as, but not limited to vacation, sick leave, and to which PREPA's employees are entitled.

Article 16 Employees Not to Benefit

No officer, employee or agent of PREPA, nor of the Government of the Commonwealth of Puerto Rico or its Municipal Governments shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

Article 17 Conflict of Interest

17.1 No Conflict. Consultant certifies that none of its representatives under this Contract receive payment or compensation of any nature, for the services regularly rendered through an appointment in another government agency, body, public corporation or municipality of Puerto Rico. Consultant also certifies that it may have other consulting services contracts with other governmental agencies or bodies, but such condition does not constitute a Conflict of Interest (as defined below) for Consultant.

17.2 Loyalty. Consultant acknowledges that in executing its Services pursuant to this Contract it has a duty of loyalty towards PREPA which includes not having a Conflict of Interest. "Conflict of Interest" means representing clients who have or may have interests that are contrary to PREPA but does not include rendering services that are unrelated to the Services covered in this Contract. Also, Consultant shall have the



continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons that would result in a Conflict of Interest.

17.3 Conflicts. The Parties understand and agree that a Conflict of Interest exists when Consultant must advocate a position or outcome on behalf of any existing or future client that is contrary to PREPA's interests. Also, any conduct defined in the rules of professional conduct for professional engineers regarding Conflict of Interests shall apply to Consultant and its personnel.

17.4 Prohibited Conduct. In the event that any of the partners, directors, agents or employees of Consultant or its subcontractors at any tier engaged in providing Services under this Contract should participate in conduct that constitutes a Conflict of Interest, said conduct shall constitute a violation of the prohibitions provided herein.

17.5 Appearances. Consultant's partners, directors, agents or employees and personnel shall avoid even the appearance of the existence of a Conflict of Interest.

17.6 Intervention. Consultant acknowledges that PREPA's Chief Executive Officer shall have the power to intervene with the acts of Consultant and/or its agents, employees, and subcontractors regarding the enforcement of the prohibitions contained herein. In the event that the existence of a Conflict of Interest is discovered, PREPA's Chief Executive Officer shall inform Consultant in writing of PREPA's intention to terminate this Contract within a thirty (30) day period. During said period, Consultant may request a hearing with the Chief Executive Officer to present its arguments regarding the alleged Conflict of Interest. In the event that Consultant does not request such hearing during the specified thirty (30) day period or the controversy is not satisfactory settled during the hearing, this Contract shall be terminated.

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17.7 Representation. Consultant certifies that, at the time of the execution of this Contract, it does not have, nor does it represent anyone who has a Conflict of Interest with PREPA. If such Conflict of Interest arises after the execution of the Contract, Consultant shall notify PREPA immediately.

Article 18 Notices

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy (including electronic mail with confirmation), or postage prepaid, by registered, certified or express mail (return receipt requested) or reputable overnight courier service and shall be deemed given when so delivered by hand, or telecopied, or if mailed, three days after mailing (one business day in the case of express mail or overnight courier service) to the Parties to the following addresses:

To PREPA: Puerto Rico Electric Power Authority
PO Box 364267
San Juan, Puerto Rico 00936-4267

Attention: Chief Executive Officer

To Consultant: Sargent & Lundy Puerto Rico, L.L.C.
55 East Monroe Street
Chicago, Illinois 60603-5780

Attention: Vincent T. Heinz
Manager

Article 19 Applicable Law and Venue

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico, including the Civil Code and its case law as dictated by the Supreme Court of Puerto Rico, and any applicable federal law. Also, the Parties expressly agree that the United States District Court for the District of Puerto Rico will be

the only court of competent and exclusive jurisdiction to preside over the judicial controversies that the Parties may have among them regarding the terms and conditions of this Contract.

Article 20 Change in Law

During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, which cause an increase in Consultant's costs when providing the Services, shall be Consultant's responsibility, and PREPA shall not be obligated to increase the Contract Amount or modify the rates included in Section 6.2 (*Rates*). Notwithstanding the foregoing, if a change in law (including a change in applicable tax law of Puerto Rico) after the effective date of a Task Order causes an increase in Consultant's costs or requires additional services to perform Services in progress or complete Deliverables under such Task Order, Consultant shall have the right to seek an equitable adjustment to the Task Order amount and/or applicable scheduled completion date(s) set forth in the applicable Task Order, provided that Consultant did not know, nor should have known, that such change in law would occur following the effective date of such Task Order. This Article 20 (*Change in Law*) sets out Consultant's exclusive remedy for any change in law.

Article 21 Force Majeure

21.1 Performance Excused. The Parties shall be excused from performing their respective responsibilities and obligations under this Contract and shall not be liable in damages or otherwise, if and only to the extent that they are unable to perform or are prevented from performing by an event of force majeure.

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21.2 Force Majeure Event. For purposes of this Contract, force majeure means any cause without the fault or negligence, and beyond the reasonable control of, the Party claiming the occurrence of a force majeure event; provided that such force majeure event (a) delays or prevents the affected Party's performance of its obligations under this Contract; and (b) could not have been prevented or avoided by the affected Party through the exercise of due diligence.

21.3 Additional Force Majeure Events. Force majeure may include, but not be limited to, the following: acts of God, industrial disturbances, acts of the public enemy, war, blockades, boycotts, riots, insurrections, epidemics, pandemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, interruptions of services due to the acts or failure to act of any governmental authority; provided that these events, or any other claimed as a force majeure event, and/or its effects, are beyond the reasonable control and without the fault or negligence of the Party claiming the force majeure event, and that such Party, within ten (10) days after it knew or should have known of the alleged force majeure, gives the other Party written notice describing the particulars of the occurrence and its estimated duration. The burden of proof as to whether a force majeure event has occurred shall be on the Party claiming the force majeure. Notwithstanding the foregoing, any order, ordinance, law, stay at home order, shelter in place order or other proclamation from a governmental instrumentality in relation to an epidemic or pandemic (including COVID-19), and which is effective as of the Effective Date, shall not be considered an event of force majeure.

21.4 COVID-19. Consultant is aware of all requirements established by governmental instrumentalities (including social distancing, use of protective equipment,



any order, ordinance, law, stay at home order, shelter in place order or other proclamation related to COVID-19) and applicable guidelines issued by the Center for Disease Control relating to the COVID-19 pandemic that were issued prior to or as of the Effective Date. Consultant has taken all such requirements and guidelines into account in planning and performing the Services.

Article 22 Novation

The Parties expressly agree that no amendment or change order, which could be made to the Contract during its term, shall be understood as a contractual novation, unless both Parties agree to the contrary, specifically and in writing. The previous provision shall be equally applicable in such other cases where PREPA gives Consultant a time extension for the compliance of any of its obligations under this Contract, or where PREPA dispenses the claim or demand of any of its credits or rights under the Contract.

Article 23 Severability

If a court of competent jurisdiction declares any of the Contract provisions as null and void or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of this Contract, and the Parties agree to comply with their respective obligations under such provisions not included in the judicial declaration.

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Article 24 Save and Hold Harmless

24.1 Indemnities. The Consultant agrees to save and hold harmless and to indemnify PREPA for all expenses and costs of any nature (including reasonable defense costs and attorneys' fees) incurred by PREPA arising out of any claim made by any third party for bodily injuries, including death, or for property damage, to the extent caused by the negligent act or omission of the Consultant (or its subcontractors, or any persons directly or indirectly employed by the Consultant or its subcontractors) in the performance or nonperformance of its obligations under the Contract, but not to the extent caused by the negligence or tort of PREPA or a third party, which is not an employee or subcontractor of the Consultant.

24.2 Notice of Claim. With respect to any indemnity set forth in this Contract, each indemnitee shall give prompt written notice of its receipt of any threat, indication or other notice of any claim, investigation or demand that may give rise to any losses required to be indemnified hereunder and shall reasonably cooperate in the defense by the indemnitee of such claim. The indemnifying party shall have the right, at its election, to conduct the defense of such action at its sole expense.

Article 25 Insurance

The Consultant shall secure and maintain in full force and effect during the Contract Term, policies of insurance covering all operations engaged in by the Consultant as follows:

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a. Commonwealth of Puerto Rico Workmen's Compensation Insurance:

The Consultant shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico. The Consultant shall also be responsible for compliance with said Workmen's Compensation Act by all its sub-contractors, agents, and invitees, if any. The Consultant shall furnish a certificate from the Puerto Rico State Insurance Fund showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance, in accordance with this Contract.

b. Employer's Liability Insurance:

The Consultant shall provide Employer's Liability Insurance with a minimum bodily injury limit of at least \$1,000,000 for each employee and at least \$1,000,000 for each accident covering against the liability imposed by law upon the Consultant as a result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.

c. Commercial General Liability Insurance:

The Consultant shall provide Commercial General Liability Insurance with limits of at least \$1,000,000 per occurrence and at least \$1,000,000 in the aggregate.



d. Commercial Automobile Liability Insurance:

The Consultant shall provide Commercial Automobile Liability Insurance with limits of at least \$1,000,000 combined single limit covering all owned or scheduled autos, non-owned autos, and hired automobiles.

e. Professional Liability Insurance:

The Consultant shall provide Professional Liability Insurance with limits of at least \$1,000,000 per claim and at least \$1,000,000 in the aggregate.

f. Requirements under the Policies:

The Commercial General Liability and Commercial Automobile Liability Insurance required under this Contract shall be endorsed to include:

i As additional insured:

Puerto Rico Electric Power Authority (PREPA)
Risk Management Office
PO Box 364267
San Juan, Puerto Rico 00936-4267

ii A thirty (30) day cancellation or nonrenewable notice to be sent to the above address.

iii An endorsement including this Contract under contractual liability coverage and identifying it by number, date and Parties to the Contract.

iv Waiver of subrogation in favor of Puerto Rico Electric Power Authority (PREPA).

v Breach of Warranties or Conditions:

Consultant covenants that the breach of any of the warranties or conditions in the subject policies by the named insured (i.e. Consultant) shall not prejudice the rights under such policies of the insured person or organization (i.e. PREPA) shown in the applicable policy "Schedule" (as that term is defined therein), or alternatively include the following statement: *"The Breach of any of the Warranties or Conditions in this policy by the Insured shall not prejudice PREPA's rights under this policy."*

g. Furnishing of Policies:

- i All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico where commercially available.
- ii The Consultant shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico where commercially available, describing the coverage afforded.
- iii PREPA may require additional insurance policies and or additional insurance coverage subject to evaluation from the PREPA Risk Management Office and according to the applicable scope of work ("SOW").



Article 26 Compliance with the Commonwealth of Puerto Rico Contracting Requirements

26.1 Compliance with Laws. The Consultant will comply with all applicable state law, regulations or executive orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico, including but not limited to:

- a. Executive Order No. OE-1991-24 of June 18, 1991 to require certification of compliance with the Internal Revenue Services of the Commonwealth of Puerto Rico: Pursuant to Executive Order No. OE-1991-24 of June 18, 1991, the Consultant will certify and guarantee that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. The Consultant further will certify that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. The Consultant shall provide, to the satisfaction of PREPA, and whenever requested by PREPA during the term of this Contract, the necessary documentation to support its compliance with this clause. The Consultant will be given a specific amount of time to produce said documents. During the term of this Contract, the Consultant agrees to pay and/or to remain current with any repayment plan agreed to by the Consultant with the Government of Puerto Rico.

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- b. Executive Order No. OE-1992-52 of August 28, 1992 to require certification of compliance with the Department of Labor of the Commonwealth of Puerto Rico: Pursuant to Executive Order No. 1992-52, dated August 28, 1992 amending OE-1991-24, the Consultant will certify and warrant that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. The Consultant accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every consultant and sub-consultant whose service the Consultant has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.
- c. Government of Puerto Rico Municipal Tax Collection Center: The Consultant will certify and guarantee that it does not have any current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (known in Spanish as *Centro de Recaudación de Ingresos Municipales* ("CRIM")). The Consultant further will certify to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The Consultant shall provide, to the satisfaction of PREPA and whenever requested by PREPA during the term of this Contract, Certification issued by the CRIM, assuring that Consultant does not owe any tax accruing to

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such governmental agency. To request such Certification, Consultant will use the form issued by the CRIM (called "*CRIM-Certificados, Radicación, Estado de Cuenta y Todos los Conceptos*" in the website). The Consultant will deliver any such documentation requested by PREPA. During the Term of this Contract, the Consultant agrees to pay and/or to remain current with any payment plan agreed to by the Consultant with the Government of Puerto Rico with regards to its property taxes.

- d. The Consultant shall provide a Personal Property Tax Filing Certification, issued by the CRIM which indicates that Consultant has filed its Personal Property Tax Return for the last five (5) contributory terms or Negative Debt certification issued by the CRIM with respect to real and property taxes.
- e. The Consultant shall furnish a Certification issued by the Treasury Department of Puerto Rico which indicates that Consultant does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms.
- f. The Consultant shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Consultant has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods.
- g. The Consultant shall provide a copy of Consultant's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.



- h. Puerto Rico Child Support Administration (*ASUME*): The Consultant shall present, to the satisfaction of PREPA, the necessary documentation certifying that neither the Consultant nor any of its owners, affiliates or subsidiaries, if applicable, have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with the Puerto Rico Child Support Administration (known in Spanish as the *Administración Para El Sustento de Menores (ASUME)*). The Consultant will be given a specific amount of time to deliver said documents. 3 L.P.R.A. § 8611 et seq.
- i. The Consultant shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico.
- j. The Consultant shall provide a Certification of Incorporation, or Certificate of Organization or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico.
- k. Special Contribution for Professional and Consulting Services: As required by Act 48-2013, as amended, PREPA will withhold a special contribution of one-point five percent (1.5%) of the gross amounts paid under this Contract.
- l. Social Security and Income Tax Retentions: In compliance with Executive Order 1991 OE- 24 and C.F.R. Part 404 et. Seq., the Consultant will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income, from this Contract.

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- m. Income Tax Retention Law: PREPA shall deduct and withhold ten percent (10%) of any and all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of US citizens and Non-US citizens, who are nonresidents of the Commonwealth of Puerto Rico, PREPA will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda de Puerto Rico*). The Consultant will request PREPA not to make such withholdings if, to the satisfaction of PREPA, the Consultant timely provides a release from such obligation by the Government of Puerto Rico's Treasury Department. As proof of the remittance of withholdings to the Treasury Department required by this paragraph (m), as well as paragraph (l) above, PREPA agrees to provide Consultant with a completed copy of the Puerto Rico Treasury Department Form 480.6C (entitled, "*Declaración Informativa – Ingresos Sujetos a Retención – No Residentes*") 3 L.P.R.A. § 8611 et seq., 2011 L.P.R. 232; 232-2011.

2011

- n. Compliance with Act 1-2012 of Governmental Ethics: The Consultant will certify compliance with Act 1-2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his/her immediate family (spouse, dependent children or other members of his/her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the Services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. § 8611 et seq.
- o. Act 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People: The Consultant will certify that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended, the same is current and in all aspects in compliance. Act 168-2000 “*Law for the Strengthening of the Family Support and Livelihood of Elderly People*” in Spanish: “*Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada*”, 3 L.P.R.A. §8611 et seq.

2012

- p. Act 127-2004: Contract Registration in the Comptroller's Office of Puerto Rico Act: Payment for Services pursuant to this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Act 18 of October 30, 1975, as amended.
- q. Prohibition with respect to execution by public officers: 3 L.P.R.A. §8615(c): No public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had a direct or indirect economic interest during the last four (4) years prior to his/her holding office.
- r. Prohibition with respect to contracting with officers or employees: 3 L.P.R.A. §8615(d): No executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had a direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.
- s. Prohibition with respect to contracts with officers and employees of other Government entities: 3 L.P.R.A. §§8615(e): No public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency



unless the Governor gives express authorization thereto with the previous recommendation from the Secretary of the Treasury and the Secretary of Justice.

