

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

**NEPR**

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**IN RE:** REVIEW OF LUMA'S INITIAL  
BUDGETS

**CASE NO.:** NEPR-MI-2021-0004

**SUBJECT:** Urgent Motion to Submit Two  
Contracts for the Energy Bureau's Review and  
Approval

**URGENT MOTION TO RE-SUBMIT TWO CONTRACTS  
FOR THE ENERGY BUREAU'S REVIEW AND APPROVAL**

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA"), through its counsel of record, and respectfully submits and requests as follows:

1. On May 16, 2023, LUMA<sup>1</sup> filed a document titled *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026* ("May 16 Motion") for the Energy Bureau of the Puerto Rico Public Service Regulatory Board's ("Energy Bureau") review and approval. The May 16 Motion included the following budget components: (i) the proposed T&D budget developed by LUMA, (ii) the proposed generation budget developed by Genera PR, LLC ("Genera") on behalf of the PREPA, for the PREPA subsidiary GENCO LLC ("GenCo"), and (iii) the proposed Budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC ("HydroCo") and PREPA PropertyCo, LLC ("PropertyCo").

2. On June 25, 2023, the Energy Bureau issued a *Resolution and Order* ("June 25 Order") through which it modified the Proposed Consolidated Fiscal Year 2024 submitted by LUMA and

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<sup>1</sup> LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as, "LUMA").

approved the modified budgets subject to compliance with various orders ("FY24" Approved Budget"). The June 25 Order directed PREPA to file for review and approval, any new contract or amendment to an existing contract, before executing or making any award of such contract or amendment.

3. On July 11, 2023, the Energy Bureau issued a *Resolution and Order* (June 11 Order"), through which it highlighted that, to review and grant approval of the proposed contracts, PREPA must specify: 1) if these are the totality of the contracts to be executed during FY24 and 2) how the amounts referenced pertaining to the contracts fit within the FY24 Approved Budget.

4. Furthermore, on July 19, 2023, the Energy Bureau ordered PREPA to submit, in its future filings, a table including the approved and proposed contracts, the amounts approved and proposed for those contracts, the line items from the Non-Labor/Other Operating Expenses Category to which they correspond, and the remaining balance of budgeted amount for Non-Labor Expenses by line-item, as approved in the June 25 Order.<sup>2</sup>

5. On September 27, 2023, the Energy Bureau issued a Resolution and Order, whereby it clarified that PREPA was to submit all contracts, independently of the FY 2024 approved budget.

6. PREPA herein resubmits for the Energy Bureau's information, review, and approval the professional services contracts between PREPA and UNIMED<sup>3</sup> and the contract between PREPA and CSA Architects & Engineers LLP ("CSA")<sup>4</sup>, as annexes A and B, respectively.

a. UNIMED- \$150,000.00- Contract for medical evaluation services for PREPA

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<sup>2</sup> *Resolution and Order* dated June 19, 2023 ("June 19 Order") at p. 3.

<sup>3</sup> Universal Medical Option, Inc ("UNIMED"). The UNIMED contract was first submitted to the Energy Bureau on July 7 2023 through a document titled *Third Motion to Submit PREPA's Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval*.

<sup>4</sup> The CSA contract was first submitted before the Energy Bureau for a time extension on July 7 2023 through a document titled *Second Motion to Submit PREPA's Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval*.

employees upon requirement from the Occupational Health Division, to be in effect from its execution until June 30, 2024 to be paid from the Labor- Pension and Benefits line item of the FY2024 Approved Budget.

- b. CSA Architects & Engineers LLP- \$2,664,333.00- CSA shall provide PREPA the Engineering Services for the Design and Specifications of the Irrigation Channels and Laterals Repairs for the Public Irrigation Districts in the South Coast, Isabela and Lajas Valley. PREPA needs to maintain the CSA services in order to continue with PREPA's plans to repair the irrigation systems. This contract shall be in effect from its execution until June 30, 2023. The CSA contract corresponds to the Project Worksheet (PW) no. 9510 as approved by the Federal Emergency Management Agency. The totality of this contracts is covered under the PW, consequently, it does not affect the approved FY 2024 budget. See Annex C. See also Certification of Funds as Annex D.
7. PREPA also presents as Annex E a table including the irrigation and FEMA tabs for illustration and uniformity of PREPA's request for contract approval filings.
8. Lastly, PREPA herein certifies that the works to be performed in connection to the UNIMED and CSA Contracts are not duplicative of any scope of work being carried out by LUMA, Genera or PREPA<sup>5</sup>.

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to take **NOTICE** of the information provided, and **GRANT** approval for PREPA to execute the UNIMED and CSA Contracts.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 29<sup>th</sup> day of September 2023.

/s Joannely Marrero-Cruz

Joannely Marrero Cruz

TSPR 20,014

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## CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent to LUMA through its legal representatives at [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com) and [laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com) and to Genera-PR, LLC through its legal representatives [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com); [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com).

In San Juan, Puerto Rico, this 29<sup>th</sup> day of September 2023.

/s Joannely Marrero-Cruz  
Joannely Marrero Cruz

## **Annex A**

GOBIERNO DE PUERTO RICO  
AUTORIDAD DE ENERGÍA ELÉCTRICA DE  
PUERTO RICO  
SAN JUAN, PUERTO RICO  
CONTRATO SERVICIOS MÉDICOS EVALUATIVOS  
COMPARECEN

---DE UNA PARTE: La Autoridad de Energía Eléctrica de Puerto Rico (Autoridad), una corporación pública y entidad gubernamental del Estado Libre Asociado de Puerto Rico, creada por la Ley 83 del 2 de mayo de 1941, según enmendada (Ley 83), representada en este acto por su Director Ejecutivo, Josué A. Colón Ortiz, mayor de edad, casado y vecino de Caguas, Puerto Rico. -----

---DE LA OTRA PARTE: Universal Medical Option, Inc. (Contratista), una corporación organizada y existente bajo las leyes de Puerto Rico, representada en este acto por su Director Ejecutivo, Gonzalo López Alemán, mayor de edad, soltero y vecino de Carolina, Puerto Rico, según la Resolución Corporativa del \_\_\_\_\_.-----

Los comparecientes convienen otorgar el Contrato para la Prestación de Servicios Médicos Evaluativos, sujeto a las siguientes: -----

CLÁUSULAS Y CONDICIONES

---PRIMERA: La Autoridad, cada vez que lo estime necesario, enviará al Contratista a sus empleados y candidatos a empleo para que les realice un examen médico. El Contratista practicará un examen físico general que incluirá lo siguiente: -----

1. Estatura y Peso
2. Enfermedades de los ojos
3. Visión

4. Oídos y Audición
5. Nariz, Garganta y Cuello
6. Boca y Dentadura
7. Sistema Linfático
8. Pecho y Pulmones
9. Corazón y Sistema Circulatorio (incluyendo Presión Arterial y Venas Varicosas)
10. Abdomen
11. Sistema Nervioso
12. Sistema Endocrino
13. Sistema Genitourinario (en casos que lo ameriten)
14. Piel (cicatrices y marcas)
15. Músculo-esquelético
16. Extremidades

---SEGUNDA: El Contratista proveerá todos los servicios para practicar el examen físico que se menciona en la Cláusula PRIMERA de este Contrato o, en su ausencia, designará un médico que cumpla con todos los requisitos para ejercer la medicina en Puerto Rico y que sea aprobado por la Autoridad. -----

---TERCERA: El Contratista tendrá potestad, en los casos que estime necesario, para realizar como parte del examen médico, exámenes especiales, tales como: electrocardiogramas, radiografías, y otros, que se detallan en los Apéndices que se hacen formar parte de este Contrato, los cuales se identifican a continuación:



Apéndice I para Pruebas Especiales de Laboratorio; Apéndice II para Procedimientos Radiológicos; Apéndice III para Pruebas Nucleares; Apéndice IV para Pruebas Cardiovasculares; y Apéndice V para Consultas y Servicios. El Contratista informará a la División de Salud Ocupacional la recomendación de realizar los estudios, laboratorios y procedimientos incluidos en estos Apéndices. -----

---CUARTA: El número de empleados que la Autoridad referirá para examen médico no excederá de cien (100) a la semana. Los exámenes se ofrecerán de lunes a viernes dentro del horario regular de la Autoridad (7:30 a 11:30 a.m. - 12:30 a 4:00 p.m.). -----

---QUINTA: Las pruebas especiales para diagnosticar las condiciones médicas de los empleados se limitarán a aquéllas que se incluyen en los Apéndices que se hacen formar parte del Contrato y se especifican en su Cláusula TERCERA. -----

---SEXTA: En cada caso que el Contratista considere realizar alguna prueba o examen que no esté indicado en los Apéndices de este Contrato, solicitará la aprobación previa por escrito del (la) Jefe(a) de la División de Salud Ocupacional o el representante autorizado. -----

---SÉPTIMA: Toda persona que se refiera a examen médico, bajo los términos de este Contrato, deberá comparecer a las oficinas del Contratista. En aquellos casos en que la persona esté impedida de acudir a la oficina del Contratista, entonces, el Contratista se comunicará, por teléfono o por escrito, con el médico o los médicos del empleado para que le provean información y pueda rendirle un informe a la Autoridad. -----

---OCTAVA: El resultado de los exámenes se informará a la Autoridad en el formulario médico oficial y confidencial de esta. Los informes de los exámenes, laboratorios, procedimientos radiológicos, y de todos los estudios que se realicen en el caso, formarán parte del expediente médico, al que sólo tiene acceso el personal autorizado de la Autoridad. Los resultados de estos exámenes se informarán a la Autoridad en un término no mayor de diez (10) días laborables, a partir de la fecha de la cita médica, excepto en aquellos casos que requieran estudios especializados o consultas con especialistas. ----

---No obstante, los resultados de los exámenes pre-empleo y para nombramientos se informarán a la Autoridad en un término no mayor de diez (10) días laborables, excepto aquéllos que requieran estudios especializados o consultas con especialistas. Cuando el candidato trae las pruebas de laboratorios y la placa de pecho, los resultados del examen se informarán a la Autoridad en un término no mayor de tres (3) días laborables, a partir de la fecha de la cita médica. -----

---El Contratista cumplirá con los términos de entrega de resultados y expedientes según dispuesto en esta cláusula. En caso de que el Contratista incumpla con los términos establecidos en esta cláusula para la entrega de los resultados y expedientes, entonces la Autoridad podrá descontar de la factura hasta un 25% del total facturado por ese caso, siempre y cuando la entrega no exceda de diez días de atraso y un 50% del total facturado cuando exceda de diez (10) días. -----

---NOVENA: La Autoridad pagará al Contratista, como compensación por sus servicios, cincuenta dólares (\$50) por evaluación médica, la cual incluye el examen físico general

descrito en la Cláusula PRIMERA del Contrato. Los servicios enumerados en los Apéndices de este Contrato no se incluyen en esta compensación. La Autoridad pagará por los servicios que se detallan en los Apéndices, de acuerdo con las tarifas que se establecen en estos. Toda factura será detallada, específica y desglosada, de tal forma que se pueda evaluar. El Contratista enviará sus facturas mensualmente, incluyendo la evidencia que se requiera para sustentar las mismas o algunos de sus renglones. -----

---Las Partes acuerdan que la cuantía del Contrato, por los servicios que provea el Contratista, no excederán de ciento cincuenta mil dólares (\$150,000) durante la vigencia del Contrato. Los pagos por los servicios se realizarán con cargo a la cuenta 01-2283-22839-000-000. -----

---DÉCIMA: La Autoridad tendrá la facultad para revisar, auditar, estudiar y cuestionar todo tipo de factura, documento o cuenta, antes o después de pagarse, que se relacione con los servicios que presta el Contratista bajo este Contrato. Se seguirá el siguiente procedimiento para el pago de las facturas: -----

1. Las facturas se pagarán sesenta (60) días después de presentadas y aprobadas.

Toda factura detallará, especificará y desglosará los servicios prestados. El período para efectuar el pago comenzará a contar una vez el Contratista cumpla con todos los requisitos y la documentación para hacer viable el mismo. -----

Toda factura enviada por el Contratista debe incluir la siguiente Certificación para poder proceder con su pago. Aquella factura que no contenga la Certificación, no se procesará para pago. -----

Certificación de Ausencia de Interés:

Bajo pena de nulidad absoluta, certifico que ningún empleado, funcionario o director de la Autoridad de Energía Eléctrica es parte o tiene algún interés en las ganancias o beneficios producto del Contrato objeto de esta factura y de ser parte o tener interés en las ganancias o beneficios producto del Contrato medió una dispensa previa. Certifico, además, que la única consideración para suministrar los servicios objeto del Contrato es el pago acordado con el representante autorizado de la Autoridad de Energía Eléctrica. El importe de esta factura es justo y correcto. Los servicios se prestaron y no han sido pagados.

\_\_\_\_\_  
Firma del Contratista  
Nombre en letra de molde

---El Contratista deberá informar inmediatamente a la Autoridad cuando el total de la cantidad facturada alcance el 75% del monto total del Contrato. Además, deberá informar los trabajos realizados pendientes de facturar. -----

2. Si en el proceso de verificar las facturas, surge alguna diferencia a favor de la Autoridad o del Contratista, se procederá de la siguiente manera: -----

A. A favor de la Autoridad – La Autoridad preparará el Aviso de Débito, en el cual se indicarán las razones por las que se facturó de más y el total de este importe se descontará en la próxima factura. -----

- B. A favor del Contratista – El Contratista preparará una factura de Aviso de Crédito, en la cual se indicarán los conceptos por los que se facturó de menos y el total de ese importe se le pagará a través de Solicitud de Cheque. -----
- C. El original del Aviso de Crédito y de Débito se enviará a la División de Tesorería y al Contratista. -----
- D. La Autoridad retendrá el dos por ciento (2%) de la facturación por los servicios enumerados en los Apéndices de este Contrato para cobrar al Contratista cualquier deuda que quede como resultado de la cancelación del Contrato por renuncia, abandono u otra situación. Para computar esta cantidad, se retendrá el 2% de cada pago que se vaya a realizar al Contratista por concepto de los cargos correspondientes a los servicios enumerados en el Apéndice. La cantidad retenida se ajustará, según corresponda, después de la última facturación. -----
3. El Contratista permitirá a la Autoridad realizar auditorías médicas, económicas y operacionales sobre los servicios médicos que prestó y facturó a la Autoridad. Todos los documentos necesarios para realizar esta auditoría se le facilitarán a la Autoridad, mensualmente. La Autoridad podrá rechazar cargos por servicios, que se entienda no había necesidad médica de realizarlos. El Contratista podrá revisar y discutir estos casos, quedando la determinación final en manos de la Autoridad. -----
- UNDÉCIMA: El Contratista podrá referir a los empleados de la Autoridad a un especialista para que se le realicen los estudios y evaluaciones, según se establece en la Cláusula TERCERA. -----

---DUODÉCIMA: El Contratista someterá a la Autoridad, con su recomendación, los estudios y evaluaciones con sus informes. Además, el Contratista someterá a la Autoridad, con su recomendación, exámenes, análisis especiales de laboratorio, estudios radiográficos y otros estudios que se llevaron a cabo en el caso, en conformidad con lo que se establece en la Cláusula OCTAVA. -----

---DECIMOTERCERA: El Contratista no podrá facturar a la Autoridad si el especialista designado por él no cumple con lo siguiente: -----

1. El especialista designado para atender empleados de la Autoridad no facturará por citas, cuando las mismas se cancelen con cuarenta y ocho (48) horas de anticipación mediante notificación de la Sección de Servicios Médicos Evaluativos. -----

---El empleado será responsable de pagar la cita directamente al especialista en caso de que no notifiquen su ausencia, según lo dispuesto en el inciso uno (1). -----

---DECIMOCUARTA: El Contratista le concederá semanalmente, tiempo razonable al personal encargado de las evaluaciones médicas en la Autoridad para discutir o clarificar aspectos médicos relacionados con los empleados que sean referidos a examen. -----

---DECIMOQUINTA: A solicitud de la Autoridad, el Contratista realizará las siguientes funciones: -----

1. Asesorará a la Autoridad y participará en aquellas actividades que tengan relación con los servicios médicos y ocupacionales. -----
2. Asesorará a la Autoridad sobre programas de seguridad y salud ocupacional, según lo disponen las leyes federales y estatales sobre salud y seguridad en el trabajo. ----

3. Asesorará a la Autoridad en cambios o ajustes que deben hacerse en los programas de seguridad y salud ocupacional utilizando los documentos, estudios e información recopilados por la División de Salud Ocupacional. -----

---Los servicios de asesoramiento y participación en actividades, que se establecen en los incisos 1, 2 y 3 de esta disposición, serán sin costo alguno para la Autoridad. -----

---DECIMOSEXTA: El Contratista será, para propósito de este Contrato, un asesor de la Autoridad para la determinación de capacidad laboral de candidatos a empleo, empleados temporeros o regulares, y consultor en los programas que establecen las leyes federales y estatales sobre salud y seguridad, y disposiciones administrativas de la Autoridad. -----

---DECIMOSÉPTIMA: El Contratista no establecerá relación profesional de médico y paciente ni ofrecerá tratamiento médico alguno a los candidatos a empleo y empleados que le refieran a evaluación. -----

---DECIMOCTAVA: Las Partes contratantes se excusarán del cumplimiento de sus obligaciones contractuales y no serán responsables por daños y perjuicios ni por cualquier otro concepto, en la medida en que su incumplimiento se deba a un evento de fuerza mayor. Para fines de este Contrato, fuerza mayor significa cualquier causa no atribuible a la culpa o negligencia, y que quede fuera del control, de la Parte que reclame la ocurrencia de un evento de fuerza mayor. Fuerza Mayor puede incluir, pero sin limitarse a, lo siguiente: disturbios industriales, actos del enemigo público, guerras, bloqueos, boicots, motines, insurrecciones, epidemias, terremotos, tormentas,

inundaciones, disturbios civiles, cierres patronales, fuegos, explosiones, interrupción de servicios debido a acciones u omisiones de cualquier autoridad pública; disponiéndose que estos eventos, o cualquiera otro que se reclame como uno de fuerza mayor, o sus efectos, estén fuera del control y no sean consecuencia de la culpa o negligencia de la Parte que reclama la ocurrencia de un evento de fuerza mayor, y que dicha Parte, dentro del término de diez (10) días, contados a partir de la ocurrencia de la alegada fuerza mayor, notifique la misma por escrito a la otra parte describiendo los pormenores del evento y su duración estimada. El peso de la prueba, en cuanto a si ocurrió un evento de fuerza mayor o no, será de la parte que reclame que la misma ocurrió. -----

---DECIMONOVENA: El Contratista no subcontratará ni cederá los derechos y obligaciones contraídos en este Contrato, excepto en el caso de que la Autoridad así lo autorice por escrito. Disponiéndose que ninguna subcontratación se considerará para autorización por parte de la Autoridad, salvo en el caso de que se cumplan, entre otros, los siguientes requisitos: (1) que el Contratista le entregue a la Autoridad copia del subcontrato con, no menos de, treinta (30) días de anticipación a la fecha propuesta para el comienzo de la efectividad del mismo; (2) que el subcontrato incluya, como condición para su validez y eficacia, el derecho de la Autoridad de sustituirse, subrogarse y/o asumir la posición del Contratista, en caso de que la Autoridad declare al Contratista en violación o incumplimiento de cualesquiera de los términos y condiciones del Contrato; y (3) que el subcontrato incluya, como condición para su validez y eficacia, una cláusula que obligue al subcontratista a cumplir con las mismas obligaciones, términos y



condiciones que el Contrato le impone al Contratista, dentro de su relación con la Autoridad (mirror image clause), con excepción de las obligaciones, términos o condiciones que se refieran exclusivamente a porciones del trabajo o servicios del Contrato no incluidos en el subcontrato.-----

---VIGÉSIMA: Este Contrato estará vigente desde su otorgamiento hasta el 30 de junio de 2024. -----

---VIGÉSIMA PRIMERA: No obstante, lo dispuesto en este Contrato, en cuanto a su vigencia o duración, la Autoridad podrá, en cualquier momento, terminar, cancelar o acelerar su vencimiento, mediante notificación al Contratista hecha con, por lo menos, treinta (30) días de anticipación, cuando ello, a juicio de la Autoridad, responda a sus mejores intereses. En caso de que el Contratista incumpla con alguna de sus obligaciones en este Contrato, la Autoridad podrá decretar la terminación, cancelación o resolución inmediata del mismo sin necesidad de notificación previa. El ejercicio del derecho de terminar, cancelar o resolver este Contrato no se entenderá que constituye una renuncia de la Autoridad a cualesquiera remedios adicionales provistos por el mismo o por la ley para casos de demora o incumplimiento en las obligaciones contractuales del Contratista. -----

---VIGÉSIMA SEGUNDA: Si algún tribunal con jurisdicción competente declara alguna de las cláusulas de este Contrato nula o inválida, ello no afectará la validez y eficacia de las restantes cláusulas del mismo y las Partes contratantes se comprometen a cumplir

con sus obligaciones bajo tales cláusulas no afectadas por la determinación judicial de nulidad o invalidez. -----

---VIGÉSIMA TERCERA: El Contratista certifica que no recibe pago o compensación alguna por servicios regulares prestados bajo nombramiento a otra agencia, organismo, corporación pública o municipio de Puerto Rico. Certifica, además, que podrá tener contratos de consultoría con otras agencias u organismos gubernamentales, pero ello no representa conflicto de intereses. -----

El Contratista reconoce que, en el descargo de su función profesional, tiene un deber de lealtad completa hacia la Autoridad, lo que incluye el no tener intereses adversos a dicho organismo gubernamental. Estos intereses adversos incluyen la representación de clientes que tengan o pudieran tener intereses encontrados con la Autoridad; la obligación continua de divulgar a la Autoridad todas las circunstancias de sus relaciones con clientes y terceras personas, cualquier interés que pudiera influir en la Autoridad al momento de otorgar este Contrato o durante su vigencia. -----

---El Contratista representa intereses encontrados cuando, en beneficio de un cliente, es su deber promover aquello a que debe oponerse en cumplimiento de sus obligaciones con otro cliente anterior, actual o potencial. Representa intereses en conflicto, además, cuando su conducta se describe como tal en las normas de ética reconocidas a su profesión, o en las leyes y reglamentos del Estado Libre Asociado de Puerto Rico. -----

---En contratos con sociedades o firmas, constituirá una violación de esta prohibición que alguno de sus directores, asociados o empleados incurra en la conducta aquí descrita.