- t. Prohibition with respect to evaluation and approval by public officers:
3 L.P.R.A. §8615(f): No public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had a direct or indirect economic interest during the last four (4) years prior to his/her holding office.
- u. Prohibition with respect to execution by public officers' contracts with former public officers: 3 L.P.R.A. 8615(h): No executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.
- v. Dispensation: The Consultant certifies that any and all necessary dispensations have been obtained from any government entity and said dispensations shall become part of the contracting record if applicable, unless otherwise mutually agreed in writing between the Parties.
- w. Rules of Professional Ethics: The Consultant acknowledges and accepts that it is knowledgeable of the rules of ethics of his/her profession and assumes responsibility for his/her own actions.

2014

- x. Provisions Required under Act 14-2004: Consultant agrees that articles extracted, produced, assembled, packaged or distributed in Puerto Rico by enterprises with operations in Puerto Rico, or distributed by agents established in Puerto Rico shall be used when such service is rendered, provided that they are available.

26.2 Debts. If any of the previously required certifications shows a debt, and Consultant has requested a review or adjustment of this debt, Consultant will certify that it has made such request at the time of the Contract execution. If the requested review or adjustment is denied and such determination is final, Consultant will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Consultant accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.

Article 27 Anti-Corruption Code for a New Puerto Rico

27.1 Compliance. Consultant agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time, which establishes the Anti-Corruption Code for a New Puerto Rico. The Consultant hereby certifies that it does not represent particular interests in cases or matters that imply a Conflict of Interest, or of public policy, between the executive agency and the particular interests it represents.

27.2 Sworn Statement. Consultant shall furnish a sworn statement to the effect that neither Consultant nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for Consultant has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration



and Transformation of Human Resources in the Government of Puerto Rico or any of the crimes included in Act 2-2018.

27.3 Certification. Consultant hereby certifies that it has not been convicted in Puerto Rico or United States Federal Court under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

27.4 Termination. PREPA shall have the right to terminate the Contract in the event Consultant is convicted in Puerto Rico or United States Federal Court under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.



27.5 Consequences of Non-Compliance. The Consultant expressly agrees that the conditions outlined throughout this Article are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be enough cause for PREPA to render this Contract null and void.

Article 28 Dispute Resolution

28.1 Executive Negotiation. Any unresolved disputes shall be referred in writing to the Contracting Officer, Project Manager or designee by PREPA and Consultant for resolution. During the first thirty (30) days following the delivery of a written notice of dispute (and during any extension agreed to by the Parties in writing, the “**Negotiation Period**”) the Parties shall attempt in good faith to resolve the dispute through negotiations. If such negotiations result in an agreement in principle to settle the dispute, they shall cause a written settlement agreement to be prepared, signed and dated (an “**Executive Settlement**”), and the dispute shall be deemed settled, and not subject to further dispute resolution. If a dispute is not resolved through executive negotiation, the Parties agree to resolve the dispute according to the jurisdiction established in Article 19 (*Applicable Law and Venue*).

28.2 Continuation of Work. Notwithstanding any dispute under this Contract, Consultant shall continue to prosecute all Services diligently and in a good and workmanlike manner in conformity with this Contract. Except to the extent provided in Section 8.4 (Consultant's Suspension for Non-Payment), Consultant shall have no right to cease performance hereunder or to permit the prosecution of the Services to be delayed.

Article 29 Non-Discrimination

The Consultant agrees that it will not discriminate against any employee or applicant for employment on account of race, color, gender, age, sex, national or social origin, social status, political ideas or affiliation, religion, for being or perceived to be a victim of domestic violence, sexual aggression or harassment, regardless of marital status, sexual orientation, gender identity or immigrant status, for physical or mental disability, for veteran status or genetic information.

Article 30 Federal Contracting Provisions

Since the work under this Contract will be funded in whole or in part by grants through the Federal Emergency Management Agency (FEMA) Public Assistance program and the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery program (CDBG-DR), the following provisions shall apply to the extent applicable to the performance of the Services:

30.1 Remedies. Any violation or breach of the terms of this Contract on the part of Consultant or a subcontractor may result in the suspension or termination of this Contract or such other action, including the recovery of damages, as may be necessary to enforce the rights of PREPA. Except as otherwise stated hereunder, the duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law. Upon a material breach by Consultant, PREPA may utilize any remedy available by law, including precluding Consultant from further work with PREPA in the future and recommending suspension and debarment.

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30.2 Equal Employment Opportunity. For all Services under the Contract consisting of “federally assisted construction work,” as defined at 41 C.F.R. § 60-1.3, Consultant agrees as follows:

- a. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. Consultant shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision

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shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Consultant's legal duty to furnish information.

- d. Consultant shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Consultant shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. Consultant shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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- g. In the event of Consultant's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. Consultant shall include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Consultant shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

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30.3 Employment Practices. PREPA further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work, provided, that if PREPA is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under this Contract.

30.4 Cooperation. PREPA agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

30.5 Contracting Prohibition. PREPA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, PREPA agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract,

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loan, insurance, guarantee); refrain from extending any further assistance to PREPA under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from PREPA; and refer the case to the Department of Justice for appropriate legal proceedings.

30.6 Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708).

To the extent this Contract involves the employment of mechanics or laborers, the following provisions apply:

- a. In accordance with 40 U.S. 3701 et. seq., no contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- b. In the event of any violation of the clause set forth in paragraph (a) of this Section 30.6 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708)*) Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Consultant and subcontractor shall be liable to the United States (in the case of work done under a contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including

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watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this Section 30.6, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this Section 30.6.

- c. PREPA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Consultant, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this Section 30.6 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708)*). Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this Section 30.6 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Section 30.6.

30.7 Clean Air Act and the Federal Water Pollution Control Act.

- a. Clean Air Act Clause:

- i Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
 - ii Consultant agrees to report each violation to PREPA and understands and agrees that PREPA will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - iii Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- b. Federal Water Pollution Control Act Clause:
 - i Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
 - ii Consultant agrees to report each violation to PREPA and understands and agrees that PREPA will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - iii Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

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30.8 Suspension and Debarment Clause.

- a. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Consultant is required to verify that none of the Consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. Consultant shall comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. Consultant shall execute the certification attached hereto as Annex F (Certification Regarding Debarment, Suspension and Other Responsibility Matters). This certification is a material representation of fact relied upon by PREPA. If it is later determined that Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to PREPA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. Consultant shall, and shall cause all subcontractors of every tier to, comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C.

30.9 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).

- a. Consultants that apply or bid for an award exceeding \$100,000 shall file the required certification. Consultant shall cause every subcontractor of every

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tier to certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant shall cause every subcontractor of every tier to disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient (PREPA). Consultant shall also submit to PREPA the required certification regarding lobbying at Appendix B, 44 C.F.R. Part 18 attached to this Contract as Annex G (Certification Regarding Lobbying For Contracts, Grants, Loans, And Cooperative Agreements).

30.10 Procurement of Recovered Materials.

- a. In the performance of this Contract, Consultant shall make maximum use of products containing recovered materials that are Environmental Protection Agency ("EPA") designated items unless the product cannot be acquired:
 - i competitively within a timeframe providing for compliance with the Contract performance schedule;
 - ii meeting Contract performance requirements; or
 - iii at a reasonable price.



- b. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

30.11 Changes.

At any time, and only through a written change order instruction, PREPA may make changes in the Services or work to be performed within the general scope of this Contract. To the extent Consultant can demonstrate such changes cause an increase or decrease in Consultant's cost of, or time required for, performance of any Services under this Contract, an equitable adjustment shall be made and this Contract shall be modified in writing accordingly, provided, however, that no changes shall be made to the scope of the Services that would render the costs incurred in the performance of this Contract ineligible for, unallowable or not allocable under, outside the scope of, or not reasonable for the completion of, Federal grant awards from FEMA or any other U.S. federal agency.

30.12 Sufficiency of Funds. Consultant recognizes and agrees that all or a portion of the funding for this Contract shall be derived from assistance awarded by Federal agencies of the United States of America to PREPA or the Government of Puerto Rico. As part of its obligations under this Contract, Consultant shall ensure that the work performed hereunder is eligible for funding by complying with all applicable Federal law, regulations, executive orders, Federal agency policy, procedures, directives and guidelines. If during the term of this Contract, Federal or local funding is reduced,

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deobligated, or withdrawn, PREPA may reduce the scope of or terminate the Contract, without penalty, by providing written notice to Consultant of the changes in scope or termination. PREPA shall not be obligated to pay nor shall be held financially liable if any work performed by Consultant under this Contract is deemed ineligible by any Federal agency due to the fault or negligence of Consultant. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to PREPA, Consultant, or any other party pertaining to any matter resulting from this Contract.

30.13 FEMA Disaster Assistance Survivor/Registrant Data.

- a. If Consultant has access to Disaster Assistance Survivor/Registrant data or any other personally identifiable information, Consultant shall comply with the provisions of the Terms and Conditions for Sharing FEMA Disaster Assistance Survivor/Registrant Data with State Governments set forth in the FEMA-Government of Puerto Rico Contract for FEMA-4339-DR-PR.
- b. Consultant shall indemnify, defend, and hold harmless PREPA and the Government of Puerto Rico for any and all costs, including defense costs and reasonable attorneys' fees, settlements, or adverse judgments to the extent arising from Consultant's failure to comply with the requirements of Section 30.13(a) under this Contract.

30.14 Financial Management System. Consultant's financial management system shall provide for the following, but only if and to the extent required by law:

- a. accurate, current and complete disclosure of the financial results of this Contract and any other contract, grant, program, or other activity administered by Consultant;

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- b. records adequately identifying the source and application of all Consultant funds and all funds administered by Consultant which shall contain information pertaining to all contract and grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income, and shall be segregated by contract or on a contract-by-contract basis;
- c. effective internal control structure over all funds, property and other assets, sufficient to allow Consultant to adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;
- d. comparison of actual outlays with budgeted amounts for this Contract and for any other contract, grant, program or other activity administered by Consultant;
- e. accounting records supported by source documentation;
- f. procedures to minimize elapsed time between any advance payment issued and the disbursement of such advance funds by Consultant; and
- g. procedures consistent with the provisions of any applicable policies of the Federal Government and the Government of Puerto Rico and procedures for determining the reasonableness, eligibility, allowability and allocability of costs under this Contract.

30.15 Penalties, Fines, and Disallowed Costs. In the event that any U.S. Federal agency or the Government of Puerto Rico disallows or demands repayment for costs incurred in the performance of this Contract, or if any penalty is imposed due to an act or omission by Consultant, Consultant shall be solely responsible for such penalty, disallowed costs, or repayment demand, and shall reimburse PREPA in full within ten

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(10) days of receiving notice from PREPA of such penalty, disallowance, or repayment demand. Any monies paid by Consultant pursuant to this provision shall not relieve Consultant of liability to PREPA for damages sustained by PREPA by virtue of any other provision of this Contract.

30.16 Reporting Requirements. Consultant shall complete and submit all reports required in connection with this Contract, in such form and according to such schedule, as may be required by PREPA.

30.17 Review of Laws. Consultant shall endeavor to access online and read each law that is cited in the aforementioned clauses and, in the event that it cannot access the online version, it will notify PREPA in order to obtain printed copies of the laws. Not requesting a printed copy of the laws from PREPA will be evidence that Consultant was able to find it online and read it as required.

30.18 Notice of Federal Emergency Management Agency (FEMA) Reporting Requirements and Regulations.

- a. PREPA is using Federal grant funding awarded or administered by FEMA to the Government of Puerto Rico and/or PREPA to pay, in full, for the costs incurred under this Contract. As a condition of FEMA funding under major disaster declaration FEMA-4339-DR-PR, FEMA requires the Government of Puerto Rico and PREPA to provide various financial and performance reporting. Consultant agrees to provide all information, documentation, and reports necessary to satisfy these reporting requirements. Failure by Consultant to provide information necessary to satisfy these reporting

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requirements may result in loss of Federal funding for this Contract, and such failure shall be a material breach of this Contract.

- b. Applicable regulations, FEMA policy, and other sources setting forth these reporting requirements include, but are not limited to:
 - i 2 C.F.R. § 200.327 (Financial Reporting);
 - ii 2 C.F.R. § 200.328 (Monitoring and Reporting Program Performance); and
 - iii Performance and financial reporting requirements set forth in 44 C.F.R. Part 206.

30.19 Access to Records.

- a. Consultant agrees to provide PREPA, the Government of Puerto Rico, the FEMA Administrator, the Secretary of HUD, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Consultant which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. Consultant agrees to provide the FEMA Administrator, the Secretary of HUD, or their authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

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- d. In compliance with the Disaster Recovery Act of 2018, PREPA and Consultant acknowledge and agree that no language in this Contract is intended to prohibit audits or internal review by the FEMA Administrator, the Secretary of HUD, or the Comptroller General of the United States.

30.20 Record Retention Requirements. Consultant agrees to maintain all books, records, accounts, and reports and all other records produced or collected in connection with this Contract for a period of not less than three (3) years after the date of final payment and closeout of all pending matters related to this Contract. If any litigation, claim, or audit is reasonably anticipated to arise or is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

30.21 Program Fraud and False or Fraudulent Statements or Related Acts. Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Consultant's actions pertaining to this Contract.

30.22 Energy Efficiency. Consultant agrees to comply with the requirements of 42 U.S.C. § 6201, which contain policies relating to energy efficiency that are defined in the Government of Puerto Rico's energy conservation plan issued in compliance with said statute.

30.23 Age Discrimination Act of 1975. Consultant shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.



30.24 Americans with Disabilities Act. Consultant shall comply with the appropriate areas of the Americans with Disabilities Act of 1990, as enacted and from time to time amended, and any other applicable federal regulation. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the term of this Contract.

30.25 Title VI of the Civil Rights Act of 1964. Consultant shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

30.26 Section 504 of the Rehabilitation Act of 1973, as Amended. Consultant agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

30.27 Drug-Free Workplace. Consultant shall maintain a drug-free work environment in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8101 et seq.) and implementing regulations at 2 C.F.R Part 3001.

30.28 Compliance with Laws, Regulations, and Executive Orders. Consultant acknowledges that FEMA and HUD financial assistance will be used to fund this Contract. Consultant shall, as and when applicable shall comply will all applicable Federal and Government of Puerto Rico law, regulations, executive orders, policies, procedures, and

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directives, including but not limited to all Federal Cost Principles set forth in 2 C.F.R. Part 200, and all applicable FEMA regulations in 44 C.F.R. Chapter I, and 2 C.F.R. Part 200.

30.29 Provisions Required by Law Deemed Inserted. Each and every provision required by law regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.

30.30 Agreement to Execute Other Required Documents. Consultant and all subcontractors, by entering into the Contract, understand and agree that funding for the Services is provided under Federal programs with specific contracting requirements. To the extent any such requirement is not otherwise set forth herein, Consultant agrees to execute such amendments or further agreements as may be necessary to ensure that PREPA receive Federal funding for this Contract.

30.31 U.S. Department of Homeland Security Seal, Logo, and Flags DHS Seal, Logo and Flags. Consultant shall not use the U.S. Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

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30.32 Davis-Bacon Act.

- a. All transactions regarding this Contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. Consultant shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Consultant shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, Consultant shall pay wages not less than once a week.

30.33 Copeland "Anti-Kickback" Act.

- a. Consultant shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.
- b. Consultant or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these Contract clauses.
- c. A breach of the Contract clauses above may be grounds for termination of the Contract, and for debarment as a consultant, contractor and subcontractor as provided in 29 C.F.R. § 5.12.