El Contratista evitará aún la apariencia de la existencia de intereses encontrados. -----

---El Contratista reconoce el poder de fiscalización del Director Ejecutivo de la Autoridad en relación con el cumplimiento de las prohibiciones aquí contenidas. De entender que existen o existieron intereses adversos con el Contratista, el Director Ejecutivo de la Autoridad le notificará por escrito sus hallazgos y su intención de resolver este Contrato en el término de treinta (30) días. Dentro de dicho término, el Contratista podrá solicitar una reunión al Director Ejecutivo de la Autoridad para exponer sus argumentos a dicha determinación de conflicto, la cual se concederá en todo caso. De no solicitarse dicha reunión en el término mencionado o de no solucionarse satisfactoriamente la controversia durante la reunión concedida, este Contrato quedará resuelto. -----

---VIGÉSIMA CUARTA: El Contratista cumplirá con las siguientes disposiciones:

A. El Contratista cumplirá con todas las leyes, reglamentos y órdenes ejecutivas aplicables que regulan el proceso de contratación y los requisitos del Gobierno de Puerto Rico, incluyendo la Ley 73-2019, según enmendada, conocida como la "Ley de la Administración de Servicios Generales de 2019 para la Centralización de Compras del Gobierno de Puerto Rico" (Ley 73-2019). En cumplimiento con las disposiciones de la Ley 73-2019, el Contratista ha proporcionado a la Autoridad la Certificación de Elegibilidad del Registro Único de Proveedores de Servicios Profesionales (conocida en español como "Certificado de Elegibilidad del Registro

Único de Proveedores de Servicios Profesionales", y en adelante referida como la "Certificación RUP"), emitida por la Administración de Servicios Generales. Se hace constar que de conformidad con lo dispuesto en el Artículo 42 de la Ley 73-2019, una Certificación RUP válida sirve como evidencia del cumplimiento de los requisitos de documentación necesarios para la contratación de servicios profesionales con el Gobierno de Puerto Rico, particularmente los aplicables bajo la Ley 237-2004, según enmendada, que establece los requisitos uniformes de contratación de servicios profesionales y de consultoría para las agencias y entidades gubernamentales del Estado Libre Asociado de Puerto Rico (3 LPRA 8611 et seq. ), la Carta Circular del Departamento de Hacienda de Puerto Rico Número 1300-16-16 emitida el 22 de enero de 2016, según enmendada, y la declaración jurada ante notario requerida conforme al Artículo 3.3 de la Ley 2-2018. -----

En aquellos casos en que se autorice la subcontratación de alguno de los servicios objeto del Contrato, el Contratista será responsable de requerir que los subcontratistas cumplan con la certificación anterior, y notificará de ello a la Autoridad.

Los documentos anteriores se hacen formar parte del Contrato como anejos. -----

- B. Retenciones de Seguro Social y Contribución sobre Ingresos: En cumplimiento con la Orden Ejecutiva 1991 OE-24; y C.F.R. Parte 404 et. Seq., el Contratista será responsable de prestar y pagar las Contribuciones Federales al Seguro Social y a la Contribución sobre Ingresos por cualquier monto adeudado como resultado de los ingresos, de este Contrato. -----

- C. El Contratista certificará el cumplimiento con la Ley 1-2012, según enmendada, conocida como la Ley de Ética Gubernamental de Puerto Rico (Ley 1-2012), la cual establece que ningún empleado o ejecutivo de la Autoridad, ni ningún miembro de su familia (cónyuge, hijos dependientes u otros miembros de su hogar o cualquier persona cuyos asuntos financieros estén bajo el control del empleado) tendrán cualquier interés pecuniario directo o indirecto en los servicios que se presten bajo este Contrato, excepto que pueda ser expresamente autorizado por el Gobernador de Puerto Rico en consulta con el Secretario de Hacienda de Puerto Rico y el Secretario de Justicia del Gobierno. 3 L.P.R.A. §8611 et seq.; -----
- D. El Contratista certifica que se encuentra en cumplimiento con la Ley 168-2000, según enmendada, mejor conocida como “Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada”. En caso de que el Contratista esté sujeto por orden judicial o administrativa a alguna aportación económica u obligación, en conformidad con la Ley 168-2000, entonces este deberá certificar que se encuentra en cumplimiento con el pago de la aportación económica o con la obligación impuesta. Si el Contratista provee información falsa con respecto a su obligación, ello conllevará la terminación automática del Contrato. -----
- E. El Contratista certifica, además, que obtuvo las dispensas necesarias de entidades del gobierno, si alguna, y que dichas dispensas se harán parte del expediente de contratación. -----

- F. El Contratista proveerá seguro de compensación para sus trabajadores, según requerido por la Ley 45 del 18 de abril de 1935, “Ley del Sistema de Compensaciones por Accidentes de Trabajo”, según enmendada. El Contratista también será responsable del cumplimiento de la Ley 45, supra, por todos sus subcontratistas, agentes e invitados, si alguno, o deberá certificar que dichos subcontratistas, agentes e invitados han obtenido dichas pólizas por su propia cuenta. El Contratista deberá proveerle a la Autoridad un certificado de la Corporación del Fondo del Seguro del Estado certificando que todo su personal está cubierto y asegurado por accidentes de trabajo. -----
- G. Ningún funcionario público o empleado autorizado para contratar en nombre de la agencia ejecutiva para la que trabaja puede ejecutar un contrato entre la agencia para la que trabaja y una entidad o empresa en la que él/ella o cualquier miembro de su unidad familiar tiene o ha tenido un interés económico directo o indirecto durante los últimos cuatro (4) años antes de su cargo. -----
- H. Ninguna agencia ejecutiva puede ejecutar un contrato en el que cualquiera de sus funcionarios o empleados o cualquier miembro de sus unidades familiares tenga o haya tenido intereses económicos directos o indirectos durante los últimos cuatro (4) años antes de su cargo, a menos que el Gobernador otorgue la autorización con la recomendación previa del Secretario de Hacienda y el Secretario de Justicia.
- I. Ningún funcionario público o empleado puede ser parte o tener interés en ganancias o beneficios producidos por un contrato con cualquier otra agencia ejecutiva o

dependencia gubernamental, a menos que el Gobernador le otorgue autorización expresa con la previa recomendación del Secretario de Hacienda y del Secretario de Justicia. -----

- J. Ningún funcionario público o empleado que tenga la facultad de aprobar o autorizar contratos deberá evaluar, considerar, aprobar o autorizar cualquier contrato entre una agencia ejecutiva y una entidad o empresa en la que él o ella o cualquier miembro de su unidad familiar tenga o haya tenido interés económico directo o indirecto durante los últimos cuatro (4) años antes de su cargo. -----
- K. Ninguna agencia ejecutiva deberá ejecutar con o en beneficio de personas que hayan sido funcionarios públicos o empleados de dicha agencia ejecutiva hasta después de que hayan transcurrido dos (2) años desde el momento en que la persona cesó en su cargo. -----
- L. Todas y cada una de las dispensas necesarias se han obtenido de cualquier entidad gubernamental y que dichas dispensas pasarán a formar parte del registro de contratación.-----
- M. El Contratista reconoce y acepta que conoce las reglas de ética de su profesión y asume la responsabilidad de sus propias acciones.-----
- N. El Contratista acepta que los artículos extraídos, producidos, ensamblados, empacados o distribuidos en Puerto Rico por empresas con operaciones en Puerto Rico, o distribuidos por agentes establecidos en Puerto Rico se utilizarán cuando se preste el servicio, siempre que estén disponibles. -----

O. La Autoridad retendrá al Contratista una contribución especial equivalente al uno punto cinco por ciento (1.5%) del pago por sus servicios, en conformidad con la Ley 48-2013, según enmendada, si es aplicable. -----

P. El Contratista certifica que no recibe pago o compensación por servicios regulares prestados bajo nombramiento en otra agencia, organismo, corporación pública o municipio de Puerto Rico. Certifica, además, que podría tener contratos de consultoría con otras agencias u organismos gubernamentales, pero ello no representa conflictos de interés. -----

---VIGÉSIMA QUINTA: Las Partes comparecientes acuerdan que sus respectivas responsabilidades por daños y perjuicios en este Contrato serán según establecidas por el Código Civil de Puerto Rico y la jurisprudencia del Tribunal Supremo de Puerto Rico.