30.34 HUD Section 3 Clause.

- 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 135, which implement section 3. As evidenced by their execution of this Contract, the Parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- c. The Consultant agrees to send to each labor organization or representative of workers with which the Consultant has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Consultant's commitments under the 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

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each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

- d. The Consultant agrees to include the section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in the section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The Consultant will not subcontract with any subcontractor where the Consultant has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.
- e. Consultant will certify that any vacant employment positions, including training positions, that are filled (i) after the Consultant is selected but before the Contract is executed, and (ii) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the Consultant's obligations under 24 C.F.R. part 135.
- f. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.
- g. 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 (25 U.S.C. 450e) also applies to the work to be performed under this Contract. Section 7(b) requires that to the greatest

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extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts 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).

30.35 Additional Fair Labor Standards Provisions (HUD Form 4010).

- a. The project or program to which the construction work covered by this Contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.
- b. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in a wage determination of the Secretary of Labor, regardless of any contractual relationship which may be alleged to exist between Consultant and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1 (b)(2) of the Davis-

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Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by Consultant and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- c. Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:



- i The work to be performed by the classification requested is not performed by a classification in the wage determination;
 - ii The classification is utilized in the area by the construction industry; and
 - iii The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- d. If Consultant and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise HUD or its designee or will notify HUD or its designee within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215- 0140.).
- e. In the event the Consultant, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall

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refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and so advise HUD or its designee or will notify HUD or its designee within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140).

- f. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (c)(ii) or (iii) of this Section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.
- g. Whenever the minimum wage rate prescribed in this Contract for a class of laborer or mechanics includes a fringe benefit which is not expressed as an hourly rate, Consultant shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- h. If Consultant does not make payments to a trustee or other third person, Consultant may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the Consultant, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require Consultant to set aside in a separate account assets for the

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meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.).

- i. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from Consultant under this Contract or any other Federal contract with the same Consultant, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Consultant so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by Consultant or any subcontractor the full amount of wages required by the applicable contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Consultant, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to Consultant, disburse such amounts withheld for and on account of Consultant or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.
- j. Payrolls and basic records relating thereto shall be maintained by Consultant during the course of the work preserved for a period of three

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years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, Consultant shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.).

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- k. Consultant shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a Party to the contract, but if the agency is not such a Party, Consultant will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e. g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Website at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. Consultant is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a Party to the contract, but if the agency is not such a Party, Consultant will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, Consultant, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this

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subparagraph for Consultant to require a subcontractor to provide addresses and social security numbers to Consultant for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.).

I. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by Consultant or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- i That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;
- ii That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;
- iii That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract;



- iv The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b);
- v The falsification of any of the above certifications may subject Consultant or any subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code;
- vi Consultant or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If Consultant or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Consultant, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

30.36 Apprentices and Trainees.

- a. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and

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individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to contractors to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Consultant's or subcontractor's registered program shall be observed. Every apprentice

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must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, Consultant will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- b. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the

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approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, Consultant will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- c. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

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30.37 Compliance with Copeland Act. Consultant shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this Contract.

30.38 Subcontracts. Contractor or subcontractor will insert in any subcontracts the clauses contained in Section 30.35 (*Additional Fair Labor Standards Provisions (HUD Form 4010)*) to Section 30.43 (*Complaints, Proceedings, or Testimony by Employees*) and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this Section.

30.39 Contract Termination; Debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of this Contract and for debarment as a consultant, contractor and a subcontractor as provided in 29 CFR 5.12.

30.40 Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Contract.

30.41 Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general dispute's clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between Consultant (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

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30.42 Certification of Eligibility.

- a. By entering into this Contract, Consultant certifies that neither it (nor he or she) nor any person or firm who has an interest in the Consultant's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
- b. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

30.43 Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by Consultant or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in

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any proceeding under or relating to the labor standards applicable under this Contract to his employer.

30.44 Health and Safety. The provisions of this paragraph are applicable where the amount of the prime contract exceeds \$100,000:

- a. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- b. Consultant shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.
- c. Consultant shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. Consultant shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.
- d. Consultant shall include all of the above-detailed provisions in any and all subcontract agreements and shall be responsible to PREPA for its compliance.

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30.45 No Obligation by the Federal Government. The Federal Government is not a party to this Contract and is not subject to any obligation or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from the Contract.

30.46 General. All contracts shall contain a clause identifying the type of contract and the mandatory clauses contained on the latest released HUD forms, as applicable to the contract type. All contracts, except for general management consulting services, will include performance requirements and liquidated damages.

30.47 Puerto Rico Energy Conservation Plan. Consultant must act in compliance, when applicable, with the mandatory standards and policies relating to energy efficiency which are contained in the Commonwealth's energy conservation plan.

30.48 Patent Rights. This Contract is subject to the patent rights with respect to any discovery or invention which arises or is developed during or under such Contract in accordance with 37 C.F.R. Section 401.2(a) and 37 C.F.R. Part 401.

30.49 Applicability. Notwithstanding any other provision of this Article 30 (*Federal Contracting Provisions*) to the contrary, the Parties understand and agree that Consultant is not subject to the federal cost principles requirements of 2 C.F.R. pt. 200, Subpart E.

30.50 Financial Oversight and Management Board Certification. Pursuant to the Financial Oversight and Management Board's contract review policy (FOMB POLICY: REVIEW OF CONTRACTS, as modified on October 30, 2020), Consultant represents and warrants to PREPA on the Effective Date (i) the due execution by Consultant, and delivery to PREPA, of a certification (the "**Contractor Certification**") in the form set out in Annex I (*Form of Contractor Certification*), and (ii) the completeness, accuracy and



correctness of all information included in such Contractor Certification. As acknowledged, certified and agreed in the Contractor Certification, any misrepresentation, inaccuracy or falseness in such Contractor Certification shall render this Contract null and void, and the Contractor shall reimburse PREPA immediately for any amounts, payments or benefits received from PREPA under this Contract.

Article 31 Limitation on Liability

31.1 General. Notwithstanding any other provisions of this Contract to the contrary, in no event shall either Party, its officers, employees, agents, or assigns be liable for any consequential, incidental, punitive, special, exemplary, or indirect damages included by example but not limited to loss of profits, use, capital, revenue, business opportunity, or claims of customers, cost of purchased or replacement power, or other economic advantage, whether such claim is choate or inchoate, whether by statute, or in tort, contract, or otherwise, and even if such Party has been advised of the possibility of such damages; provided that this provision shall not apply to (a) Consultant's indemnification obligations under this Contract, or (b) liabilities rising from Consultant's gross negligence, willful misconduct or fraud.

31.2 Liability Cap. Notwithstanding any other provision of this Contract to the contrary, Consultant's maximum aggregate liability for any and all claims arising out of, related to, or connected with the performance of the Services under the Contract, whether by statute, or in tort, contract or otherwise shall not exceed four million dollars (\$4,000,000); provided that the foregoing limitations shall not apply with respect to liability, cost or expense arising out of (a) Consultant's indemnification or confidentiality obligations under this Contract, (b) Consultant's non-compliance with applicable law

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under Article 26 (*Compliance with the Commonwealth of Puerto Rico Contracting Requirements*), Article 27 (*Anti-Corruption Code for a New Puerto Rico*) and Article 30 (*Federal Contracting Provisions*), or (c) Consultant's gross negligence, willful misconduct, or fraud.

Article 32 Miscellaneous

32.1 Third Party Beneficiaries. Except as otherwise expressly provided herein, nothing in this Contract is intended, or shall be construed, to confer upon or give any person or entity other than PREPA and Consultant, and their respective successors and permitted assigns, any rights, remedies, or obligations under or by reason of this Contract or any Service performed hereunder.

32.2 Binding Authority. Each of the persons executing this Contract represents and warrants that he or she has full right and authority to execute this instrument on behalf of PREPA or Consultant, as the case may be, and to bind such Party to the fulfillment of all of the provisions hereof.

32.3 No Waiver. The failure of PREPA or Consultant to exercise a right provided to it by this Contract or otherwise shall not by itself be deemed a waiver of such right; nor shall waiver of a right in a particular circumstance by itself be deemed a waiver of that same right or any other right in any other circumstance.

32.4 Successors. Unless otherwise expressly agreed in writing, all rights, covenants, warranties, obligations, duties, limitations, waivers and liabilities created by or arising under this Contract shall inure to the benefit of, or bind, as the case may be, the respective successors in interest of the Parties hereto.



32.5 Priority. The documents that form this Contract are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last: (a) written amendments executed by both Parties; (b) this Contract; and (c) the Annexes to this Contract.

32.6 Headings. The headings of the Articles and Sections of this Contract are included only for the convenience of the reader and shall not affect the construction or interpretation of any of the provisions of this Contract.

32.7 Survival. Article 5 (*Termination*), Article 6 (*Payment*), Article 11 (*Information Disclosure and Confidentiality*), Article 12 (*Rights and Title to Work Product*), Article 13 (*Warranties*), Article 14 (*Responsibility for Damages*), Article 19 (*Applicable Law and Venue*), Article 24 (*Save and Hold Harmless*), Article 28 (*Dispute Resolution*), Article 31 (*Limitation on Liability*), and Article 32 (*Miscellaneous*) shall survive termination or expiration of this Contract, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Contract.

32.8 Counterparts. This Contract may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by all of the Parties.

32.9 Interpretation.

- a. As used in this Contract, the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated otherwise, reference in this Contract to an Article or Section shall be a reference to an Article or Section contained in this Contract (and not in



any Annexes to this Contract) and a reference in this Contract to an Annex shall be a reference to an Annex attached to this Contract.

- b. In the event of any conflict between a requirement set forth in the RFP and this Contract, the requirement set forth in this Contract shall prevail.

32.10 Entire Contract. The terms and conditions contained herein constitute the entire agreement between PREPA and Consultant with respect to the subject matter of this Contract, and supersede all communications, negotiations, and agreements of the Parties, whether written or oral, other than these, made prior to the signing of this Contract.

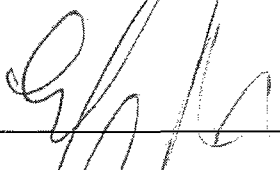
[Signatures appear on the following page]

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IN WITNESS WHEREOF, the Parties hereto sign this Contract in San Juan, Puerto Rico
and Chicago, Illinois, this 4 day of December, 2020.

Puerto Rico Electric Power Authority

Sargent & Lundy Puerto Rico, L.L.C.



Efran Paredes Maisonet
Interim Executive Director
Tax ID: 660-43-3747



Vincent T. Heinz
Manager
Tax ID: 66-0949018



ANNEX A

SERVICES

Consultant shall perform the Services set forth in this Annex A in accordance with applicable law and all other terms and provisions of the Contract:

1. GENERAL

- a. Consultant shall provide cost-effective designs adequate for Puerto Rico's tropical climate that comply with (i) the Design Criteria Documents, PREPA's standards and applicable codes and standards of Puerto Rico and the United States of America, including safety and environmental laws and regulations, and engineering and construction codes and standards, enabling service continuity, utilizing quality materials and equipment, with low maintenance costs and safe operation, and (ii) to the extent that PREPA's instructions pursuant to any Task Order so require, each of the T&D System Operator's Requirements (as defined in paragraph (f) of Article 13 (*Warranties*) of this Contract). In the event of a conflict between the Design Criteria Documents and applicable law, Consultant shall notify PREPA in writing and agree to a resolution.
- b. Consultant shall provide design, architectural and engineering support Services for the successful construction, installation, and startup of Stafford Act-Funded Projects for PREPA's electrical system.
- c. To the extent that Consultant requires a survey of a site and/or geotechnical data for the performance of the Services under a Task Order and one or more third parties will perform such survey and provide such data, Consultant shall clearly communicate such survey and geotechnical data requirements to PREPA,



including, for example, the quantity, depth and location of subsurface borings. If Consultant performs such survey and/or geotechnical investigation pursuant to a Task Order, then Consultant shall manage, and take full responsibility for, such work. Consultant shall promptly report any issues with completing these tasks such as inability to access a site to PREPA.

- d. If PREPA instructs Consultant to perform (or direct) geotechnical work, then Consultant shall coordinate with PREPA to ensure that the Parties have obtained all required authorizations prior to the commencement of such work.
- e. Consultant shall be capable of providing designs, specifications, estimates, economic analysis, evaluation of technical alternatives, construction phase engineering support, submittals reviews, walkdowns, and other related works.
- f. Consultant's duties also include providing or supporting the acquisition of environmental studies for compliance with federal and state regulations and law, including Environmental Information Regulations (EIR) and impact mitigation; and other construction and operations permits required by Federal, state, and local agencies.

2. ENGINEERING

2.1 General. The engineering and design Services performed by Consultant shall include:

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- a. All necessary calculations required to develop the specifications, drawings, and other technical documents;
- b. Performing design checks, and signoff of Consultant's Deliverables to ensure the quality of its Deliverables. The QA/QC process for ensuring the quality of engineering Deliverables is to be defined in Consultant's quality plan;
- c. Performing owner's engineer ("O&E") reviews and design checks of the construction contractor or supplier drawings for:
 - i. interface and integration into applicable engineering;
 - ii. interface and integration with all utility tie-ins; and
 - iii. the overall engineering of the work and to ensure supplier drawings and documents are properly included in the construction specifications; and
- d. Coordinating and monitoring all design performed by the construction contractor and material suppliers to ensure that the construction contractor's work shall comply with PREPA's operating and maintenance requirements, the Design Criteria Documents, applicable law and all applicable codes and standards.

2.2 Generation Projects. The Services include design, specifications, estimates, and construction phase support for improvements on the power plants, such as fences, grading, pavements, and storm drains. It may include improvements on facilities strengthening and safety in power units' structures and parts and ancillary equipment as per ASCE 24-05, a Flood Category IV, Puerto Rico Building Code 2018

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and others applicable. It may also require design and specifications for electrical and mechanical engineering for auxiliary generation equipment and systems. The services may also apply to main facilities and equipment such as generating units, buildings, and other regulatory compliance.

2.3 Transmission and Distribution Power Line Projects. The Services require the completion of engineering design to thirty percent (30%) design development standards of transmission and/or distribution power lines, including drawings, specifications, estimates, and supporting documents necessary for EPC or traditional contracting for construction of new lines, repairs, and resiliency measures in existing lines. All design must be compatible with existing equipment, systems and operation regulations, design standards, codes and regulations. The Services shall take into consideration the following subject matters:

- a. Analysis of conductor swing and wind vibration;
- b. Civil and structural designs (PLS-CADD design, plan, and profile drawings, earthwork, pavements, drainages, sediment, and erosion control);
- c. Construction support services such as submittal and RFI reviews;
- d. Design or selection of new structures per structural requirements;
- e. Design of guy wire support and concrete or pile foundations;
- f. Determination of conductor spans, sags, tensions and stringing parameters;
- g. Determination of underground line operating parameters, conduits, spacing, and backfill requirements;
- h. Easement or site acquisition studies and support;
- i. Electrical clearances;

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- j. Environmental assessments and permits assistance and compliance;
- k. Geotechnical studies;
- l. Overhead ground wire, grounding system and communications optic fiber;
- m. Refurbishment and upgrades of conductors and insulators. Including analyzing current vs. future voltage needs, line current, proposed conductor size and operating temperatures;
- n. Route selection, including scouting, surveying, title studies support and analysis of right of way and easement requirements;
- o. Selection and specification of insulators and other hardware;
- p. Selection of conductors and overhead ground wires;
- q. Structural loading and analysis per various load conditions (including under builds);
- r. Structure spotting;
- s. Support in the acquisition of permits;
- t. Underground utility studies;
- u. Other related duties to supply complete power line designs; and
- v. And any other technical matters required to provide complete and functional transmission and distribution power line designs.

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2.4 Transmission and Distribution Substation Projects. The Services require the completion of engineering design to thirty percent (30%) design development standards of transmission and/or distribution substations, including drawings, specifications, and estimates and supporting documents necessary for EPC or traditional contracting for construction of new substations or new systems, repairs and resiliency measures in existing substations. All design must be compatible with existing equipment, systems and operation regulations, design standards, codes and regulations. The Services shall take into consideration the following subject matters:

- a. AC and DC auxiliary systems;
- b. Acquisition of permits;
- c. Architectural design to facilitate the substation visual and noise impact on urban environments, especially when substations are located near residential areas or zones with high transit of people;
- d. Battery rooms;
- e. Bill of materials;
- f. Breakers;
- g. Cable and conduit lists;
- h. Civil and structural designs (drainage, earthwork, erosion and sedimentation protection, fences and gates, grading, pads and foundations, pavements, structures, water supply);
- i. Conduit layouts;
- j. Construction support services such as submittal and RFI reviews;
- k. Construction Specifications;

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- l. Control house;
- m. Corrosion protection;
- n. Determination of electrical operational parameters;
- o. Determination of operating and maintenance requirements;
- p. Dikes for spill containment and other solutions against adverse environmental impact;
- q. Electrical plot plans and layouts;
- r. Environmental assessments, studies, management plan, assistance in acquiring permits and environmental compliance;
- s. Foundation/Embedment Design for Towers, Steel Support Structure;
- t. Grading Plan;
- u. Grounding and Ground Grid;
- v. Lightning Shielding;
- w. Lighting;
- x. Major equipment design, manufacturing drawings, specification and procurement assistance (transformers, circuit breakers, metal-clad switchgears, voltage regulators, switches, arresters, reclosers, among others);
- y. One-line diagrams;
- z. Permit Support;
- aa. Protection, relays and wiring;
- bb. Provide adequate safety signals and warnings;
- cc. Provide adequate site layouts to promote safe transit inside the substation;

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- dd. Cable raceways;
- ee. Relay protection;
- ff. Instruments, meters, automation and control panels;
- gg. SCADA and other communication systems;
- hh. Site acquisition support;
- ii. Site assessment, underground and above ground utility location;
- jj. Soil studies, including bearing capacity and electrical resistivity;
- kk. Storm water Pollution Prevention Plan-SWPPP;
- ll. Substation site, structures, and equipment layouts;
- mm. Survey and title studies support;
- nn. Transformers;
- oo. Wiring diagrams (schematic and detailed);
- pp. Other related tasks for complete substation designs; and
- qq. Any other technical matters required to provide complete and functional transmission and distribution substation designs.

3. PHASES DURING CONTRACT PERFORMANCE

The following represents potential tasks that may be part of a Task Order. These tasks are not meant to be exclusive.

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3.1 Preliminary Design.

- a. After the issuance of a Task Order, Consultant shall meet with PREPA end users, technical leads, senior representatives and other authorized personnel consultants and external stakeholder representatives to discuss its proposed concept and to finalize a work plan and the scope of Services as well as contacts, roles, and responsibilities. Review proposed concept and provide feedback for recommended solutions, requirements, ideas and concepts. Preliminary designs require providing a thirty percent (30%) design and technical specifications to be submitted to FEMA by PREPA for project funding of a Section 428 Project.
- b. Consultant shall present alternatives to upgrades and hardening of the electrical infrastructure.
- c. Consultant shall (i) assist priorities based on PREPA's plans for permanent rehabilitation, and (ii) evaluate multiple routes or sites and make recommendations of the preferred one(s).
- d. Consultant shall incorporate a description of geotechnical challenges and assist in determining the geotechnical requirements for the design.
- e. Consultant shall prepare conceptual plans, per PREPA's request showing planned routes (overhead or underground power lines), substation layouts or other facility layouts.
- f. Consultant shall (at the election of PREPA) assist with community outreach, providing a list of environmental studies and permits required, providing a

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list of other permits needed from Federal, state, and local agencies and providing information on land or easement rights acquisition requirements.

- g. if specified in a Task Order, Consultant shall provide PREPA with design criteria documentation (the “**Design Criteria Documents**” or “DCD”) during the preliminary engineering phase and update this document as the engineering progresses. Design criteria shall include the applicable NESC, IEEE, ASCE, IBC, and other national codes or guidelines required for substation design and shall meet PREPA guidelines. Load and strength factors shall be provided for each structural component, associated with the specific loads dictated by latest versions of national standards and codes. If a different method of load analysis was used, Consultant shall specify the factors applied to each load. For fault studies, document the source of impedances used for each component of the system being evaluated, and provide per unit impedances. Document the NESC or industry clearances used for separation of components, such as the clearance from the overhead transmission conductor to any bus or switch, and the weather conditions assumed for the clearance verification. Document BIL levels chosen for bus support insulators, and bushings, and leakage distance specified. Document the basis for selection of grounding wires and components of the ground grid, as well as the maximum ground potential rise and other factors as dictated by IEEE 80.

3.2 Complete Design. In the event that PREPA instructs Consultant to prepare and submit a complete engineering design to one hundred percent (100%) of design

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development standards for a Stafford Act-Funded Project under any Task Order, Consultant shall provide (i) complete designs and technical specifications for equipment and bill of materials procurement, and (ii) technical services including preparing an estimate of construction cost, attending pre-bid meetings and assist in bid technical evaluation if so required. As part of the preparation and submission of a complete design, Consultant shall:

- a. (i) organize the design deliverables by phases, and (ii) submit a final sheet index, a final technical specifications index (both organized per design discipline), a schedule of progress including major design milestones and a formal roster of technical leads that will be involved in the Stafford Act-Funded Project;
- b. meet with PREPA end users, technical leads, senior representatives, and other authorized personnel, consultants, and external stakeholders to discuss the progress of the design, towards finalizing the concept; and
- c. if specified in a Task Order, provide software-based tracking of design preparation (*e.g.*, SharePoint cloud-based electronic document-sharing platform) to enable PREPA and other authorized representatives to evaluate the progress of such design, including but not limited to, reviewing of updated design documents, reviewing of older versions of design documents, tracking all communications related to the tasks (such as RFIs and assorted technical references) and reviewing the updated schedule.

3.3 Services During Construction Services Procurement. At PREPA's request, Consultant shall provide support during the construction services procurement process,



participating in pre-submittal meeting(s) for proponents and responding to requests for information and/or clarification. Upon receipt of proposals, the Consultant shall evaluate proposals for conformance with design criteria parameters and performance requirements and shall summarize the information contained in the qualification statements and distribute to PREPA.

3.4 Services During Construction. Consultant shall provide architectural and/or engineering services during construction on an as-needed basis to respond to questions from construction contractor related to design criteria or performance requirements. Also, shall participate in project meetings and evaluate submittals and requests for information related to its design and specifications. Consultant may be required to participate, with the PREPA Representative, in meetings with permitting and regulatory federal and state agencies.

4. DELIVERABLES

- a. Consultant shall (i) develop dashboards and reports in a form and at a level of detail satisfactory to PREPA to provide periodic progress status, and (ii) provide such information to PREPA as and when requested by PREPA.
- b. Consultant shall submit to PREPA monthly reports demonstrating accomplishments for the prior month to include production, quality, staffing, and any other criteria deemed necessary by PREPA management to monitor and measure performance under the Contract.
- c. Consultant shall provide deliverables, reports, and other documents as part of their normal activities and in accordance with applicable laws, regulations, and policies.

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5. PROJECT MEETINGS

5.1 Project Kick-Off Meeting. For each Task Order issued by PREPA, PREPA and Consultant (including any subcontractors as requested by PREPA) shall meet within seven (7) days after the date of issuance, to discuss, at a minimum, the following topics:

- a. introduction of Consultant key personnel;
- b. task uncertainties;
- c. critical success factors of the project with emphasis on health, safety and environmental concerns and quality assurance;
- d. risk factors;
- e. the Deliverables related to such Task Order and schedule for submitting such Deliverables;
- f. the scope of Services; and
- g. information requests made by either Party.

5.2 Weekly Progress Meetings. Consultant shall organize and chair weekly progress review meetings covering the following topics, at a minimum:

- a. safety and environmental updates, including any incident reports, compliance issues, or other significant events;
- b. progress of the Services achieved in the prior week, and progress expected to be achieved in the current week, including hours worked;
- c. two-week look ahead schedules;
- d. critical items of the Services, including an evaluation of problem areas (i.e. issues that may impact cost, schedule, quality or safety) with respect to the Services or the project;

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- e. action items to be worked in the coming week;
- f. identification of potential change orders, and status of pending and approved change orders; and
- g. any other matters affecting performance of the Services.

5.3 Design Review Meetings. Design review meetings shall be held at the PREPA's request but no less than a monthly basis to:

- a. review the progress of the project design team, including: (i) status of engineering design (engineering, drawings, equipment specifications/bid packages, etc.); (ii) discipline updates; and (iii) critical issues/concerns;
- b. review the progress of project design team related activities that affect the delivery of design information from the construction contractor and suppliers;
- c. review of deliverables, drawings and other documents for PREPA review and comment; and
- d. review of action items to be performed, comments will be recorded on an action items list by drawing or discipline along with the responsible party to resolve the comment and the action date for resolution. This action item list will be reviewed in subsequent design review meetings and discussed in the monthly progress meeting and included in each monthly progress report.

5.4 Monthly Progress Meetings. Consultant shall organize and chair monthly progress meetings covering the following topics, at a minimum:

- a. safety and environmental updates, including any incident reports, safety issues trends, compliance issues, or other significant events;

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- b. progress of the Services achieved in the prior month, and progress expected to be achieved in the current month, as reviewed against the current schedule;
- c. amounts invoiced against the not to exceed Contract Amount;
- d. critical items of the Services, including an evaluation of problem areas (i.e. issues that may impact cost, schedule, quality, or safety) with respect to the Services or the project;
- e. action items to be worked in the coming month;
- f. identification of potential change orders, and status of pending and approved change orders;
- g. risk reviews;
- h. project cost, schedule quality, and safety performance metrics;
- i. any other matters affecting performance of the Services or the project; and
- j. any other matters normally discussed at the weekly progress meeting.

5.5 Miscellaneous Meeting Requirements.

- a. PREPA shall be entitled to call meetings to discuss specific topics as required by giving Consultant reasonable notice of the nature and timing of the meeting.
- b. PREPA reserves the right to schedule other regular meetings as deemed necessary to progress the Services, e.g., engineering discipline meetings, management interface meetings, hazard and safety engineering meetings.
- c. Notwithstanding the production of meeting minutes by Consultant, the absence of PREPA approving or responding to such minutes shall not mean PREPA has accepted or acknowledged the contents of the meeting minutes produced by Consultant.

6. **PERSONNEL APPROVAL PROCESS**

6.1 General.

- a. Within thirty (30) days after the Effective Date of this Contract (and any extension of the Contract), Consultant shall submit, for PREPA's written approval, an organization chart (in accordance with paragraph 6.2 of this Annex A) and a register of personnel anticipated to work under the Contract (in accordance with paragraph 6.3 of this Annex A). PREPA reserves the right to approve personnel submitted at its sole discretion. Consultant acknowledges that PREPA will use such information in the justification of rates and charges when seeking reimbursement from FEMA. Consultant shall have the right to revise the list as additional personnel are assigned to perform Services under this Contract.
- b. All personnel charging time to the Task Order are required to have been preapproved by PREPA as per paragraph 6.1(a) above. Consultant is responsible for managing its resources in an efficient and cost-effective manner and ensuring that only approved personnel properly engaged on the Task Order shall be charged.
- c. PREPA's written approval of Consultant's organization chart and personnel register is a condition precedent to any payment from PREPA. PREPA shall provide such written approval or comment(s) within five (5) calendar days of receiving the organization chart and personnel register. If written approval or comment is not so provided within that five (5) day period, the

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organization chart and personnel register will be deemed approved and the condition precedent satisfied.

- d. The rate attributable to an individual is not subject to adjustment for such individual's promotion during the Contract Term or any extension, other than as part of the approval process described under paragraph 6.1(a) above.
- e. Before commencing work on a Task Order, Consultant shall deliver to PREPA a list of preapproved key personnel anticipated to perform Services under such Task Order.
- f. PREPA has the right, but not the obligation, to require Consultant to remove or cause to be removed any Consultant or subcontractor personnel from the Services.
- g. Consultant hereby certifies that all proposed personnel will have no Conflict of Interest with PREPA in accordance with Article 17 (*Conflict of Interest*) of this Contract. If such Conflict of Interest arises at any time during the Contract Term, Consultant shall notify PREPA in writing immediately.
- h. Consultant acknowledges that any changes to personnel or adjustments to approved organizational charts and personnel registers shall comply with U.S. federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

6.2 Organization Chart.

- a. Consultant's organization chart shall indicate:
 - i. all key personnel positions, lines of authority and general areas of responsibility with respect to the applicable Services;

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- ii. contact information for key personnel, including home office addresses, phone numbers and email; and
 - iii. the office location and contractual relationship to Consultant of all personnel (including employees and subcontractors).
- b. Consultant shall update the organization chart, contact addresses, phone numbers and e-mails as changes occur to Consultant's organization, or as requested by PREPA.

6.3 Personnel Register.

- a. Consultant's personnel register shall contain the following fields:
- i. name;
 - ii. residence and citizenship status for income tax purposes;
 - iii. classification / position / grade;
 - iv. CV of professional education and experience of key personnel (and, if requested by PREPA, other personnel);
 - v. billing rate in accordance with Section 6.2 (*Rates*) of the Contract; and
 - vi. planned start and end date.
- b. Consultant shall (i) maintain and update the personnel register, and (ii) provide PREPA with the then current personnel register with each monthly invoice.

6.4 Additional Roles.

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- a. If the Services under a Task Order require a role not identified in Section 6.2 (*Rates*) of the Contract, Consultant shall identify the new role and provide the following information in writing:
 - i. the proposed charge rate;
 - ii. the name of the person(s) intended to fill such role and their respective qualifications and CVs of professional education and experience;
 - iii. a detailed justification of why such new role cannot be fulfilled by an existing role listed in Section 6.2 (*Rates*) of the Contract;
 - iv. the estimated number of hours to be performed under such new role;
 - and
 - v. the planned start and end date of the person(s) under such new role.
- b. PREPA may approve the new role in its sole discretion. New roles approved for a Task Order shall not be considered approved for future Task Orders without the PREPA Representative's prior written approval. Same roles with varying rates are not authorized unless a Change Order is approved to permanently increase its cost. New roles that are functionally similar to existing ones (per Section 6.2 (*Rates*) of the Contract) are not authorized.

6.5 Resource Calendar.

- a. If Consultant is working on more than one Task Order concurrently, Consultant shall provide a resource calendar which briefly identifies (i) distribution of key personnel among each Task Order; and (ii) any team or resource constraints.

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- b. Consultant shall (i) meet with PREPA to coordinate resources and resolve any issues identified in the resource calendar upon commencement of a Task Order, and (ii) provide PREPA with updated resource calendars if requested.

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ANNEX B

FORM OF TASK ORDER

OWNER:	Puerto Rico Electric Power Authority	TASK ORDER NO:	
CONSULTANT:		TASK ORDER DATE:	
AGREEMENT NO:		TASK ORDER BUDGET:	

This Task Order is subject to the Professional Services Contract dated [●], [●], between Consultant and PREPA (as amended, the “Contract”). Unless the context otherwise requires, capitalized terms not defined herein shall have the meaning set forth in the Contract.

1. **Stafford Act-Funded Project:** FEMA has approved a project worksheet for the preparation of a preliminary design and technical documents, required by PREPA to submit a funding application for *[insert brief project description]*, under Title IV, Section [404/406/428] of the Stafford Act (the “Stafford Act-Funded Project”).
2. **Instructions.** PREPA hereby instructs Consultant to commence the performance of Services relating to the Stafford Act-Funded Project, including the preparation and submission by Consultant of each of the Deliverables by the Schedule Completion Date below, in accordance with the Contract. Consultant shall notify PREPA when accrued fees and expenses under this Task Order reach seventy-five percent (75%) of the Task Order budget set out above, and not exceed such amount without agreeing with PREPA on a revised budget for the completion of the Deliverables.