---VIGÉSIMA SEXTA: La Autoridad retendrá al Contratista el equivalente al diez por ciento (10%) de todo pago por servicios prestados que se efectúe en este Contrato, en conformidad con el Código de Rentas Internas para un Nuevo Puerto Rico, Ley 1-2011, Sección 1062. 03, según enmendada. No obstante, se dispone que la retención a efectuarse por la Autoridad bajo las disposiciones de esta cláusula podría aumentar a veinte por ciento (20%), en caso de que el Contratista fuera un individuo no residente y ciudadano de los Estados Unidos, en conformidad con el Código de Rentas Internas para un Nuevo Puerto Rico, Ley 1-2011, Sección 1062. 08 o un veintinueve por ciento (29%), en caso de que fuera un individuo no residente y no ciudadano de los Estados Unidos; o una corporación o sociedad extranjera no dedicada a industria o negocio en Puerto Rico,



en conformidad con el Código de Rentas Internas para un Nuevo Puerto Rico, Ley 1-2011, Sección 1062.08. -----

---Si el Departamento de Hacienda emitió el Certificado de Relevó a favor del Contratista, es responsabilidad de éste someter copia a la Autoridad para cada año natural, de lo contrario, los pagos seguirán sujetos a retención en el origen. -----

---VIGÉSIMA SÉPTIMA: El Contratista obtendrá y mantendrá en vigor, durante la vigencia de estos servicios, pólizas de seguros que cubran todas sus actividades contractuales, refrendadas en Puerto Rico, a tales efectos, proveerá certificados de seguros y endosos en original, como sigue: -----

1. Seguro de Responsabilidad Pública General Comercial: El Contratista proveerá un Seguro de Responsabilidad Pública General Comercial con al menos un límite de al menos \$1,000,000 por ocurrencia y al menos \$1,000,000 agregado. -----
2. Seguro de Responsabilidad Profesional: El Contratista proveerá un Seguro de Responsabilidad Profesional con límite de al menos \$100,000 por incidente médico y \$300,000 por agregado. -----

---La Póliza de Responsabilidad Pública General Comercial incluirá los siguientes endosos:

1. Como "Asegurado Adicional":

Autoridad de Energía Eléctrica  
PO Box 364267  
San Juan, Puerto Rico 00936-4267

2. Notificación de cancelación o no renovación con treinta (30) días de anticipación y acuse de recibo a la dirección anterior. -----
3. Un endoso que incluya este Contrato bajo la cubierta de responsabilidad contractual e identificado por número, fecha y las partes contratantes. -----
4. Relevos de subrogación a favor de la Autoridad. -----
5. Endoso de Incumplimiento de Garantías o Condiciones de las pólizas (Breach of Warranties) El mismo deberá leer así: -----

“El incumplimiento de las garantías o condiciones en estas pólizas por el Contratista, no perjudicará los derechos de la Autoridad a reclamar bajo estas mismas pólizas.”

ó

“The Breach of any of the Warranties or Conditions in this policy by the Insured hall not prejudice PREPAS’s rights under this policy.”, en inglés.

---VIGÉSIMA OCTAVA: El Contratista acuerda relevar y exonerar de responsabilidad e indemnizar a la Autoridad por todos los gastos y costos de cualquier naturaleza (incluyendo honorarios de abogado) en que este incurra y que se originen o surjan con relación a reclamaciones de terceras personas por daños personales, incluyendo la muerte, o por daños a la propiedad, pero cuyos daños se ocasionaran por acciones u omisiones del Contratista en el cumplimiento o incumplimiento de sus obligaciones bajo el Contrato. -----

---VIGÉSIMA NOVENA: Este Contrato estará sujeto a y se interpretará por las leyes del Estado Libre Asociado de Puerto Rico. Además, las Partes contratantes acuerdan expresamente que los tribunales del Estado Libre Asociado de Puerto Rico serán los únicos tribunales con jurisdicción competente y exclusiva para resolver las controversias que surjan entre ellas en relación con este Contrato y que requieran de la intervención de la autoridad judicial para su solución. -----

---TRIGÉSIMA: La Autoridad y el Contratista acuerdan expresamente que ninguna enmienda u orden de cambio que se efectúe en este Contrato, durante su vigencia, se entenderá como una novación contractual, a menos que ambas Partes pacten específicamente lo contrario por escrito. Igualmente, la anterior disposición será aplicable en aquellos casos en que la Autoridad le conceda al Contratista una prórroga para el cumplimiento de alguna de sus obligaciones contraídas en este Contrato o dispense el reclamo o exigencia de alguno de sus créditos o derechos en el mismo. -----

---TRIGÉSIMA PRIMERA: Cualquier notificación que deban hacerse las partes contratantes, en conformidad con el Contrato, se enviará por escrito y se entenderá que la misma fue efectiva al momento de su entrega personal o por correo a las siguientes direcciones: -----

A la Autoridad:      Autoridad de Energía Eléctrica de Puerto Rico  
                                 PO Box 364267  
                                 San Juan, PR 00936-4267

Atención:              Ing. Josué A. Colón Ortiz  
                                 Director Ejecutivo

Al Contratista:        Universal Medical Option, Inc.

Urb. El Vedado  
113 Calle Rodrigo de Triana  
San Juan, PR 00918

Atención: Sr. Gonzalo López Alemán  
Director Ejecutivo

---TRIGÉSIMA SEGUNDA: El Contratista se considerará como un contratista independiente, a todos los fines pertinentes en este Contrato, y todas las personas contratadas por él para el cumplimiento de sus obligaciones se considerarán como empleados o agentes del Contratista o sus Subcontratistas y no como empleados o agentes de la Autoridad. El Contratista, por su condición de contratista independiente, no tendrá derecho a licencias por enfermedad, beneficios por la Corporación del Fondo del Seguro del Estado, vacaciones, sistema de retiro, ni disfrutará de otros beneficios marginales concedidos por la Autoridad a sus empleados en virtud de las leyes vigentes.

---TRIGÉSIMA TERCERA: El Contratista, a su costo, defenderá a la Autoridad de cualquier demanda o reclamación que se radique contra ésta basada en que cualquier equipo o parte del mismo, cualquier composición o escrito protegido o no por derechos de autor, cualquier proceso secreto, cualquier invento, patentizado o no, artículo, dispositivo, aparato o artefacto, manufacturado o utilizado en la ejecución de este Contrato, incluyendo su uso por la Autoridad, constituye una infracción de cualquier patente o derecho de autor de los Estados Unidos, si la Autoridad notifica con prontitud y por escrito dicha demanda o reclamación al Contratista, y se le concede a éste la autoridad, y se le provee la información y la ayuda para llevar la defensa del caso. El Contratista pagará todos los daños, los costos y gastos que se adjudiquen contra la

Autoridad. Si en tal demanda o reclamación el equipo o cualquier parte del mismo, o la composición, proceso secreto, invento, artículo, dispositivo, aparato o artefacto, se determina que constituye una violación a patente o derecho de autor y su uso es prohibido, el Contratista, a su opción y costo, obtendrá para la Autoridad, el derecho a continuar utilizando el mismo o lo reemplazará por un equipo, composición, proceso secreto, invento, artículo, dispositivo, aparato o artefacto que no violente la patente o derecho de autor en cuestión, o lo modificará para que se convierta en uno que no violente la patente o derecho de autor en cuestión, o lo removerá y devolverá lo pagado por el mismo a la Autoridad. -----

---TRIGÉSIMA CUARTA: Durante la vigencia de este Contrato, cualquier cambio en el ordenamiento jurídico aplicable, que se incluya, pero sin limitarse a aquéllos de naturaleza contributiva que provoque un aumento en los costos del Contratista al suplir los productos o servicios que adquirirá la Autoridad, será responsabilidad del Contratista, sin que la Autoridad venga obligada a pagar cantidades adicionales al precio o canon pactado originalmente por dichos productos o servicios. -----

---TRIGÉSIMA QUINTA: Las Partes reconocen que el Contratista ha presentado la certificación titulada “*Contractor Certification Requirement*” requerida de conformidad con la Política de Revisión de Contratos de la Junta de Supervisión y Administración Financiera para Puerto Rico, vigente a partir del 6 de noviembre de 2017 y según enmendada el 30 de octubre de 2020. Se incluye como anejo a este Contrato, copia firmada del “Requisito de Certificación del Contratista”. -----

---El Contratista representa y garantiza que la información incluida en el "Requisito de Certificación del Contratista" está completa, certera y correcta y cualquier tergiversación, inexactitud o falsedad en dicha Certificación hará el Contrato nulo y sin valor y el Contratista tendrá la obligación de rembolsar inmediatamente al Estado Libre Asociado de Puerto Rico cualquier cantidad, pagos o beneficios recibidos del Estado Libre Asociado de Puerto Rico bajo este Contrato. -----

---TRIGÉSIMA SEXTA: Ninguna prestación o contraprestación objeto de este Contrato podrá exigirse hasta tanto el mismo se haya presentado para registro en la Oficina del Contralor, según lo dispuesto en la Ley Núm. 18 del 30 de octubre de 1975, según enmendada. -----

---TRIGÉSIMA SÉPTIMA: El Contratista se compromete a utilizar artículos extraídos, producidos, ensamblados, envasados o distribuidos en Puerto Rico por empresas con operaciones en Puerto Rico o distribuidos por agentes establecidos en Puerto Rico al rendirse el servicio, siempre que estén disponibles y apliquen a los servicios que ofrece.

---TRIGÉSIMA OCTAVA: El Contratista se compromete a enviar al Registro de Servicios Profesionales una declaración jurada en cumplimiento con las disposiciones de la Ley Núm. 2-2018, conocida como el Código Anticorrupción para el Nuevo Puerto Rico (Ley 2-2018). -----

---El Contratista someterá una declaración jurada, ante notario público, en la que informará si la persona natural o jurídica o cualquier presidente, vicepresidente, director, director ejecutivo, o miembro de una junta de oficiales o junta de directores, o personas

que desempeñen funciones equivalentes para la persona jurídica, ha sido convicta o se ha declarado culpable de cualquiera de los delitos enumerados en la Sección 6.8 de la Ley 8-2017, según enmendada, conocida como “Ley para la Administración y Transformación de los Recursos Humanos en el Gobierno de Puerto Rico” (Ley 8-2017), o por cualquiera de los delitos contenidos en este o cualquiera de los delitos incluidos en la Ley 2-2018. -----

---El Contratista certifica que no ha sido convicto en Puerto Rico o en los Estados Unidos por infracción a los Artículos 4.2, 4.3 o 5.7 de la Ley 1-2012, según enmendada, conocida como la Ley Orgánica de la Oficina de Ética Gubernamental de Puerto Rico (Ley 1-2012), cualquier de los delitos enumerados en los artículos 250 a 266 de la Ley 146-2012, según enmendada, conocida como el Código Penal de Puerto Rico (Ley 146-2012), cualquiera de los delitos tipificados en la Ley 2-2018, o cualquier otro delito que implique el mal uso de los fondos o propiedad pública, incluyendo, pero sin limitarse, a los delitos mencionados en la Sección 6.8 de la Ley 8-2017.-----

---La Autoridad dará por terminado el Contrato en caso de que el Contratista resulte convicto en Puerto Rico o en los Estados Unidos por infracción a los Artículos 4.2, 4.3 o 5.7 de la Ley 1-2012; cualquiera de los delitos enumerados en los artículos 250 a 266 de la Ley 146-2012, cualquiera de los delitos tipificados en la Ley 2-2018, o cualquier otro delito que implique el uso indebido de fondos o propiedad pública, incluyendo, pero sin limitarse a, los delitos mencionados en la Sección 6.8 de la Ley 8-2017. -----

---TRIGÉSIMA NOVENA: Para este Contrato, la transferencia de destrezas y conocimiento técnico requerido por el Plan Fiscal Certificado no es aplicable debido a que los servicios contratados son de naturaleza especializada o no recurrente. -----

---Las Partes aceptan este Contrato por estar redactado conforme con lo convenido y, como constancia de su aceptación, luego de leerlo, lo autorizan con sus firmas. -----

---En San Juan, Puerto Rico, a \_\_\_\_\_ de \_\_\_\_\_ de 2023. -----

Autoridad de Energía Eléctrica  
de Puerto Rico

Universal Medical Option, Inc.