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3. Deliverables & Schedule Completion Dates:

DELIVERABLE	SCHEDULED COMPLETION DATE
[•]	TOD + [•] days
[•]	TOD + [•] days
[•]	TOD + [•] days

4. Other Specific Information, Responsibilities or Obligations —

[

_____]

5. PREPA's Contact Details:

[

_____]

IN WITNESS WHEREOF, each Party has executed this Task Order through its duly-authorized officer, and such Task Order shall take effect on the Task Order Date.

PUERTO RICO ELECTRIC POWER
AUTHORITY

SARGENT & LUNDY PUERTO RICO,
L.L.C.

By:

By:

Signature

Signature

Name

Name

Title

Title

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ANNEX C

APPROVED SUBCONTRACTORS

	Portion of the Services	Approved Subcontractors
1.	All Services	Sargent & Lundy, L.L.C.
2.	Project Management, Safety, Cost Estimations, Walkdowns and other Architect & Engineer ("A&E") Support	CPM PR, L.L.C.
3.	Permitting Review & Consulting, Walkdowns and other A&E Support	Design & Field, L.L.C.
4.	Structural, Civil, Geotechnical, Drafting and other A&E Support	P&S Consultants, L.L.C.
5.	Environmental Permitting Support	EcoStahlia Consultores Ambientales, L.L.C.
6.	Civil, Structural, Right of Way Easements, Permitting and other A&E Support	Volkert, Inc.
7.	Project Management Support and other A&E Support	Ardmore Roderick Puerto Rico, L.L.C.

2/1/17

ANNEX D

CONDITIONS PRECEDENT

1. Execution and delivery of a certificate in the form of Annex E (*Certification Regarding Debarment, Suspension and Other Responsibility Matters*);
2. Execution and delivery of a certificate in the form of Annex F (*Certification Regarding Lobbying For Contracts, Grants, Loans, And Cooperative Agreements*);
3. Documents evidencing that Consultant has procured all insurance policies contemplated by Article 25 (*Insurance*); and
4. All the Documents, Certifications and Sworn Statement identified in Article 26 (*Compliance with the Commonwealth of Puerto Rico Contracting Requirements*) and Article 27 (*Anti-Corruption Code for a New Puerto Rico*).

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ANNEX E

FORM OF CONDITIONS PRECEDENT CERTIFICATE

CONDITION PRECEDENT CERTIFICATE

Date: [●]

Contract: [●] [Note: Insert contract number and title.]

From: The Puerto Rico Electric Power Authority ("**PREPA**")

To: [●] ("**Consultant**")

We refer to the Professional Services Contract, dated [●] 2020, between PREPA and Consultant (the "**PSC**"). Unless the context otherwise requires, capitalized terms used in this Condition Precedent Certificate shall have the meanings ascribed to them in the PSC.

PREPA hereby confirms that (i) Consultant has satisfied all of the conditions precedent under the PSC; and (ii) the Effective Date occurred on [●].

SIGNED: _____
FOR PREPA

DATE: _____

Handwritten signature

ANNEX F
CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS

INSTRUCTIONS FOR CERTIFICATION

1. By signing the Contract, Consultant provides the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the Contract was entered into. If it is later determined that Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. Consultant shall provide immediate written notice to PREPA's Representative if at any time Consultant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact PREPA's Representative to obtain a copy of those regulations.
5. Consultant agrees by entering into the Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. Consultant further agrees by entering into the Contract, that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

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information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

Consultant certifies, by entering into the Contract, that neither it nor any one of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Sargent & Lundy Puerto Rico, L.L.C.

Contract Number

Vincent T. Heinz
Name

Manager
Title


Signature

December 2, 2020
Date

Date

ANNEX G

**CERTIFICATION REGARDING LOBBYING FOR CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

Consultant certifies, to the best of his or her knowledge and belief, that:

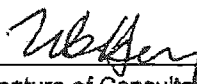
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the Contract was entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Consultant certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Consultant understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Sargent & Lundy Puerto Rico, L.L.C.

Consultant Name



Signature of Consultant's Authorized Official

Vincent T. Heinz, Manager
Name and Title of Consultant's Authorized Official

October 27, 2020
Date



ANNEX H
FORM OF INVOICE

SARGENT & LUNDY PUERTO RICO, L.L.C.

SARGENT & LUNDY PUERTO RICO, L.L.C.
BANK
BANK ADDRESS
CHICAGO, IL 60603
ABA NUMBER:
ACCOUNT NUMBER: SWIFT CODE: XXXXXXXX
ACCOUNT TITLE: SARGENT & LUNDY PUERTO
RICO, L.L.C.
PAYMENT DETAIL: TELEFAX NO: (312) 269-9675
accounts.receivable@sargentlundy.com

INVOICE NO: 12345678
DATE: 10/15/20
PAGE: 1

PUERTO RICO ELECTRIC POWER
AUTHORITY
P.O. BOX 364267
SAN JUAN, PR 00936-4267
ATTN: ACCOUNTS PAYABLE

REMITTANCE ADDRESS FOR CHECK
PAYMENTS:
SARGENT & LUNDY PUERTO RICO, LLC
123 MAIN STREET
CHICAGO, IL 12345

PO NO:
TASK NO:
CONTRACT:

TIN:

TERMS: PAYMENT DUE PER TERMS OF THE CONTRACT
Currency Code: USD

CLIENT INVOICING SPECIALIST:
Doe, Jane 312-269-2000

SERVICE THRU: 09/30/2020

SERVICE DESCRIPTION: A12345.123
SERVICE DESCRIPTION TEXT

Description	Bill Hours	Amount To Bill
Labor	0.0	\$0.00
LABOR Total	0.0	\$0.00
TOTAL INVOICE	0.0	\$0.00

PM – TBD
EMAIL TO:

We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Contract. The only consideration to be received in exchange for the performance of the Services provided is the agreed-upon price that has been negotiated with an authorized representative of PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered and no payment has been received.

Project P.O. Value:	\$0.00
Prior Billings:	\$0.00
Current Month:	\$0.00
Invoiced to Date:	\$0.00
Remaining P.O. Value:	\$0.00

CONSULTANT'S SIGNATURE

Sargent & Lundy Puerto Rico
Labor Billing Attachment (A75)

Invoice No: 12345678 Dated: 10/15/20

Project ID: PROJECT NUMBER

Task Code	Client Job Category	Employee Name	Reg/OT	Hours	Rate	Amount
PROJECT - TASK NUMBER - TASK NAME	CIVIL ENG - SUBSTN DSN		Reg	39.0	Per Contract	
			Over	4.0	Per Contract	
			Reg	43.0	Per Contract	
	PROGRAM MANAGER		Reg	64.0	Per Contract	
			Reg	2.0	Per Contract	
			Reg	11.5	Per Contract	
	ELECTRICAL ENG – SUBSTN DSN		Reg	66.5	Per Contract	
			Reg	29.5	Per Contract	
	PROJECT CONTROL MGR		Reg	23.0	Per Contract	
PROJECT NUMBER – TASK NAME -Total				282.5		\$0.00
TOTAL ATTACHMENT				282.5		\$0.00

* In addition to the information provided herein, Consultant shall provide any and all supporting documentation required under Section 8.1 of the Contract, including, without limitation, a description of the of the Services performed by each employee, the daily amount of hours worked by each employee, and the state, territory or province where the Services were performed.

2020

Doe, John S. (Employee Number)

T&M OPEN PROJECT NUMBER PROJECT/TASK DESCRIPTION

COSTCONTCT	CH Cost and Contract Analysis	16-Oct-20	1	Detailed description of work performed
COSTCONTCT	CH Cost and Contract Analysis	19-Oct-20	4	Detailed description of work performed
COSTCONTCT	CH Cost and Contract Analysis	20-Oct-20	4	Detailed description of work performed
PROJECT NUMBER - Total			9	
EMPLOYEE - Total			9	
Overall - Total			9	

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ANNEX I

CONTRACTOR CERTIFICATION

Consultant certifies to the Financial Oversight and Management Board for Puerto Rico and PREPA that:

1. Consultant's subcontractors in connection with the Contract are the following:

Subcontractor Name	Subcontractor Role	Estimated Subcontract Amount*
Sargent & Lundy, L.L.C.	All Services	84%
CPM PR, L.L.C.	Project management, safety, cost estimations, walkdowns and other architect and engineer ("A&E") support	3.2%
Design & Field, L.L.C.	Permitting review and consulting, walkdowns and other A&E support	1.6%
P&S Consultants, L.L.C.	Structural, civil, geotechnical, drafting and other A&E support	3.2%
EcoStahlia Consultores Ambientales, L.L.C.	Environmental permitting support	1.6%
Volkert, Inc.	Civil, structural, right of way easements, permitting and other A&E support	1.6%
Ardmore Roderick Puerto Rico, L.L.C.	Project management support and other A&E support	1.6%
Intralogica, LLC	Telecommunication A&E support	1.6%
PowerWright Technologies, Inc.	Transmission and distribution line A&E support	1.6%


* Estimated subcontract amounts are subject to change based on the specific scope of work assigned thereto as needed under each Task Order.

2. Neither Consultant nor any of its owners, partners, directors, officials or employees, has agreed to share or give a percentage of Consultant's compensation under the Contract to, or otherwise compensate, any third party, whether directly or indirectly, in connection with the procurement, negotiation, execution or performance of the Contract, except as follows:

NONE.

3. To the best of Consultant's knowledge (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 of Consultant's knowledge (after due investigation), no person has:
(a) offered, paid, or promised to pay money to; (b) offered, given or promised to give anything of value to; or (c) 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 Consultant, beneficial treatment under the Contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).
5. Neither Consultant, nor any of its owners, partners, directors, officials, or employees or, to the best of its knowledge (after due investigation), its representatives or subcontractors, 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.
6. Consultant recognizes and accepts that any incorrect, incomplete or false statement made by Consultant's undersigned representative as part of this certification shall cause the nullity of the Contract, and in such event, Consultant must reimburse immediately to the Commonwealth any amounts, payments, or benefits received from the Commonwealth under the Contract

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

Signature: 

Printed Name: Vincent T. Heinz

Title: Manager

Date: December 2, 2020

For Consultant: Sargent & Lundy Puerto Rico, L.L.C.

**COMMONWEALTH OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY**

PROFESSIONAL SERVICES CONTRACT

APPEAR

AS FIRST PARTY: The Puerto Rico Electric Power Authority (PREPA), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act 83 of May 2, 1941, as amended (Act 83), represented in this act by its Chief Executive Officer/Executive Director, José F. Ortiz Vázquez, of legal age, married and a resident of San Juan, Puerto Rico.

AS SECOND PARTY: Sargent & Lundy, L.L.C., (Consultant), a limited liability company organized and existing under the laws of the State of Illinois, United States of America, authorized to do business in Puerto Rico, represented in this act by its Senior Vice President, Matthew R. Thibodeau, of legal age, married, and a resident of the State of Illinois, U.S.A., authorized by virtue of the Power of Authority dated as of June 26, 2020. Both PREPA and Consultant are herein individually referred to as a "Party" and collectively referred to as the "Parties".

WITNESSETH

In consideration of the mutual covenants and agreements contained in this Contract, hereinafter stated, the Parties agree themselves, their personal representatives, and successors as follows:

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TERMS AND CONDITIONS

WHEREAS: PREPA, by virtue of Act 83, has the authority to engage those professional, technical and consulting services necessary and convenient to the activities, programs, and operations of PREPA.

WHEREAS: On April 6, 2020, PREPA issued the RFP 103430 for technical support and advice in the engineering, planning and strategic project management areas. As a result, the Evaluation Committee for this RFP 103430 issued a recommendation to award it to the Consultant.

WHEREAS: On May 28, 2020, PREPA's Governing Board, through Resolution 4787, authorized PREPA to execute a Contract with Consultant for a maximum amount of nine million dollars (\$9,000,000), for Fiscal Year 2020-2021, subject to availability of funds.

NOW THEREFORE, the appearing Parties hereby agree to enter into this Contract under the following terms and conditions:

TERMS AND CONDITIONS

Article 1. Scope of Services

1.1. In accordance with the terms and conditions herein established the Consultant will provide PREPA professional services and financial consulting services, including expert testimony services related to the electric system owned by PREPA (collectively, the "Services"). The Consultant will continue providing technical, financial and contract support to PREPA with its privatization and transformation efforts to meet its financial goals. Among the professional services to be provided by the Consultant are the following:

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- Continuity with the support of ongoing efforts (consistent with previous contracts between the Parties), including fuel contracting support, financial analysis, market sounding support, insurance claim and expert witness support, fuel gas support, renewable analysis and strategy development/implementation, renewable contract negotiation support, strategic planning and IE support.
- Consultant will be available for new efforts identified as additional needs per the Integrated Resources Plan and PREPA's Fiscal Plan, including additional fuel contracting initiatives, renewable contracting support, transmission constraint analysis, planning and scheduling of transmission and distribution projects, repowering studies, and support for public communication of key technical points.
- Consultant shall support PREPA in Contract and Optimization Support - Continuation of previous work and new work including renewable contract renegotiation, fuel procurement/supply analysis and potential Request for Proposals (RFP), and creation of operating procedures/efficiency initiatives for the PREPA Fuel Department; Transmission and contract analysis work for PREPA, including a load flow study, congestion analysis, investigation of battery storage placement, synchronous condensing and grid support systems for larger renewable penetration, and other items associated with grid improvements, restoration, stability, and forward vision for future grid characteristics; continuity of financial support related to depreciation and

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prepared financial statements from 2017 onward including other related financial and accounting system items.

- Consultant will also support PREPA with the following tasks: Transmission and Distribution Roadmap Planning; Fuel Gas Master Planning; Generation Repowering Planning; Continued Support for IE Reports and Integration; Transmission and Distribution Standards Development; Third-Party Interconnection Process Updates and Planning; Renewable Energy and Battery Storage Planning and potential RFPs; among others.

1.2. At the direction of PREPA, the Consultant may be required to work with other consulting, legal, investment, or other type of firms in support of the continuing activities, programs and operations of PREPA. The Parties agree to discuss such assignment(s) in advance, so that all the Parties have a clear understanding as to their responsibilities. The Consultant is not responsible for work performed by others.

Article 2. Definitions

Whenever the words defined in this Article or pronouns used instead are mentioned in this Contract, they shall have the meanings here given:

- 2.1. Contract - shall mean collectively, all the covenants, terms, and stipulations in these Articles of the Contract and in all supplementary documents hereto attached which constitute essential parts of the Contract and are hereby made part thereof:
- a. Professional Services Contract

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- 2.2. Contracting Officer - shall mean PREPA's Chief Executive Officer, acting directly or through his properly authorized representatives.
- 2.3. Project Manager - shall mean an authorized representative assigned by each Party for the duration of the work and until the final payment is due. All instructions shall be forwarded through the Project Manager. All interpretations and decisions of the Project Manager shall be consistent with the intent of and reasonably inferable from the Contract documents and will be made in writing. PREPA's designated Project Manager will be Fernando M. Padilla. Consultant's designated Project Manager will be Thomas Cavalcante. If any of the Parties decides to change the Project Manager, prior written notification shall be forwarded to the other Party.

Article 3. Services Coordination

All the Services of the Consultant in relation to the terms and conditions of this Contract will be coordinated through PREPA's Restructuring and Fiscal Affairs Administrator of the Project Management Office or the person delegated by him.

Article 4. Contract Assignment or Subcontract

- 4.1. The Consultant shall not assign nor subcontract its rights and obligations under this Contract, except in the event PREPA gives written authorization for such actions. Provided, that no subcontract shall be considered for PREPA's approval, except when the following requirements are met: (a) the Consultant delivers to PREPA a copy of the subcontract, not less than thirty (30) days prior to the effective date of the proposed subcontract; (b) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to

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substitute, subrogate or assume Consultant's rights under the subcontract, in the event that PREPA declares the Consultant in breach or default of any of the material Contract terms and conditions; and (c) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the subcontractor the obligation to comply with all Consultant's obligations under the Contract (mirror image clause) to the extent commensurate with the Services performed thereby, except for such obligations, terms and conditions which exclusively related with works or Services not included under the subcontract. A request to subcontract shall specify the issues or matters that will be referred to the subcontractor. These Services shall be paid as part of the Contract Amount, as stated in Article 7, Payment.

- 4.2. The Parties agree that Consultant may contract work as Sargent & Lundy Puerto Rico, L.L.C. ("SLPR") by a mutually agreed written amendment to the Contract, should certain Services be requested. Prior to doing so, Consultant shall notify PREPA in writing and provide the requisite documents and certifications in Articles 27 and 28 hereof for SLPR.

Article 5. Contract Term

This Contract shall be in effect from the date of its execution until June 30, 2021 (the Contract Period).

Article 6. Contract Termination

- 6.1. PREPA shall have the right to terminate this Contract, at any time, with thirty (30) days prior written notice by registered mail, return receipt requested, or overnight

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express mail to the Consultant. If such notice is given, the Contract shall terminate upon the expiration of the thirty (30) days and PREPA shall be obligated to pay all fees and expenses incurred up to the day of effective termination, and through demobilization (if any) in accordance with the terms of this Contract. The rights, duties and responsibilities of the Parties shall continue in full force and effect during the thirty (30) day notice period. The Consultant shall have no further right to compensation except for what has been accrued for Services rendered and expenses incurred under the Contract until said date of effective termination.

- 6.2. PREPA shall have the right to terminate this Contract immediately, without prior written notice, in the event Consultant defaults in the performance of a material obligation under this Contract, and thereafter fails to cure the default within fifteen (15) calendar days after Consultant's receipt of the written notice of default by PREPA, unless such default is not reasonably capable of being cured within the initial fifteen- (15) day period, in which case the cure period shall be extended as reasonably necessary, but in no event longer than 15 additional calendar days.
- 6.3. The Consultant shall have a reciprocal right to terminate this Contract upon the same terms available to PREPA, as described herein, so long as such termination is consistent with the ethical obligations applicable to the Consultant under the circumstances.
- 6.4. The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that in the eventuality of the execution of a Partnership Contract, Sale Contract or any other PREPA Transaction (as these

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terms are defined in Act 120-2018), PREPA may sell, assign, convey, transfer, pledge, mortgage, sublease, delegate, hypothecate, or otherwise dispose (each, a "Transfer") any of its rights, title, or interest in this Contract as permitted by applicable law and at any time, and without Consultant's consent or cost, expense or incremental liability to PREPA, to any future operator of Puerto Rico's electric power transmission and distribution system or any of its affiliates, or to any governmental agency, body, public corporation or municipality of Puerto Rico; provided, that PREPA shall notify Consultant no later than thirty (30) days before the effective date of any such Transfer.

The Consultant acknowledges that all his responsibilities and obligations under the Contract, such as work to be performed and services to be provided, etc., will continue in full force and effect until the expiration of the thirty (30) day period.

Article 7. Payment

- 7.1. In accordance with the terms and conditions contained herein, PREPA agrees and Consultant accepts that the total amount to be paid under the Contract shall not exceed a cumulative amount of nine million dollars (\$9,000,000), including reimbursable expenses (the "Contract Amount"). All payments to be made under this Contract will be charged to PREPA's budget account 01-4019-92319-556-673. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be required to make advance payments for any future service to be rendered by Consultant under the Contract.

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- 7.2. Nothing herein shall preclude the Parties from agreeing to increase said amount in writing and signed by both Parties.
- 7.3. PREPA will pay for the Services rendered by Consultant according to the following hourly rates:

Consultant Hourly Rate Sheet

No.	Consultant Billing Classification	RFP 103430 Labor Resource Description (for reference only)	Unit	Unit Price
For All Services				
1	Director/Principal Consultant	Program Director	\$ / Hour	290
2	Senior Consultant II / III	Consultant - Senior	\$ / Hour	270
3	Senior Consultant I	Consultant II	\$ / Hour	247
4	Consultant	Consultant I	\$ / Hour	214
5	Technical Editing Services	Technical Editor	\$ / Hour	148
6	Administrative Assistant	Administrative Assistant	\$ / Hour	115
7	Local Contract Administrator	Not Applicable	\$ / Hour	55
Concession Agreement Support				
8	Principal Manager	Group Manager	\$ / Hour	246
9	Senior Manager	Senior Manager	\$ / Hour	228
10	Manager	Manager	\$ / Hour	204
11	Senior Project Associate	Senior Project Officer	\$ / Hour	184
12	Project Associate	Project Officer II	\$ / Hour	168
13	Senior Associate	Project Officer I	\$ / Hour	142
14	Senior Designer	Project Assistant II	\$ / Hour	138
15	Designer	Project Assistant I	\$ / Hour	106
16	Senior Associate	Senior Engineer	\$ / Hour	142
17	Associate	Engineer	\$ / Hour	123
18	Drafter	Engineering Assistant	\$ / Hour	95
19	Administrative Assistant	Administrative Assistant	\$ / Hour	89

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Financial Analysis, Contracts, and Fuel Purchase Support				
20	Principal Manager	Group Manager	\$ / Hour	245
21	Senior Manager	Senior Manager	\$ / Hour	228
22	Manager	Manager	\$ / Hour	204
23	Senior Project Associate	Senior Project Officer	\$ / Hour	184
24	Project Associate	Project Officer II	\$ / Hour	168
25	Senior Associate	Project Officer I	\$ / Hour	142
26	Senior Designer	Project Assistant II	\$ / Hour	138
27	Designer	Project Assistant I	\$ / Hour	106
28	Senior Associate	Senior Engineer	\$ / Hour	142
29	Associate	Engineer	\$ / Hour	123
30	Drafter	Engineering Assistant	\$ / Hour	95
31	Administrative Assistant	Administrative Assistant	\$ / Hour	89
Transmission and Distribution Directorate Support				
32	Principal Manager	Group Manager	\$ / Hour	246
33	Senior Manager	Senior Manager	\$ / Hour	228
34	Manager	Manager	\$ / Hour	204
35	Senior Project Associate	Senior Project Officer	\$ / Hour	184
36	Project Associate	Project Officer II	\$ / Hour	168
37	Senior Associate	Project Officer I	\$ / Hour	142
38	Senior Designer	Project Assistant II	\$ / Hour	138
39	Designer	Project Assistant I	\$ / Hour	106
40	Senior Associate	Senior Engineer	\$ / Hour	142
41	Associate	Engineer	\$ / Hour	123
42	Drafter	Engineering Assistant	\$ / Hour	95
43	Administrative Assistant	Administrative Assistant	\$ / Hour	89
Planning Directorate Support				
44	Principal Manager	Group Manager	\$ / Hour	246
45	Senior Manager	Senior Manager	\$ / Hour	228
46	Manager	Manager	\$ / Hour	204
47	Senior Project Associate	Senior Project Officer	\$ / Hour	184
48	Project Associate	Project Officer II	\$ / Hour	168
49	Senior Associate	Project Officer I	\$ / Hour	142
50	Senior Designer	Project Assistant II	\$ / Hour	138

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51	Designer	Project Assistant I	\$ / Hour	106
52	Senior Associate	Senior Engineer	\$ / Hour	142
53	Associate	Engineer	\$ / Hour	123
54	Drafter	Engineering Assistant	\$ / Hour	95
55	Administrative Assistant	Administrative Assistant	\$ / Hour	89

- 7.4. Should the Consultant assign another person to attend to PREPA's matters pursuant to this Contract, the Consultant shall promptly send PREPA an amended schedule to include such person's name, position and rate, as well as request approval from PREPA.
- 7.5. The Consultant shall immediately notify PREPA when the billing under the Contract amounts seventy-five percent (75%) of the Contract Amount. Once this notification has been issued, the Consultant, in coordination with PREPA, will ensure that no Services will be rendered in excess of the Contract Amount, except that a written amendment is agreed upon by both Parties. In addition, the Consultant shall present an itemized list of the remaining billable Services under the Contract.

Article 8. Fees, Expenses and Disbursements

- 8.1. PREPA should not be billed for (a) time spent in processing conflict searches, or preparing billing statements, or in responding to PREPA inquiries concerning Consultant's invoices; or (b) travel time during which Consultant is billing another client for work performed while traveling. Moreover, PREPA requires that only professional services be billed on a time and material basis in accordance with Consultant's fixed hourly rates. Accordingly, PREPA should not be billed for the

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administrative tasks of creating, organizing, reviewing and/or updating files; routine or periodic status reports; receiving, reviewing, and/or distributing mail; faxing or copying documents; checking electronic mail or converting information to disk, not directly related to the PREPA Contract.

- 8.2. PREPA will reimburse the Consultant for actual costs and expenses related to matters assigned to Consultant and for necessary and reasonable out-of-pocket disbursements, subject to the limitations and exceptions set forth below. The Consultant is expected to have a system in place that requires those who bill time and disbursements to PREPA matters do so promptly and accurately.
- 8.3. PREPA will not reimburse Consultant for: (a) costs included in a “miscellaneous” or “other” category of charges; (b) overhead costs and expenses, such as those relating to fees for time or overtime expended by support staff (secretaries, administrative/clerical personnel, internal messengers, and other similar services), word processing and/or proofreading, cost of supplies or equipment, and/or other similar costs of doing business; (c) time spent attending education seminars or training programs; or (d) mark-ups or surcharges on any cost or expense. In addition, if communications are sent to PREPA using more than one medium, PREPA does not expect to pay for the cost of both communications. For instance, if a piece of correspondence is sent to PREPA by email, we do not expect to pay for the cost of that same correspondence if it is also sent via regular or expedited mail.

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8.4. PREPA will reimburse Consultant for separately itemized expenses and disbursements in the following categories:

8.4.1. Messenger/courier service - PREPA will reimburse actual charges billed to Consultant for deliveries (including overnight deliveries) where this level of service is required because of time constraints imposed by PREPA or because of the need for reliability given the nature of the items being transported. Appropriate summaries of messenger/courier expenses must reflect the date and cost of the service and the identity of the sender and the recipient or the points of transportation.

8.4.2. Travel - Subject to the provisions for per diem in Article 8.4.4, PREPA will reimburse actual charges for transportation and hotels reasonable and necessary for effective Services to PREPA. PREPA will not pay for any first-class or business-class travel. Summaries of transportation expenses should reflect the identity of the user, the date and amount of each specific cost, and the points of travel. Summaries of lodging expenses should include the identity of the person making the expenditure, the date and amount, and the nature of the expenditure. Travel expenses reimbursement applies for personnel providing the Services to PREPA, travel expenses for family members or guests are not chargeable to PREPA or reimbursable.

8.4.3. Air Travel - The cost of air travel will be reimbursed up to an amount that is no more than the advanced purchase of the lowest available economy

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airfare (including applicable taxes). The Consultant shall submit a copy of the original airline itinerary and paid invoice. Airfare may only be invoiced following completion of travel. In the event that a scheduled trip has to be cancelled or rescheduled by PREPA's order, PREPA will assume the cost of the penalty fee.

Reimbursable expenses in matters of trips by the Consultant, within the United States, shall be previously authorized by PREPA.

Airfare necessary to attend PREPA's official business will be paid by PREPA according to these guidelines.

- 8.4.4. Maximum Per Diem Rates (no proof of payment will be required) Meals: - \$80 per person for each day for persons travelling or working in Puerto Rico or other location as directed and approved by PREPA under the Contract. Lodging (standard not smoking room): - \$250 per person, per night including government fees and taxes. The Consultant may use an economical alternative of lodging, including temporary rentals of apartments or rooms (Airbnb like rentals). For travel period longer than five days, temporary rentals shall be coordinated when this temporary rental (including all taxes and applicable fees) is less expensive than hotel accommodation, and evidence of said temporary rental shall be provided.

Ground Transportation in P.R.: - Shall be reimbursable at cost, including Uber type services, taxis or car rentals (Rental cars requires a previous

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approval by PREPA) and associated driving expenses such as, but not limited to parking fees, highway tolls, and fuel).

8.4.5. Reimbursable expenses shall not exceed six percent (6%) of the Contract Price in one year and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses.

8.4.6. Photocopying/printing - PREPA will reimburse actual charges for in house or outside binding, and printing services and costs of photocopying services, which are not to exceed the actual five cents (\$0.05) per page for black and white copies, and twenty-five cents (\$0.25) per page for color copies. Summaries of expenditures for copying should reflect both the number of copies made and the cost per copy.

8.4.7. Third-Party Services - The approval of PREPA must be obtained in writing prior to retaining any third-party services. The Consultant shall be responsible for requiring that there are no conflicts of interest between any third party and PREPA or between any third-party clients and PREPA. In addition, all arrangements with third-party vendors should include an appropriate undertaking of confidentiality and data privacy. Invoices from third-party vendors should be paid directly by Consultant, incorporated into its invoice to PREPA and should include appropriate detail. Copies of third-party invoices may be requested by PREPA and should be retained in accordance with PREPA's guidelines.

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8.4.8. PREPA reserves the right to question the charges on any bill (even after payment) and to obtain a discount or refund of those charges that are not in compliance with the terms of the Contract. At PREPA's request, copies of bills and records reflecting reimbursable expenses that are not specifically listed in Article 8.4.4 as per diem shall be provided.

Article 9. Invoices

- 9.1. Consultant shall submit its invoices on a monthly basis for the work already performed during the preceding month or in accordance with a mutually agreed payment schedule. Consultant will provide to PREPA an invoice for each billing period which will include a description of the Services rendered and the number of hours spent by each person. The invoice for professional services shall be itemized and must be duly certified by an authorized representative of the Consultant. PREPA pays the invoice amount after deduction, as stated in Article of Income Tax Withholding.
- 9.2. Within ten (10) calendar days of invoice receipt by the Project Manager, PREPA shall either; (i) approve the total invoice amount for payment; or (ii) approve that portion of the invoiced amount for payment which has been correctly invoiced pursuant to the terms of the Contract and shall notify Consultant in writing stating the specific reason why the remaining portion of the invoice is incorrect or disputed according to the terms of the Contract. Payments will be made within sixty (60) days of approval of the invoice. The Consultant will make the corresponding adjustments to the denied portion of the invoice and submit it for PREPA' approval.

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PREPA reserves the right to conduct the audits it deems necessary, and it will not be subject to finance charges regarding invoice payments subject to an audit.

- 9.3. All invoices submitted by Consultant shall include the following Certification in order to proceed with its payment:

No Interest Certification:

“We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Contract. The only consideration to be received in exchange for the performance of the Services provided is the agreed-upon price that has been negotiated with an authorized representative of the PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received”

Consultant's Signature

This is an essential requirement and those invoices without this Certification will not be processed for payment. In order to comply with the certification requirements set forth above, Consultant shall require that subcontractors, if any approved by PREPA, providing Services also make the certification set forth above in any invoices submitted in connection with the Services.