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Josué A. Colón Ortiz  
Director Ejecutivo  
Seguro Social Patronal 660-43-3747

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Gonzalo López Alemán  
Director Ejecutivo  
Seguro Social Patronal 660-74-4788  
glopez@unimedpr.com



## **Annex B**

GOVERNMENT OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY

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PROFESSIONAL SERVICES CONTRACT

by and between

THE PUERTO RICO ELECTRIC POWER AUTHORITY (PREPA)

and

CSA ARCHITECTS & ENGINEERS, LLP

AS CONSULTANT

DATED \_\_\_\_\_, 2023

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PUERTO RICO ELECTRIC POWER AUTHORITY

CONTRACT NUM. 97019

IRRIGATION DISTRICTS ENGINEERING FOR CHANNEL AND LATERAL REPAIRS  
OF THE IRRIGATION CHANNELS

Req.

APPEAR

AS FIRST PARTY: The Puerto Rico Electric Power Authority, hereinafter referred to as “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 Director, Jaime A. Umpierre Montalvo, of legal age, married, engineer, and resident of Guaynabo, Puerto Rico, by PREPA’s Governing Board Resolution 5086 of August 10, 2023.

AS SECOND PARTY: CSA Architects & Engineers, LLP hereinafter referred to as “the Consultant”, a limited liability partnership organized and existing under the laws of the Commonwealth of Puerto Rico, authorized to do business in Puerto Rico and provide professional architecture and engineering services, represented in this act by its Partner, Annette Alfonso Díaz, of legal age, married, and resident of Caguas, Puerto Rico, by virtue of Corporate Resolution dated as March 8, 2023.

Both, PREPA and Consultant which are hereinafter referred to individually as a “Party” and jointly as “Parties”,

WHEREAS, PREPA, by virtue of its enabling act, 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, this Contract was awarded to the Consultant on November 3, 2022, by means of a competitive process (RFP 3574), Power Advocate Event Number 135642.

WHEREAS, in accordance with RFP 3574, on April 5, 2023, the Parties executed the Contract 2023-P00117, with a maximum amount of \$2,664,333, until June 30, 2023. Also, the Contract 2023-P00117 provided in its Article 3, Contract Term, an additional annual fiscal period, at the exclusive option of PREPA, subject to the availability of funds and required authorizations.

WHEREAS, on May 24, 2023, PREPA’s Governing Board authorized, through Resolution 5049, the extension of the Contract Term, from July 1, 2023 until June 30, 2024. As established on the Resolution 5049, the extension of Contract 2023-P00117 didn’t represented an increase to the maximum amount of the Contract because due to the recent approval and execution of the Contract, it had no expenditures.

WHEREAS, even though the extension of Contract 2023-P00117 was authorized by Resolution 5049, it was not executed in due time and the Contract expired.

WHEREAS, on August 10, 2023, PREPA's Governing Board, through Resolution 5086, authorize the execution of a new Contract, for a maximum amount of \$2,664,333 until June 30, 2024. Also, Resolution 5086 authorized engineer Jaime A. Umpierre Montalvo, Director, to execute the Contract after receiving all the required authorizations and observing the delegation of authority by the Executive Director, as ratified through Resolution 5085 of August 10, 2023.

WHEREAS, PREPA needs to maintain the Consultant's services in order to continue with PREPA's plans to repair the irrigation systems.

WITNESSETH

THEREFORE, IN CONSIDERATION of the mutual covenants hereinafter stated, the Parties agree themselves, their personal representatives, successors, and assignees, as follows:

TERMS AND CONDITIONS

ARTICLE 1. Scope of Work

The Consultant shall provide the Engineering Services for the Design and Specifications of the Irrigation Channels and Laterals Repairs for the Public Irrigation Districts in the South Coast, Isabela and Lajas Valley, all in accordance with the specifications and Request for Proposal Document (RFP) herein attached.

All the services described in this Article 1 shall be defined in this Contract as the "Works" or "Services".

The complete description of the work to be performed by the Consultant is contained in the RFP proposal which forms an integral part of the Contract as Attachment A.

## **Article 1      Services Coordination**

The Consultant shall coordinate all of its Services in relation to the terms and conditions of this Contract through PREPA's Representative or the person delegated by PREPA Representative in writing.

### **Subcontracts**

2.1    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 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 Article 5.2 (*Rates*), and the related amounts shall count toward the Contract Amount.

2.2 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.

2.3 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.

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

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

2.6 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 3 Contract Term**

This Contract shall be in effect from the date of its execution until June 30, 2024, (The Contract Term).

### **Article 4 Termination**

4.1 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.

4.2 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 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 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 4.2 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 4.2 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 4.1 (*For Convenience*).

4.3 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 11.1 (*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 4.1.

(*For Convenience*).

4.4 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 4.2 (*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 4.1 (*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 5     Payment**

5.1 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 two million six hundred sixty-four thousand three hundred thirty-three dollars (\$2,664,333), including reimbursable expenses (the “**Contract Amount**”). PREPA shall charge all payments under this Contract to accounts 20-1831-18351-550-21113000001618, 40-1831-18351-550-21113000001619 and 30-1831-18351-21113000001620. 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.

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

TITLE	HOURLY RATE (USD)
Civil Designer	\$144
Hydraulic Designer	\$144
Structural Designer	\$144
Draftsman	\$72
Surveyor	\$137
Surveyor Assistant	\$72
Document Control Specialist	\$62
Underground Utilities Assessment Specialist	\$137
Underground Utilities Assessment Assistant	\$72
Project Manager	\$144
Geotechnical Engineer	\$144
Contractor Inspector Specialists	\$85
Project Scheduler	\$108

5.3 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.

5.4 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 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 12.2 (*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 6 Fees, Expenses and Disbursements**

6.1 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.

6.2 Reimbursable Expenses. Subject to Section 6.3 (*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.

6.3 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 5.2, 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 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.

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

- 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 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;
- 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 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 2 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 of bills and records reflecting reimbursable expenses that are not specifically listed in Article 7 as per diem shall be provided.

## **Article 7     Invoices**

### **7.1     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 5.2 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.

7.2 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.

7.3 Invoice Certification. All invoices submitted by Consultant shall be in a form acceptable to PREPA and include the following Certification in order to proceed with its payment. 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:

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.

7.4 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 amounts.
- b. Section 7.4a sets forth Consultant's sole right to suspend the Services under a Task Order.

- c. If PREPA disputes any portion of an invoice, then such dispute shall be resolved in accordance with Article 28.
- d. In the event the Services are suspended in accordance with Section 7.4a, 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 8 Assignment & Transfer**

8.1 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 8.1, 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 8.1 (*Funds*), Consultant shall not assign or transfer any of its rights or obligations under this Contract without the prior written approval of PREPA.

## **Article 9      Information and Material Facts**

9.1    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.

9.2    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 10 Information Disclosure and Confidentiality**

10.1 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.

10.2 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 (5<sup>th</sup>) 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.

10.3 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.

10.4 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.

10.5 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 11 Rights and Title to Work Product**

11.1 Title. Subject to Section 11.2 (*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 5 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 11.2 and payment as required by Article 5, 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 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.

11.2 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 (collectively, "**Consultant's Intellectual Property**") and

nothing in this Section 11.2 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"**).

11.3 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 11.3. 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.

11.4 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 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.

11.5 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 12    Warranties**

12.1 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 requires, 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.

12.2 Corrective Work. In the event that any part of the Services provided by Consultant fail to comply with the warranties set forth in Section 12.1 (*General*), whether 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 (2<sup>nd</sup>) 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 4.2 (*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 12.1 (*General*), except in the event Consultant fails to re-perform as promptly as reasonably practicable any deficient Services in accordance with this Section 12.2, 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.

12.3 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 13    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 14    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 15 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 16 Conflict of Interest**

16.1 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.

16.2 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.

16.3 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.

16.4 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.

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

16.6 Intervention. Consultant acknowledges that PREPA's Executive Director 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 Executive Director 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 Executive Director 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.

16.7 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 17 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.

## **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: Jorge L. Cotto Pérez  
Administrator of Operations

To Consultant: CSA Architects and Engineers LLP  
1511 Ponce de León Ave, Suite 23  
San Juan, PR 00909

Attention: José A. Rodríguez  
Vice President of Operations

#### **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 5.2 (*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.

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 the 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.

#### **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:

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 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 The Consultant will comply with all applicable laws, regulations and executive orders that regulate the contracting process and requirements of the Government of Puerto Rico, including Act 73-2019, as amended, known as the “2019 General Services Administration Act for the Centralization of Purchases of the Government of Puerto Rico” (Act 73-2019). In compliance with the provisions of Act 73-2019, the Consultant has provided PREPA the Certification of Eligibility of the Unique Registry of Professional Services Providers (known in Spanish as “Certificado de Elegibilidad del Registro Único de Proveedores de Servicios Profesionales”, and hereinafter referred to as the “RUP Certification”, issued by the General Services Administration. It is hereby acknowledged that pursuant to the provisions of Article 42 of Act 73-2019, a valid RUP Certification serves as evidence of compliance with the documentation requirements necessary for contracting professional services with the Government of Puerto Rico, particularly those applicable under Act 237-2004, as amended, which establishes uniform contracting requirements for professional and consultant services for the agencies and governmental entities of the Commonwealth of Puerto Rico (3 L.P.R.A. § 8611 et seq.), the Puerto Rico Department of Treasury Circular Letter Number 1300-16-16 issued on January 22, 2016, as amended, and the sworn statement before notary public required pursuant to Article 3.3 of Act 2-2018. Further, the Consultant hereby certifies, guarantees, acknowledges and agrees to the

following:

- A. The Consultant hereby certifies that as of the execution of this Contract, it has filed income, sales and use (“IVU” for its Spanish acronym), and property taxes returns, in Puerto Rico for the past five (5) years. The Consultant also certifies that it does not have any outstanding debt or other debts with the Government of Puerto Rico for income (collected by the Department of the Treasury), IVU, real or chattel property taxes (collected by the “Centro de Recaudación de Ingresos Municipales”(“CRIM”), unemployment insurance premiums, workers’ compensation payments, Social Security for chauffeurs from the Department of Labor and Human Resources, nor have debts with the Puerto Rico Child Support Administration (known in Spanish as the Administración para el Sustento de Menores (ASUME). In the event that the Consultant owes taxes or premiums to said government agencies, it agrees that PREPA may withhold any monies due to the Consultant under this Contract to be applied to the payment and cancellation of said debt. The Consultant also certifies that it is in corporate “Good Standing” at the Department of State of Puerto Rico. The Consultant hereby represents and certifies that it is duly authorized to do business under the laws of Puerto Rico by the Department of State and the execution, delivery and performance of all the services under this Contract are within the Consultant authorized powers and are not in contravention of law. The Consultant also certifies that it is in compliance with the Merchant Registration.