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Article 10. Transfer of Funds

- 10.1. If Consultant decides to assign or transfer an amount, due or payable, to which it is entitled for Services rendered or goods provided during the term of this Contract, Consultant shall notify PREPA of such transfer of funds, in accordance to the provisions of Act 21-2012. Said notice shall clearly indicate the rights granted, including a copy of the contract under which the assignment or transfer of funds is made, the exact amount of funds to be assigned or transferred, and specific identification information regarding the assignee (full name of the person or company), address and any other contact information.
- 10.2. Consultant acknowledges and agrees that PREPA may deduct any amount, due or payable to Consultant under this Contract, that Consultant owes as a result of Consultant's failure to cure a material default of this Contract PREPA may retain any said amount if Consultant fails to fulfill its obligations and responsibilities under this Contract, or a claim arises for warranty or defects regarding the Services rendered or goods provided under this Contract and Consultant fails to reimburse PREPA for such claim in accordance with this Contract, upon written demand therefor. Consultant also acknowledges and agrees that PREPA's payment obligation under any assignment of funds of compensation for Services rendered by Consultant will cease upon payment of all outstanding amounts under this Contract. PREPA shall not be required to make payments or transfer any funds for an amount that exceeds the payment to which Consultant is entitled to under this Contract.

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- 10.3. Consultant shall include with its notice of assignment of funds a cashier's check or money order for two hundred dollars (\$200), payable to "Puerto Rico Electric Power Authority", to cover administrative costs in processing such assignment.

Article 11. Information and Material Facts

- 11.1. PREPA shall promptly provide to Consultant all information under the control of PREPA and necessary for Consultant to perform the Services under this Contract and those material facts that Consultant may reasonably require in order to provide its Services to PREPA. PREPA will ensure, to the best of its knowledge and belief, that the documents, data, and other information and material facts provided to Consultant, which are under its control, are true and complete, and does not constitute misleading or inaccurate information and Consultant shall be entitled to rely on the accuracy and completeness of the documents, data, and other information and material facts.
- 11.2. PREPA will advise in writing Consultant of any developments of which PREPA becomes aware, and which PREPA considers may have a material effect with respect to the information and/or facts provided to Consultant.

Article 12. Information Disclosure and Confidentiality

- 12.1. The Parties shall take all reasonable steps to keep confidential and use only for the purposes contemplated by the terms of the Contract the information provided by PREPA and/or Consultant, and take all reasonable steps to ensure that such information is not disclosed or distributed by its employees or agents in violation of the terms of this Contract.

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- 12.2. The Parties also agree that, except as agreed to in writing by both Parties, they will not, at any time after termination of this Contract, disclose any confidential information to any person whatsoever, or permit any person whatsoever to examine and/or make copies of any reports prepared by Consultant or under its control by reason of its consulting services, and that upon termination of this Contract each Party will turn over to the other all documents, papers, and other matters in its possession or under its control that relate to the other Party. Consultant may retain one file copy for its records.
- 12.3. The term “confidential information” shall include, but not be limited to, all information provided to Consultant by PREPA or at PREPA’s direction regarding its facilities or operations and any and all information gathered or developed by Consultant regarding the same. The Parties further agree that proprietary records and documents related to Consultant’s business operations are confidential to Consultant and will not be disclosed to PREPA or other Parties, except as ordered by the court. The Parties agree that PREPA will resist any attempt by opposing counsel or other Parties to obtain Consultant’s proprietary information. The term “confidential information”, however, will not include information that: (i) is or becomes public other than through a breach of this Contract; (ii) is known to the receiving Party prior to the date of this Contract and with respect to which the receiving Party does not have any obligation of confidentiality; or (iii) is independently developed by the receiving Party without use of, or reference to, confidential information.

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- 12.4. The Parties acknowledge that disclosure of any confidential information by either Party will give rise to irreparable harm to the injured Party inadequately compensable in damages. Accordingly, either Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies, which may be available.
- 12.5. If this Contract terminates for any reason, Consultant shall maintain in strictest confidence both; during the term of this Contract and subsequent to termination of this Contract, and shall not during the term of this Contract or thereafter disclose or divulge to any person, firm, or corporation, or use directly or indirectly, for its own benefit or the benefit of others, any information which in good faith and good conscience ought to be treated as confidential information including, without limitation, information relating to PREPA's operations or trade secrets relating to the business or affairs of PREPA which Consultant may acquire or develop in connection with or as a result of the performance of the Services hereunder. In the event of an actual or threatened breach by Consultant of the provisions of this paragraph, PREPA shall be entitled to injunctive relief for such breach. Nothing herein shall be construed as prohibiting PREPA from pursuing any other legal remedies available, including the recovery of damages from Consultant.
- 12.6. The above provisions do not apply with respect to information, which Consultant is requested to disclose under applicable law and regulations, court order, subpoena or governmental directives, in which case Consultant shall provide PREPA prompt notice of such request in order to procure for PREPA a reasonable opportunity to

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oppose such disclosure. Consultant agrees to expeditiously notify and submit to PREPA a copy of any court order or subpoena and to the extent possible provide any assistance to PREPA (in the form of documents) regarding the submission of such information.

- 12.7. With respect to this Contract and any information supplied in connection with this Contract and designated by the disclosing Party as confidential, the recipient agrees to: (i) protect the confidential information in a reasonable and appropriate manner and in accordance with applicable professional standards; (ii) use confidential information only to perform its obligations under this Contract; and (iii) reproduce confidential information only as required to perform its obligations under this Contract.

Article 13. Rights and Titles

- 13.1. The Consultant will submit any reports reasonably required by PREPA regarding the Services performed under this Contract. If required by PREPA, at the completion of any assigned task, the Consultant will submit a final written report describing the work it has performed. This requirement shall not be interpreted as a waiver by PREPA of Consultant's ethical obligation and responsibility of keeping PREPA informed of the progress of the assigned matters.
- 13.2. All rights, titles and interest in any reports, documents, analyses, investigations and any other by-product conceived or developed by the Consultant exclusively for PREPA as a result of performing its obligations under this Contract shall be the exclusive property of PREPA upon full and final payment to the Consultant. The

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Consultant shall retain all right, title, and interest in and to proprietary works of authorship, pre-existing or otherwise, that have not been created specifically for PREPA under this Contract. With the exception of items marked as "CONFIDENTIAL" by the Consultant, PREPA shall retain the right to use, refer, share, or provide to any third party, as PREPA may determine, the results of any reports, documents, analyses, investigations or any other by-product of the Services performed by the Consultant under this Contract.

Article 14. Copyright

Consultant and PREPA shall jointly defend any suit or action brought against either party based on a claim that any document, report, study, analysis, copyrighted composition, article or any by-product of those, either used in the performance of the Services by Consultant or provided to PREPA by Consultant as part of its Services, or used in the performance of this Contract, including their use by PREPA, constitutes an infringement of any patents or copyrights of the United States. The Party of this Contract subject to the claim or that becomes aware of a potential claim shall promptly notify in writing the other Party of this Contract, and give the authority, information, and assistance reasonable and necessary for the defense of such claim. If, in such suit, the document, report, study, analysis, copyrighted composition, article or any by-product of those or any part thereof is held to constitute infringement and its use is enjoined, the infringing Party, shall rectify the part of the services affected by such determination by (a) procuring for PREPA, or reimburse PREPA for procuring, the right to continue using the infringing

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Service; (b) modify the infringing Service, so that the same becomes non-infringing; or
(c) replace the infringing Service, with non-infringing Service, as the case may be.

Article 15. Warranty

- 15.1. Consultant warrants that it shall perform the Services in accordance with the applicable standards of care and diligence at the time of performance of the Services, and which are normally practiced and recognized in performing services of a similar nature (the "Standard"). Consultant's sole obligation and PREPA's exclusive remedy, should any of the Services provided by Consultant not fulfill the above established Standard, whether in contract or tort, shall be for Consultant to re-perform such deficient Services, at its own and exclusive cost, so long as such failure is reported in writing to Consultant within thirty (30) calendar days following discovery thereof, but in no event later than one year from the date on which such Services were performed. After said one year, Consultant shall have no remaining obligation to re-perform any Services or otherwise compensate PREPA.
- 15.2. No other warranty, express or implied, is made or intended by this Contract, by furnishing oral or written reports of findings made, or by any other act of Consultant.
- 15.3. Consultant will endeavor to prepare cost estimates, project time schedules, reports, or any other deliverable as accurately as possible based on current information and experience. In addition PREPA acknowledges that the cost estimates, project time schedules, reports, or any other deliverable generated by Consultant are time sensitive; thus, changes in the underlying data, applicable

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codes, standards, and acceptable engineering practices, as well as the passage of time, may affect the accuracy of the deliverables provided to PREPA.

Article 16. Responsibility for Damages and Venue

The appearing Parties agree that this Contract, as well as their rights, obligations and responsibilities for damages hereunder will be governed and interpreted in accordance with the laws of the Commonwealth of Puerto Rico and any federal law and/or regulation, if applicable. Also, the Parties expressly agree that the United States District Court for the District of Puerto Rico will be the court of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Contract.

Article 17. Independent Contractor

17.1. Consultant shall be considered as an independent contractor, for all material purposes under this Contract, and all persons engaged or contracted by Consultant for the performance of its obligations herein, shall be considered as its employees or agents, and not as employees or agents of PREPA.

17.2. As an independent contractor, Consultant shall not be entitled to any fringe benefits, such as, but not limited to vacation, sick leave, and to which PREPA's employees are entitled.

Article 18. Employees not to Benefit

No officer, employee or agent of PREPA, nor of the Government of the Commonwealth of Puerto Rico or its Municipal Governments shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

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Article 19. Conflict of Interest

- 19.1. Consultant certifies that none of its representatives under this Contract receive payment or compensation of any nature, for the services regularly rendered through an appointment in another government agency, body, public corporation or municipality of Puerto Rico. Consultant also certifies that it may have other consulting services contracts with other governmental agencies or bodies, but such condition does not constitute a conflict of interest for Consultant.
- 19.2. Consultant acknowledges that in executing its Services pursuant to this Contract it has a duty towards PREPA which includes not having a conflict of interest. “Conflict of Interest” means representing clients who have or may have interests that are contrary to PREPA, but does not include rendering services that are unrelated to the Services covered in this Contract. Also, Consultant shall have the continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons that would result in a conflict of interest which would influence the Consultant when performing its responsibilities under this Contract.
- 19.3. The Parties understand and agree that a conflict of interest exists when Consultant must advocate a position or outcome on behalf of any existing or future client that is contrary to PREPA's interests. Also, any conduct defined in the Rules of Professional Conduct regarding conflict of interests shall apply to Consultant and its personnel.

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- 19.4. In the event that any of the partners, directors, agents or employees of Consultant engaged in providing Services under this Contract should incur in the conduct described herein, said conduct shall constitute a violation of the prohibitions provided herein.
- 19.5. Consultant's partners, directors, agents or employees and personnel shall avoid even the appearance of the existence of conflicting interests.
- 19.6. Consultant acknowledges that PREPA's Chief Executive Officer shall have the power to intervene with the acts of Consultant and/or its agents, employees, and subcontractors regarding the enforcement of the prohibitions contained herein. In the event that the existence of adverse interests is discovered, the PREPA's Chief Executive Officer shall inform Consultant in writing of PREPA's intention to terminate this Contract within a thirty (30) day period. During said period, Consultant may request a hearing with the Chief Executive Officer to present its arguments regarding the alleged conflict of interests. In the event that Consultant does not request such hearing during the specified thirty (30) day period or the controversy is not satisfactory settled during the hearing, this Contract shall be canceled.
- 19.7. The Consultant certifies that, at the time of the execution of this Contract, it does not have nor does it represent anyone who has Conflict of Interests with PREPA. If such Conflict of Interest arises after the execution of the Contract, the Consultant shall notify PREPA immediately.

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Article 20. Notices

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy, or postage prepaid, by registered, certified or express mail (return receipt requested) or reputable overnight courier service and shall be deemed given when so delivered by hand, or telecopied, or if mailed, three days after mailing (one business day in the case of express mail or overnight courier service) to the Parties to the following addresses:

To PREPA:	Puerto Rico Electric Power Authority PO Box 364267 San Juan, Puerto Rico 00936-4267
Attention:	José F. Ortiz Vázquez Chief Executive Officer
To Consultant:	Sargent & Lundy, L.L.C. 55 East Monroe Street Chicago, Illinois 60603-5780
Attention:	Matthew R. Thibodeau Senior Vice President

Article 21. Applicable Law and Venue

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the Parties expressly agree that the United States District Court for the District of Puerto Rico will be the court of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Contract.

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Article 22. Change in Law

During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, which cause an increase in Consultant's costs when providing the Services, shall entitle Consultant to an increase to the Contract Amount.

Article 23. Force Majeure

23.1. The Parties shall be excused from performing their respective responsibilities and obligations under this Contract and shall not be liable in damages or otherwise, if and only to the extent that they are unable to perform or are prevented from performing by a force majeure event.

23.2. For purposes of this Contract, force majeure means any cause without the fault or negligence and beyond the reasonable control of, the Party claiming the occurrence of a force majeure event.

23.3. Force majeure may include, but not be limited to, the following: acts of God, industrial disturbances, acts of the public enemy, war, blockages, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, interruptions of services due to the acts or failure to act of any governmental authority; provided that these events, or any other claimed as a force majeure event, and/or its effects, are beyond the reasonable control and without the fault or negligence of the Party claiming the force majeure event, and that such Party, within ten (10) days after the discovery of the alleged force majeure, gives the other Party written notice reasonably describing the particulars of the

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occurrence and its estimated duration. The burden of proof as to whether a force majeure event has occurred shall be on the Party claiming the force majeure.

Article 24. Novation

24.1. The Parties expressly agree that no amendment or change order, which could be made to the Contract during its term, shall be understood as a contractual novation, unless both Parties agree to the contrary, specifically and in writing.

24.2. The previous provision shall be equally applicable in such other cases where PREPA gives Consultant a time extension for the compliance of any of its obligations under this Contract, or where PREPA dispenses the claim or demand of any of its credits or rights under the Contract.

Article 25. Severability

If a court of competent jurisdiction declares any of the Contract provisions as null and void or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of this Contract and the Parties agree to comply with their respective obligations under such provisions not included in the judicial declaration.

Article 26. Save and Hold Harmless

The Consultant agrees to save and hold harmless and to indemnify PREPA for all expenses and costs of any nature (including reasonable attorneys' fees) incurred by PREPA for bodily injuries, including death, or for third -party property damage, to the extent directly caused by negligent act or omission of Consultant, in the performance or nonperformance of its obligations under the Contract, but not to the extent caused by negligence or tort of PREPA or a third party, which is not an employee or subcontractor

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of the Consultant. With respect to any indemnity set forth in this Contract, each indemnitee shall give prompt notice of its receipt of any threat, indication or other notice of any claim, investigation or demand that might give rise to any losses required to be indemnified hereunder and shall reasonably cooperate in the defense by the indemnitee of such claim. The indemnifying Party shall have the right, at its election, to conduct the defense of such action at its sole expense.

Article 27. Insurance

The Consultant shall secure and maintain in full force and effect during the life of this Contract as provided herein, policies of insurance covering all operations engaged in by the Contract as follows:

27.1. Commonwealth of Puerto Rico Workmen's Compensation Insurance:

The Consultant shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico. The Consultant shall also be responsible for compliance with said Workmen's Compensation Act by all its subcontractors, agents, and invitees, if any.

The Consultant shall furnish a certificate from the Puerto Rico's State Insurance Fund showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance, in accordance with this Contract.

27.2. Employer's Liability Insurance:

The Consultant shall provide Employer's Liability Insurance with minimum bodily injury limits of at least \$1,000,000 for each employee and at least \$1,000,000 for each accident covering against the liability imposed by Law upon the Consultant

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as result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.

27.3. Commercial General Liability Insurance:

The Consultant shall provide a Commercial General Liability Insurance with limits of at least \$1,000,000 per occurrence and at least \$1,000,000 aggregate.

27.4. Commercial Automobile Liability Insurance:

The Consultant shall provide a Commercial Automobile Liability Insurance with limits of at least \$1,000,000 combined single limit covering all owned or schedule autos, non-owned autos, and hired autos.