Accordingly, the Consultant has submitted to PREPA its Certificate of Providers (“Certificado Único de Proveedores”) from the General Services Administration. The Consultant shall maintain its certificate valid for the duration of this Contract.

In accordance with the provisions of Article 42 of Act 73-2019, PREPA, as an Exempt Entity, recognizes the validity of the RUP Certification issued by the General Services Administration, who requires from professional service providers all certifications and documents required for governmental contracting, in accordance with Act 237-2014, as amended, and other provisions approved thereunder.

- B. 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.
- C. 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.
- D. 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, which are nonresidents of the Commonwealth of Puerto Rico PREPA shall deduct and withhold 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.

E. Compliance with Act 1 of Governmental Ethics: The Consultant will certify compliance with Act 1 of January 3, 2012, as amended (Act 1-2012), 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.;

F. 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.



- G. 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.
- H. 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.
- I. 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.
- J. 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.

- K. 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.
- L. Dispensation: Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record.
- M. 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.
- N. Provisions Required under Act 14-2004: If applicable to the services provided under the Contract, 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 the service is rendered, provided that they are available.

26.1 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 7.4 (*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.

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 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.
- 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.

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, 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 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. 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 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.

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 D (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 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 E (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->

cpq-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, 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;
- 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 (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 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 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.
- 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 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.

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 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 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 I (b)(2) of the Davis-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; and
  - 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 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 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 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 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 paragraph, 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 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 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.).

- 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 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 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 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 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 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.

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.

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 1 01 0, 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 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.

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.

### **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, wilful 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 (\$4,000,0000); 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

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 Contractor's Certification Requirement. The Parties acknowledge that the Consultant has submitted the certification titled "Contractor Certification Requirement" required in accordance with the Contract Review Policy of the Financial Oversight and Management Board for Puerto Rico, effective as of November 6, 2017, and amended on October 30, 2020, signed by the Consultant's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor Certification Requirement" is included as an annex to this Contract.

The Consultant represents and warrants that the information included in the Contractor Certification Requirement is complete, accurate and correct, and that any misrepresentation, inaccuracy or falseness in such Certification will render the Contract null and void and the Consultant will have the obligation to reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the Contract.

### 32. 2 Non- Recurring Professional Services or Specialized Professional Services

In matters of this Contract, the transfer of skills and technical knowledge required by the Certified Fiscal Plan is inapplicable given the non-recurring or specialized nature of the contracted services.

32.3 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.

32.4 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.

32.5 No Waiver. The failure of PREPA or Consultant to exercise a right provided 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.

32.6 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.

32.7 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.

32.8 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.

32.9 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.

32.10 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.

32.11 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.

32.12 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract this \_\_\_\_\_ day of \_\_\_\_\_ of 2023, in San Juan, Puerto Rico.

Puerto Rico Electric Power Authority

Consultant

\_\_\_\_\_  
Josué A. Colón Ortiz

\_\_\_\_\_  
Annette Alfonso Díaz

Irrigation Districts Engineering for Channel and Lateral Repairs of the Irrigation . . .  
Contract Num. \_\_\_\_\_  
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Executive Director  
Social Security Number 660-43-3747

Vice President of Operations  
Social Security Number 660-37-8904  
Email: jrodriguez@csagroup.com

## **Annex C**

# Department of Homeland Security Federal Emergency Management Agency

## General Info

Project #	335168	P/W #	9510	Project Type	Specialized
Project Category	F - Utilities	Applicant	PR Electric Power Authority (000-UA2QU-00)		
Project Title	FAASt A&E PREPA			Event	4339DR-PR (4339DR)
Project Size	Large			Declaration Date	9/20/2017
Activity	9/20/2027			Incident Start Date	9/17/2017
Completion Date				Incident End Date	11/15/2017
Process Step	Applicant Signed Project				

## Damage Description and Dimensions

The Disaster # 4339DR, which occurred between 09/17/2017 and 11/15/2017, caused:

### Damage #662654; FAASt-A&E-PREPA

DDD for this facility codified in the 136271- MEPA078 Puerto Rico Electrical Power Authority Island Wide FAASt Project.

#### General Facility Information:

- Facility Type: Power generation, transmission, and distribution facilities
- Facility: FAASt-A&E-PREPA
- Facility Description: All essential electrical delivery services island-wide were interrupted and segments of its power generation facilities, transmission and distribution systems, substations, and related physical infrastructure necessary for the provision of power, were severely damaged. PREPA asset categories are: Buildings, Substations, Distribution, Transmission, Telecommunications, Generation, Water.
- Approx. Year Built: 2021
- GPS Latitude/Longitude: 18.45165, -66.07610

#### General Damage Information:

- Date Damaged: 9/20/2017
- Cause of Damage: High winds & wind driven rain, caused by Cat 4 Hurricane Maria

## Final Scope

662654 FAASt-A&E-PREPA

\*\*\*\*\*VERSION 2\*\*\*\*\*

Version 2 created to capture the amendment of the A/E Project for an additional \$600,000,000.00.

SOW from previous version has been removed from current SOW. It can be found in the "Versioning and Amendments" tab in GM.



## Work to be Completed

To allow drawdowns for design, planning Applicant project management (design phase only) and non-destructive diligences studies as approved in the FAASt project [136271] MEPA078 Puerto Rico Electrical Power Authority Island Wide FAASt without the additional FEMA review and approval process, FEMA has worked with COR3 and the Subrecipients to identify the portion of funds required for design, planning and non-destructive diligence studies. This A/E project captures the funds as per agreement with the Recipient and the Subrecipient. FEMA is transferring the previously approved Public Assistance (PA) funds from the FAASt project 136271 to this A/E project by de-obligating from the FAASt donor project in the same amount of PA funds to be approved (obligation) in this A/E project.

Version 2 WTBC = Version 1 + Change Requested = \$486,406,842.43 + \$600,000,000.00 = \$1,086,406,842.43

## VERSION SUMMARY OF KEY CHANGES DI# 662654

Version 0 (DI# 662654): \$486,406,842.43

Version 1 (DI# 662654): SOW Change

Version 2 (DI# 662654): Cost Change \$486,406,842.43 + \$600,000,000.00 = \$1,086,406,842.43

**Note:** Project #335168 (PW-9510) FAASt A&E PREPA does not include any costs associated to H.3 factor (Project Management – Construction Phase). Based on FEMA decision to not include H.3 factor to this PW, we need to discuss the best way to relocate the amount of H.3 Factor for each child PWs already obligated and the ones that are in Phase II and III. This relocation amount (H.3 factor) should be deducted from the A&E portion identified in each PW's to be included as part of the 428-amount obligated.

## **Project Notes:**

This project is part of 136271 - Puerto Rico Electrical Power Authority Island Wide FAASt Project.

Architectural and Engineering (A&E) costs are deducted given previously obligated Global A&E Project for the subject FAASt PREPA work (see project: 335168 - FAASt A&E PREPA).

For FEMA-4339-DR-PR Public Assistance Post-Fixed Cost Estimate Obligation for PREPA, PRASA, and PRDE Part D-Processing Recovery SOWs refer to document labeled: *FAASt post obligation Part'D Processing Recovery SOWs 08.20.2021.pdf*

For cost analysis, refer to document A-E Version request memo.pdf

## **406 HMP Scope**

### Architectural and Engineering (A&E) Projects

406 Hazard Mitigation cannot be applied to A&E Projects (Version 0), however, hazard mitigation opportunities may exist and be applied to the Permanent Work Project (Version 1) developed for this Sub applicant. Hazard Mitigation opportunities should be considered during development of the Public Assistance repair scope of work.

This project will be move forward because they are in the version 0.0 for A&E, should be consider by each applicants consultant to submit a formal HMP for our review and Cost Effectiveness Analysis, ones the Applicant have an A&E final assessment and / or an Architectural and Engineer Design proposal to restore the facility to the pre-disaster capacity and function, they need to consider the implementation of Hazard mitigation Measurement to ensure that the finished permanent construction is more resilient than the original one. Which means that we move forward all the projects on version 0.0, without a Hazard Mitigation Proposal but we will review again each project to determine the feasibility of the implementation of a HM measure that prevent future.

## Cost

Code	Quantity	Unit	Total Cost	Section
3510 (Version 0_Engineering and Design Services - PPREPA FAAS A&E 335168)	1.00	Lump Sum	\$486,406,842.43	Uncompleted
3510 (Version 2_Engineering and Design Services - PPREPA FAAS A&E 335168)	1.00	Lump Sum	\$600,000,000.00	Uncompleted

CRC Gross Cost \$1,086,406,842.43

Total 406 HMP Cost \$0.00

Total Insurance Reductions \$0.00

CRC Net Cost \$1,086,406,842.43

Federal Share (90.00%) \$977,766,158.19

Non-Federal Share (10.00%) \$108,640,684.24



## Award Information

### Version Information

Version #	Eligibility Status	Current Location	Bundle Number	Project Amount	Cost Share	Federal Share Obligated	Date Obligated
0	Eligible	Awarded	PA-02-PR-4339-PW-09510(9987)	\$486,406,842.40	90 %	\$437,766,158.20	10/6/2021
1	Eligible	Notified		\$0.00	90 %	\$0.00	
2	Eligible	Awards In Progress		\$600,000,000.00	90 %	\$0.00	

### Drawdown History

EMMIE Drawdown Status As of Date	IFMIS Obligation #	Expenditure Number	Expended Date	Expended Amount
10/15/2021	4339DRPRP00095101	20172PXU-10142021	10/13/2021	\$7,101,783.00
10/11/2022	4339DRPRP00095101	20172PXU-10072022	10/6/2022	\$1,288,471.87
10/17/2022	4339DRPRP00095101	20172PXU-10142022	10/13/2022	\$335,365.77
10/18/2022	4339DRPRP00095101	20172PXU-10172022	10/14/2022	\$1,074,490.68
11/29/2022	4339DRPRP00095101	20172PXU-11282022	11/25/2022	\$1,327,376.02
2/13/2023	4339DRPRP00095101	20172PXU-02102023	2/9/2023	\$547,344.47
3/29/2023	4339DRPRP00095101	20172PXU-03282023	3/27/2023	\$1,346,038.50
4/17/2023	4339DRPRP00095101	20172PXU-04142023	4/13/2023	\$62,573.75
4/26/2023	4339DRPRP00095101	20172PXU-04252023	4/24/2023	\$349,042.82
4/27/2023	4339DRPRP00095101	20172PXU-04262023	4/25/2023	\$2,515,582.39
6/7/2023	4339DRPRP00095101	20172PXU-06062023	6/5/2023	\$3,660,540.12
6/9/2023	4339DRPRP00095101	20172PXU-06082023	6/7/2023	\$2,094,278.32
6/16/2023	4339DRPRP00095101	20172PXU-06152023	6/14/2023	\$1,040,684.38