27.5. Professional Liability Insurance:

The Consultant shall provide a Professional Liability Insurance with limits of at least \$1,000,000 per claim and at least \$1,000,000 aggregate.

27.6. Requirements under the Policies:

The Commercial General Liability and Commercial Automobile Liability Insurance required under this Contract shall be endorsed to include:

a. As Additional Insured:

Puerto Rico Electric Power Authority (PREPA)
Risk Management Office
PO Box 364267
San Juan, Puerto Rico 00936-4267

b. A 30 days' cancellation or nonrenewable notice to be sent to the above address.

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- c. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and Parties to the Contract.
- d. Waiver of subrogation in favor of Puerto Rico Electric Power Authority (PREPA).
- e. Breach of Warranties or Conditions:

The breach of any of the warranties or conditions in this policy by the Named Insured (Sargent & Lundy, L.L.C.) shall not prejudice the rights under this policy of the insured person or organization (Puerto Rico Electric Power Authority) shown in the above Schedule, or alternatively include the following remark: "Separation of Insureds provisions are included in the Commercial General Liability Insurance and Commercial Automobile Liability."

27.7. **Furnishing of Policies:** All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico. The Consultant shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded.

Article 28. Compliance with the Commonwealth of Puerto Rico Contracting Requirements

The Consultant will comply with all applicable State Law, Regulations and Executive Orders that regulate the contracting process and establish the requirements for governmental contracting in the Commonwealth of Puerto Rico, including but not limited to those mentioned in this Article. Also, if applicable to the performance of Services under

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this Contract, the Consultant shall provide, within fifteen (15) calendar days after the execution of the Contract, the following documents and certifications:

- A. Executive Order No. OE-1991-24 of June 18, 1991 to require certification of compliance with the Internal Revenue Services of the Commonwealth of Puerto Rico: Pursuant to Executive Order No. OE-1991-24 of June 18, 1991, the Consultant will certify and guarantee that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. The Consultant further will certify that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. The Consultant shall provide, to the satisfaction of PREPA, and whenever requested by PREPA during the term of this Contract, the necessary documentation to support its compliance with this clause. The Consultant will be given a specific amount of time to produce said documents. During the term of this Contract, the Consultant agrees to pay and/or to remain current with any repayment plan agreed to by the Consultant with the Government of Puerto Rico.
- B. Executive Order No. OE-1992-52 of August 28, 1992 to require certification of compliance with the Department of Labor of the Commonwealth of Puerto Rico. Pursuant to Executive Order No. OE-1992-52, dated August 28, 1992 amending OE-1991-24, the Consultant will certify and warrant that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance

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with the terms thereof. The Consultant accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every contractor and subcontractor, if any approved by PREPA, whose service the Consultant has secured in connection with the Services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

- C. Government of Puerto Rico Municipal Tax Collection Center: The Consultant will certify and guarantee that it does not have any current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (known in Spanish as Centro de Recaudación de Ingresos Municipales (CRIM)). The Consultant further will certify to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The Consultant shall provide, to the satisfaction of PREPA and whenever requested by PREPA during the term of this Contract, Certification issued by the Municipal Revenues Collection Center (MRCC), assuring that Consultant does not owe any tax accruing to such governmental agency. To request such Certification, Consultant will use the form issued by the MRCC in the website). The Consultant will deliver upon request any documentation requested by PREPA. During the Term of this Contract, the Consultant agrees to pay and/or to remain current with any repayment plan agreed to by the Consultant with the Government of Puerto Rico with regards to its property taxes.

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The Consultant shall provide a Personal Property Tax Filing Certification, issued by the MRCC which indicates that Consultant has filed its Personal Property Tax Return for the last five (5) contributory terms or Negative Debt certification issued by the MRCC with respect to real and property taxes and a sworn statement executed by Consultant indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last five (5) years (or the time in which it has been providing professional services) it has had no taxable business or personal property on the 1st of January of each year, (iii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended, and (iv) that for such reason it does not have an electronic tax file in the MRCC's electronic system.

- D. The Consultant shall furnish a Certification issued by the Treasury Department of Puerto Rico which indicates that Consultant does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms.
- E. The Consultant shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Consultant has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods.
- F. The Consultant shall provide a copy of Consultant's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.
- G. Puerto Rico Child Support Administration (ASUME): The Consultant shall present, to the satisfaction of PREPA, the necessary documentation certifying that the

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Consultant nor any of its owners, affiliates of subsidiaries, if applicable, have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with the Puerto Rico Child Support Administration (known in Spanish as the Administración Para El Sustento de Menores (ASUME). The Consultant will be given a specific amount of time to deliver said documents.
3 L.P.R.A. § 8611 et seq.;

- H. The Consultant shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico.
- I. The Consultant shall provide a Certification of Incorporation, or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico.
- J. Special Contribution for Professional and Consulting Services: As required by Act 48-2013, as amended, PREPA will withhold a special contribution of one-point five percent (1.5%) of the gross amounts paid under this Contract.
- K. Social Security and Income Tax Retentions: In compliance with Executive Order 1991 OE- 24; and C.F.R. Part 404 et. Seq., the Consultant will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income, from this Contract.
- L. Income Tax Retention Law: PREPA shall deduct and withhold ten percent (10%) of any and all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of U.S. citizens and Non-U.S. citizens, which are nonresidents of the Commonwealth of

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Puerto Rico Consultant will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as Departamento de Hacienda de Puerto Rico). The Consultant will request PREPA not to make such withholdings if, to the satisfaction of PREPA, the Consultant timely provides a release from such obligation by the Government of Puerto Rico's Treasury Department. 3 L.P.R.A. § 8611 et seq., 2011 L.P.R. 232; 232-2011. As proof of the remittance of withholdings to the Treasury Department required by this Paragraph L (as well as Paragraph J above), PREPA agrees to provide Consultant with a completed copy of the Puerto Rico Treasury Department Form 480.6C (entitled, "Declaración Informativa - Ingresos Sujetos a Retención - No Residentes").

- M. Compliance with Act 1 of Governmental Ethics: The Consultant will certify compliance with Act 1-2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his/he immediate family (spouse, dependent children or other members of his/her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the Services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. § 8611 et seq.; Act 168-2000: Law for the Strengthening of the Family Support and

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- Livelihood of Elderly People: The Consultant will certify that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended, the same is current and in all aspects in compliance. Act 168-2000 “Law for the Strengthening of the Family Support and Livelihood of Elderly People” in Spanish: “Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada” 3 L.P.R.A. § 8611 et seq.
- N. Act 127-2004: Contract Registration in the Comptroller’s Office of Puerto Rico Act: Payment for Services object of this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Act 18 of October 30, 1975, as amended.
- O. Prohibition with respect to execution by public officers: 3 L.P.R.A. 8615(c): No public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.
- P. Prohibition with respect to contracting with officers or employees: 3 L.P.R.A. 8615(d): No executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.

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- Q. Prohibition with respect to contracts with officers and employees of other Government entities 3 L.P.R.A. 8615(e): No public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency unless the Governor gives express authorization thereto with previous recommendation from the Secretary of the Treasury and the Secretary of Justice.
- R. Prohibition with respect to evaluation and approval by public officers: 3 L.P.R.A. 8615(f): No public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.
- S. Prohibition with respect to execution by public officers' contracts with former public officers: 3 L.P.R.A. 8615(h): No executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.
- T. Dispensation: Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record, if applicable, and if mutually agreed upon in writing between the Parties.

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U. Rules of Professional Ethics: The Consultant acknowledges and accepts that it is knowledgeable of the rules of ethics of his/her profession and assumes responsibility for his/her own actions.

If any of the previously required Certifications shows a debt, and Consultant has requested a review or adjustment of this debt, Consultant will certify that it has made such request at the time of the Contract execution. If the requested review or adjustment is denied and such determination is final, Consultant will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Consultant accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.

Article 29. Anti-Corruption Code for a New Puerto Rico

Consultant agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time, which establishes the Anti-Corruption Code for a New Puerto Rico. The Consultant hereby certifies that it does not represent particular interests in cases or matters that imply a conflict of interest, or of public policy, between the executive agency and the particular interests it represents. Consultant shall furnish a sworn statement to the effect that neither Consultant nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for Consultant has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico or any of the crimes included in Act 2-2018.

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Consultant hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

PREPA shall have the right to terminate the Contract in the event Consultant is convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146- 2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

Consequences of Non-Compliance: The Consultant expressly agrees that the conditions outlined throughout this Article are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect,

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inaccurate or misleading, in whole or in part, there shall be sufficient cause for the PREPA to render this Contract null and void, and the Consultant shall reimburse the PREPA all moneys received under this Contract.

Article 30. Dispute Resolution

Executive Negotiation: Any unresolved disputes shall be referred to the Contracting Officer, Project Manager or designee by PREPA and Consultant for resolution. During the first thirty (30) days following the delivery of a notice of dispute (and during any extension agreed to by the Parties in writing, the “Negotiation Period”) the Parties shall attempt in good faith to resolve the dispute through negotiations. If such negotiations result in an agreement in principle to settle the dispute, they shall cause a written settlement agreement to be prepared, signed and dated (an “Executive Settlement”), and the dispute shall be deemed settled, and not subject to further dispute resolution. If a dispute is not resolved through the Executive negotiation, the Parties agree to resolve the dispute according to the jurisdiction established in the Choice of Law and Venue Article of the Contract.

Article 31. Limitation of Liability

31.1. Notwithstanding any other provisions of this Contract to the contrary, in no event shall either Party, its officers, employees, agents, or assigns be liable for any consequential, incidental, punitive, special, exemplary, or indirect damages, included by example but not limited to: loss of profits, use, capital, revenue, business opportunity, or claims of customers, cost of purchased or replacement power, or other economic advantage, whether such claim is choate or inchoate,

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whether by statute, or in tort, contract, or otherwise, and even if such Party has been advised of the possibility of such damages.

31.2. Contractor's maximum/aggregate limitation of liability for any and all claims arising out of, related to or connected with an individual task specified hereunder, whether by statute, or in tort, contract, or otherwise, shall not exceed 100% of the total task amount. Consultant's maximum/aggregate limitation of liability under this Contract shall not exceed 100% of the total Contract Amount.

31.3. The limitations set forth in this section shall not apply with respect to (i) third party claims for property damage and/or bodily injury including death to the extent caused by the negligence of the Consultant, and (ii) in the case of liabilities arising from Consultant's willful misconduct or fraud.

Article 32. Non-Discrimination

The Consultant certifies that it will not discriminate against any employee or applicant for employment on account of race, color, gender, age, sex, national or social origin, social status, political ideas or affiliation, religion, for being or perceived to be a victim of domestic violence, sexual aggression or harassment, regardless of marital status, sexual orientation, gender identity or immigrant status, for physical or mental disability, for veteran status or genetic information.

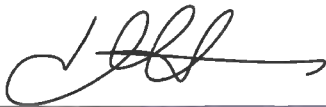
Article 33. Entire Contract

The terms and conditions contained herein constitute the entire agreement between PREPA and Consultant with respect to the subject matter of this Contract, and supersede

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all communications, negotiations, and agreements of the Parties, whether written or oral, other than these, made prior to the signing of this Contract.

In WITNESS WHEREOF, the Parties hereto have agreed to execute this Contract in San Juan, Puerto Rico, on this 3 day of July, 2020.



José F. Ortiz Vázquez
Chief Executive Officer
Puerto Rico Electric Power Authority
Tax ID:



Matthew R. Thibodeau
Senior Vice President
Sargent & Lundy, L.L.C.
Tax ID:



ANNEX B

FORM OF TASK ORDER

OWNER:	Puerto Rico Electric Power Authority	TASK ORDER NO:	SLPR-4
CONSULTANT:	Sargent & Lundy Puerto Rico	TASK ORDER DATE:	1/4/21
AGREEMENT NO:	2021-P00084	TASK ORDER BUDGET:	\$711,181.00 to start; \$1,686,182.88 estimated through FY21*

This Task Order is subject to the Professional Services Contract dated December 4, 2020, between Consultant and PREPA (as amended, the “**Contract**”). Unless the context otherwise requires, capitalized terms not defined herein shall have the meaning set forth in the Contract.

1. **Stafford Act-Funded Project:** FEMA has approved a project worksheet for the preparation of a preliminary design and technical documents, required by PREPA to submit a funding application for Phase II Authorization of the Palo Seco Generation Plant (Combined Cycle), under Title IV, Section 404 of the Stafford Act (the “**Stafford Act-Funded Project**”).
2. **Instructions:** PREPA hereby instructs Consultant to commence the performance of Services relating to the Stafford Act-Funded Project, including the preparation and submission by Consultant of each of the Deliverables by the Schedule Completion Date below, in accordance with the Contract. Consultant shall notify PREPA when accrued fees and expenses under this Task Order reach seventy-five percent (75%) of the Task Order budget set out above, and not exceed such amount without agreeing with PREPA on a revised budget for the completion of



the Deliverables.

3. **Deliverables & Schedule Completion Dates:**

DELIVERABLE	SCHEDULED COMPLETION DATE**
CC Geotechnical Specification	TOD + 30 days
CC Geotechnical Report	TOD + 90 days
CC Site Survey Specification	TOD + 30 days
CC Site Survey	TOD + 90 days
CC Design Criteria Update	TOD + 30 days
CC Initial Schedule	TOD + 60 days
CC 3D Model	TOD + 60 days
CC General Arrangement	TOD + 75 days
CC Heat Balance Update	TOD + 75 days
CC Water Balance Update	TOD + 75 days
COE Environmental Application	TOD + 90 days
CC NEOA EA Report	TOD + 90 days
CC Air Permit Application	TOD + 90 days
CC NPDES Permit Application	TOD + 90 days
CC Power Island Specification Bid Issue*	TOD + 90 days
CC Flood Study*	TOD + 90 days
CC Main Cycle P&ID Set*	TOD + 150 days
CC Balance of Plant P&ID Set*	TOD + 180 days
CC Single Line*	TOD + 150 days
CC Architectural Drawings*	TOD + 150 days
CC Site Development Drawings*	TOD + 180 days
CC Power Island Specification Recommendation Letter*	TOD + 180 days
CC Site Grading and Drainage*	TOD + 210 days
CC Major Foundation Drawings*	TOD + 240 days
CC Electrical Arrangements*	TOD + 240 days
CC Lists*	TOD + 240 days
CC Project Cost Estimate*	TOD + 270 days
CC Project Schedule*	TOD + 270 days
CC Heat Balance Final*	TOD + 270 days
CC EPC Technical Specification Bid Issue*	TOD + 270 days
CC Demolition Specification Bid Issue*	TOD + 270 days

* These Activities will be completed after amendment based on the overall cash flow forecast the Contract. Also, this work will continue into FY22 and the budget will need be established at the time of the FY Contract or amendment.

** Schedule completion dates and activities have been developed based on approval to proceed with the Combined Cycle plant at San Juan prior to the TOD.

*** Consultant will provide a project schedule and deliverable list to establish the earned value for activities up to the listed total value for the final deliverable.

4. **Other Specific Information, Responsibilities or Obligations:**

Consultant will be completing all of the deliverables required by FEMA's Conditions Of Approval (COA) for Phase 1 activities. Consultant will support PREPA's efforts as needed to complete the FEMA approvals and deliverables for the selection of the San Juan project site.

5. **PREPA's Contact Details:**

Miguel DelValle, Project Manager

Miguel.delvalle@prepa.com

IN WITNESS WHEREOF, each Party has executed this Task Order through its duly-authorized officer, and such Task Order shall take effect on the Task Order Date.

**PUERTO RICO ELECTRIC POWER
AUTHORITY**

**SARGENT & LUNDY PUERTO RICO,
L.L.C.**

By:



Signature

Mireya Rodríguez

Name

Senior Program Manager

Title

By:



Signature

Vincent Heinz

Name

Manager

Title