### Obligation History

Version #	Date Obligated	Obligated Cost	Cost Share	IFMIS Status	IFMIS Obligation #
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## Subgrant Conditions

- As described in Title 2 Code of Federal Regulations (C.F.R.) § 200.333, financial records, supporting documents, statistical records and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. Exceptions are stated in 2 C.F.R. §200.333(a) – (f)(1) and (2). All records relative to this project are subject to examination and audit by the State, FEMA and the Comptroller General of the United States and must reflect work related to disaster-specific costs.
- In the seeking of proposals and letting of contracts for eligible work, the Applicant/Subrecipient must comply with its Local, State (provided that the procurements conform to applicable Federal law) and Federal procurement laws, regulations, and procedures as required by FEMA Policy 2 CFR Part 200, Procurement Standards, §§ 317-326.
- The Recipient must submit its certification of the subrecipient's completion of this project, the final claim for payment, and supporting documentation within 180 days from the date that the applicant completes the scope of work, or the project deadline, whichever occurs first. FEMA reimburses Large Projects (those with costs above the large project threshold) based on the actual eligible final project costs. Therefore, during the final project reconciliation (closeout), the project may be amended to reflect the reconciliation of actual eligible costs.
- When any individual item of equipment purchased with PA funding is no longer needed, or a residual inventory of unused supplies exceeding \$5,000 remains, the subrecipient must follow the disposition requirements in Title 2 Code of Federal Regulations (C.F.R.) § 200.313-314.
- The terms of the FEMA-State Agreement are incorporated by reference into this project under the Public Assistance award and the applicant must comply with all applicable laws, regulations, policy, and guidance. This includes, among others, the Robert T. Stafford Disaster Relief and Emergency Assistance Act; Title 44 of the Code of Federal Regulations; FEMA Policy No. 104-009-2, Public Assistance Program and Policy Guide; and other applicable FEMA policy and guidance.
- The DHS Standard Terms and Conditions in effect as of the declaration date of this emergency declarations or major disaster, as applicable, are incorporated by reference into this project under the Public Assistance grant, which flow down from the Recipient to subrecipients unless a particular term or condition indicates otherwise.
- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth at Title 2 Code of Federal Regulations (C.F.R.) Part 200 apply to this project award under the Public Assistance grant, which flow down from the Recipient to all subrecipients unless a particular section of 2 C.F.R. Part 200, the FEMA-State Agreement, or the terms and conditions of this project award indicate otherwise. See 2 C.F.R. §§ 200.101 and 110.
- The subrecipient must submit a written request through the Recipient to FEMA before it makes a change to the approved scope of work in this project. If the subrecipient commences work associated with a change before FEMA approves the change, it will jeopardize financial assistance for this project. See FEMA Policy No. 104-009-2, Public Assistance Program and Policy Guide.
- Pursuant to section 312 of the Stafford Act, 42 U.S.C. 5155, FEMA is prohibited from providing financial assistance to any entity that receives assistance from another program, insurance, or any other source for the same work. The subrecipient agrees to repay all duplicated assistance to FEMA if they receive assistance for the same work from another Federal agency, insurance, or any other source. If an subrecipient receives funding from another federal program for the same purpose, it must notify FEMA through the Recipient and return any duplicated funding.

## Insurance

### Additional Information

6/2/2023

## GENERAL INFORMATION

Event: DR4339-PR

Project: SP 335168

Category of Work: Cat F - Utilities

Applicant: PR Electric Power Authority

Event Type: Hurricane / Hurricane Maria

Cause of Loss: Wind / Wind Driven Rain

Incident Period: 9/17/2017 to 11/15/2017

Total Public Assistance Amount: A&E \$1,086,406,842.43

## COMMERCIAL INSURANCE INFORMATION

Does the applicant have a Commercial Policy that extends coverage for this facility: Yes

Policies Issued by: Willis Towers Watson, Multinational Insurance Company and Mapfre

Policy Numbers: Willis Towers Watson: (B0804Q1966F17, B0804Q14312F17, B0804Q19673F17, B0804Q19672F17, B0804Q18529F17, B0804Q14312F17, B0804Q19674F17, B0804Q18411F17, B0804Q14310F17, B0804Q11038F17, B0804Q14507F17, B0804Q14312F17)

Mapfre Praico Insurance Company (1398178000644)

Multinational Insurance Company (88-CP-000307831-2, 88-CP-000318673-0, 88-CP-000318674-0, 88-CP-000318675-0, 88-CP-000318676-0, 88-CP-000318677-0)

Policy Period: From: 5/15/2017 To: 5/15/2018

Policy Limits: \$300,000,000.00

RCV or ACV: Replacement Cost Value

Deductible Amount \$25,000,000.00 each and every occurrence property damage and 30 days each and every occurrence business interruption in respect of Named Windstorm

Does the Applicant's Commercial Policy extend coverage for the damage described in this project: Yes

The amount of the deductible being funded in this project is \$0.00

The amount of the deductible previously funded in other projects is \$25,000,000.00

Final Insurance Settlement Status: Insurance proceeds for this project are anticipated

The amount of Anticipated Insurance Reduction applied for Project: \$0.00

NUMBER OF DAMAGED LOCATIONS INCLUDED IN THIS PROJECT: (1)

Damaged Inventory (DI) #662654:

FAAST - A&E - PREPA

Location Description: Island Wide

GPS Coordinates: Island Wide



Cause of Loss: Wind / Wind Driven Rain

SOV / Schedule #: As per policy

SOV / Schedule Amount: As per policy

Applicable Deductible Amount: As per policy

Damage Inventory Amount: A&E \$1,086,406,842.43

Prior Obtain and Maintain Requirement:

No prior insurance requirements were found for this facility

Reduction(s):

No insurance reduction will be applied to this project. This project has been written for A&E costs only. This project will have a version written at a later date. Insurance considerations will be addressed when the fully developed scope and cost has been established on the version.

An anticipated insurance reduction of \$193,746,436.00 was applied to FFAST project # 136271 for anticipated insurance proceeds for Hurricane Maria losses. For ease of reference, please see table of insurance allocations: "PREPA Allocation Plan – All Disasters" file.

Obtain and Maintain Requirement:

No insurance requirements are mandated for the A&E costs described in this project. The final insurance requirement will be determined by the estimate for the repair or replacement of the insurable facility. Insurance requirements are specific to permanent work to replace, restore, repair, reconstruct, or construct buildings, contents, equipment, and vehicles (FEMA Recovery Policy FP 206-086-1).

Insurance Proceeds Statement:

FEMA acknowledges that the Applicant is in negotiations with their insurance carrier at the time of the FEMA insurance review and might have received partial settlements. In accordance with 44 CFR §206.250-253, in the absence of an actual settlement, anticipated insurance recoveries will be deducted from this project based on Applicant's insurance policy limits. FEMA subsequently adjusts the eligible costs based on the actual amount of insurance proceeds the Applicant receives after a final settlement.

FEMA's Recovery Policy FP 206-086-1, Public Assistance Policy on Insurance (June 29, 2015), requires applicants to take reasonable efforts to recover insurance proceeds that it is entitled to receive from its insurers. FEMA will consider final insurance settlements that may be less than the insurance policy limits when an applicant demonstrates that it has taken reasonable efforts to recover insurance proceeds that it is entitled on a case-by-case basis.

Standard Insurance Comments

FEMA Policy 206-086-1

**PART 2: Other Insurance-Related Provisions. (Sections 312 and 406(d) of the Stafford Act)**

**A. Duplication of Benefits.** FEMA cannot provide assistance for disaster-related losses that duplicate benefits available to an applicant from another source, including insurance.

1. Before FEMA approves assistance for a property, an applicant must provide FEMA with information about any actual or anticipated insurance settlement or recovery it is entitled to for that property.
2. FEMA will reduce assistance to an applicant by the amount of its actual or anticipated insurance proceeds.
3. Applicants must take reasonable efforts to recover insurance proceeds that they are entitled to receive from their insurer(s).

5. If an applicant has an insurance requirement from a previous event:

- a. FEMA will reduce assistance by the actual or anticipated insurance proceeds, or the amount of insurance required in the previous disaster, whichever is greater.
- b. FEMA will only consider insolvent insurers, legal fees, or apportionment of proceeds as described in Section VII, Part 2(A)(3) and (4) when the applicant's anticipated or actual insurance proceeds are higher than the amount of insurance required in the previous disaster.

Jean-Carlo Echevarria, PA Insurance Specialist, CRC Atlantic, Guaynabo, PR

#### O&M Requirements

There are no Obtain and Maintain Requirements on **FAAST A&E PREPA**.

#### 406 Mitigation

There is no additional mitigation information on **FAAST A&E PREPA**.

#### Environmental Historical Preservation

Is this project compliant with EHP laws, regulations, and executive orders?

☒ Yes

#### EHP Conditions

- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize funding.
- If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archaeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

#### EHP Additional Info

There is no additional environmental historical preservation on **FAAST A&E PREPA**.



## Final Reviews

### Final Review

Reviewed By MARTINEZ SANTIAGO, ISRAEL

Reviewed On 06/09/2023 9:51 AM AST

#### Review Comments

FEMA final review completed. Project ready for Recipient Review.

### Recipient Review

Reviewed By Salgado, Gabriel

Reviewed On 06/12/2023 2:19 PM AST

#### Review Comments

Recipient review completed. Project is ready for applicant review.

## Project Signatures

Signed By Miller, Thomas

Signed On 06/12/2023



## **Annex D**



Autoridad de Energía Eléctrica de Puerto Rico

CERTIFICACIÓN DE FONDOS DE  
CONTRATOS POR SERVICIOS PROFESIONALES

Número de Responsabilidad: 211 Nombre de Responsabilidad: Riego, Represas y Embalses-Isabela/Aguadilla

Se incluye copia del Contrato descrito a continuación:

Nombre del Contratista o Compañía: CSA Architects and Engineers, LLP  
Número del Contrato: 30 13000001620 Número de Cuenta: 20-1831-18351-550-211 Año Fiscal: 2023 - 2024  
Cantidad: \$888,111 Fecha de Comienzo: fecha adjudicación Fecha de Terminación: 30 de junio de 2024

Certificamos que no se proyectó sobregiro presupuestario y se posee capacidad financiera para cubrir esta transacción. Este contrato está en cumplimiento con el Inciso G de la Carta Circular de la Oficina de Gerencia y Presupuesto Núm. 117-14 del 1 de julio de 2014.

1. Requerido por:

Firma: [Firma]

Nombre: Edgar Torres Bonilla

Título: Administrador, Contabilidad y Control de Costos

Fecha: 9 de agosto de 2023

2. Aprobado por el Director Correspondiente:

Firma: [Firma]

Nombre: Jaime A. Umplierre Montalvo

Título: Director

Fecha: 9/8/23

3. Recomendado por el Departamento de Presupuesto:

Firma: [Firma]

Nombre: Juan C. Adrover Ramirez

Título: Contralor

Fecha: 9/ago/23

4. Aprobado por el Director de Finanzas:

Firma: [Firma]

Nombre: Nelson Morales Rivera

Fecha: AUG 09 2023

Todo contrato por servicios profesionales con una cuantía sobre cien mil dólares (\$100,000), debe presentarse para la aprobación de la Junta de Gobierno, según la Norma Sobre Niveles de Aprobación de Documentos de la Autoridad de Energía Eléctrica de Puerto Rico.

Aprobado por la Junta de Gobierno:

Firma: \_\_\_\_\_

Nombre: \_\_\_\_\_

Fecha: \_\_\_\_\_



BE-326127

AEE 700.0-09  
Rev. 9/15

## Autoridad de Energía Eléctrica de Puerto Rico

ESTIMADO DE CONSTRUCCIÓN O  
ADQUISICIÓN DE PROPIEDAD CAPITALIZABLE

DIRECTOR EJECUTIVO AEE

Página 1 de 2

RECIBIDO MAY 11 '22 14:00

RECIBIDO MAY 11 '22 14:00

RECIBIDO MAY 11 '22 14:00

Número de la Partida Presupuestaria: 800	Nombre de la Partida Presupuestaria: Proyectos de Agua y Mitigación de Fondos FEMA
Número de Responsabilidad: 210	Nombre de Responsabilidad: División de Riego, Represas y Embalses
Número del Proyecto: 19930	Título del Proyecto: Project 436467 - FEMA 428 Isabela Irrigation District Engineering Services
Pueblo - Localización: Isabela / Aguadilla	Descripción del Proyecto: Project 436467 - FEMA 428 Engineering Services to Design Structural Repairs of Irrigation
Comentarios: This project is part of the 428 FEMA Program for Water Projects	
Coordinado con la División o Sección: 	

Asignación Años Fiscales:		
Cantidad:	\$888,111.00	\$888,111.00
Año fiscal:	2022 - 2023	Total

<b>Resumen de Costos:</b>		Requerido por:	
Piezas - Materiales	\$	Firma	
Equipo		Nombre	José M. Bermúdez Díaz
Labor		Título	Jefe de División
Contrato	\$888,111.00	Fecha	5 de mayo de 2022
Transportación		Teléfono	4888
Dieta y Millaje		Recomendado por:	
Gastos Incidentales		Firma	
Intereses y Administrativos		Nombre	Jorge L. Cotto Pérez
Otros:		Título	Director de Generación
Total	\$	Fecha	6/5/22
		Teléfono	1230
Estimado Original Núm.:		Aprobado por:	
Menos Cantidad Aprobada		Firma	
Estimado Supletorio	\$	Nombre	Josué A. Colón Ortiz
		Título	Director Ejecutivo
		Fecha	17 MAY 2022
		Teléfono	4668

Loc. 32000 Para uso exclusivo del Departamento de Presupuesto

PMC	2021-22	Sello Certificación	Certificado por:
Transferencia		ACCOUNTING AND BUDGET DIVISION BUDGET DEPARTMENT MAY 11 2022 SUPERVISOR	Firma:
Analista			Título: Director Financiero, Int
Fecha	11 de mayo de 2021		Fecha: 11-Mayo-2022
Ref. Retiro			
Núm. Cuenta	30	211	130
ORACLE	Compañía	Cuenta	Subcuenta
	20	1831	18351
		Resp.	Tabla
			Número de Estimado
			130000001620



## CERTIFICACIÓN DE FONDOS DE CONTRATOS POR SERVICIOS PROFESIONALES

Cantidad: \$888,111 Fecha de Comienzo: fecha adjudicacion Fecha de Terminación: 30 de junio de 2024

Certificamos que no se proyectó sobregiro presupuestario y se posee capacidad financiera para cubrir esta transacción. Este contrato está en cumplimiento con el Inciso G de la Carta Circular de la Oficina de Gerencia y Presupuesto Núm. 117-14 del 1 de julio de 2014.

Fecha: 9/8/23

Fecha: AUG 09 2023

Fecha:





**Autoridad de Energía Eléctrica de Puerto Rico**

**ESTIMADO DE CONSTRUCCIÓN O  
ADQUISICIÓN DE PROPIEDAD CAPITALIZABLE**

Página 1 de 2

RECIBIDO PRESUPUESTO

Número de la Partida Presupuestaria: 800	Nombre de la Partida Presupuestaria: Proyectos de Agua y Mitigación de Fondos FEMA
Número de Responsabilidad: 210	Nombre de Responsabilidad: División de Riego, Represas y Embalses
Número del Proyecto: 19929	Título del Proyecto: Project 435769 - FEMA 428 - South Cost Irrigation District Engineering Services
Pueblo - Localización: Patillas / Juana Díaz	Descripción del Proyecto: Project 435769 - FEMA 428 - Engineering Services to Design Structural Repairs of Irrigation
Comentarios: This project is part of the 428-FEMA Program for Water Projects	
Coordinado con la División o Sección: 	
Asignación Años Fiscales: Cantidad: \$888,111.00 \$888,111.00 Año fiscal: 2022 - 2023 Total	

<b>Resumen de Costos:</b>		<b>Requerido por:</b>	
Piezas - Materiales	\$	Firma	
Equipo		Nombre	José M. Bermúdez Díaz
Labor		Título	Jefe de División
Contrato	\$888,111.00	Fecha	Julio 2022
Transportación		Teléfono	4888
Dieta y Millaaje		<b>Recomendado por:</b>	
Gastos Incidentales		Firma	
Intereses y Administrativos		Nombre	Jorge L. Colto Pérez
Otros:		Título	Director de Generación
<b>Total</b>	\$	Fecha	4/5/22
		Teléfono	1230
<b>Estimado Original Núm.:</b>		<b>Aprobado por:</b>	
<b>Menos Cantidad Aprobada</b>		Firma	
<b>Estimado Supletorio</b>		Nombre	Josué A. Colón Ortiz
	\$	Título	Director Ejecutivo
		Fecha	11 MAY 2022
		Teléfono	4668

*Loc. 67000*

Para uso exclusivo del Departamento de Presupuesto

PMC 2021-22

Transferencia                     

Analista                     

Fecha 11 de mayo de 2022

Ref. Retiro                     



Certificado por:

Firma:

Título: Director Finanzas Int.

Fecha: 11-May-2022

Núm. Cuenta	20	1831	18351	211	130	130000001618
ORACLE	Compañía	Cuenta	Subcuenta	Resp.	Tabla	Número de Estimado





## Autoridad de Energía Eléctrica de Puerto Rico

### CERTIFICACIÓN DE FONDOS DE CONTRATOS POR SERVICIOS PROFESIONALES

Número de Responsabilidad: 211 Nombre de Responsabilidad: Riego, Represas y Embalses-Yauco/Cabo Rojo

Se incluye copia del Contrato descrito a continuación:

Nombre del Contratista o Compañía: CSA Architects and Engineers, LLP

Número del Contrato: 40 Número de Cuenta: 13000001619 Año Fiscal: 2023 - 2024  
20-1831-18351-550-211

Cantidad: \$888,111 Fecha de Comienzo: fecha adjudicación Fecha de Terminación: 30 de junio de 2024

Certificamos que no se proyectó sobregiro presupuestario y se posee capacidad financiera para cubrir esta transacción. Este contrato está en cumplimiento con el inciso G de la Carta Circular de la Oficina de Gerencia y Presupuesto Núm. 117-14 del 1 de julio de 2014.

1. Requerido por:

Firma: EC 211

Nombre: Edgar Torres Bonilla

Título: Administrador, Contabilidad y Control de Costos

Fecha: 9 de agosto de 2023

2. Aprobado por el Director Correspondiente:

Firma: Por: J. Umplere Montalvo

Nombre: Jaime A. Umplere Montalvo

Título: Director

Fecha: 9/8/23

3. Recomendado por el Departamento de Presupuesto:

Firma: Juan C. Adrover Ramirez

Nombre: Juan C. Adrover Ramirez

Título: Contralor

Fecha: 9/ago/23

4. Aprobado por el Director de Finanzas:

Firma: Nelson Morales Rivera

Nombre: Nelson Morales Rivera

Fecha: AUG 09 2023

Todo contrato por servicios profesionales con una cuantía sobre cien mil dólares (\$100,000), debe presentarse para la aprobación de la Junta de Gobierno, según la Norma Sobre Niveles de Aprobación de Documentos de la Autoridad de Energía Eléctrica de Puerto Rico.

Aprobado por la Junta de Gobierno:

Firma: \_\_\_\_\_

Nombre: \_\_\_\_\_

Fecha: \_\_\_\_\_



DE-326124

• AEE 700.0-39  
Rev. 9/15



**Autoridad de Energía Eléctrica de Puerto Rico**

INFORMACIÓN EJECUTIVA AEE

**ESTIMADO DE CONSTRUCCIÓN O  
ADQUISICIÓN DE PROPIEDAD CAPITALIZABLE**

Página 1 de 2

RECIBIDO MAY 11 2022

Número de la Partida Presupuestaria: 800	Nombre de la Partida Presupuestaria: Proyectos de Agua y Mitigación de Fondos FEMA
Número de Responsabilidad: 210	Nombre de Responsabilidad: División de Riego, Represas y Embalses
Número del Proyecto: 19928	Título del Proyecto: Project 436462 - FEMA 428 Lajas Valley Irrigation District Engineering Services
Pueblo - Localización: Yauco / Cabo Rojo	Descripción del Proyecto: Project 436462 FEMA Engineering Services to Design Structural Repairs of Irrigation
Comentarios: This project is part of the 428 FEMA Program for Water Projects	
Coordinado con la División o Sección: <i>(Signature)</i>	

Asignación Años Fiscales:	
Cantidad: \$888,111.00	\$888,111.00
Año fiscal: 2022 - 2023	Total

**Resumen de Costos:**

Piezas - Materiales	\$
Equipo	
Labor	
Contrato	\$888,111.00
Transportación	
Dieta y Millaje	
Gastos Incidentales	
Intereses y Administrativos	
Otros:	
<b>Total</b>	\$

**Requerido por:**

Firma: *(Signature)*  
Nombre: José M. Bermúdez Díaz  
Título: Jefe de División  
Fecha: 5 de mayo de 2022 Teléfono: 4888

**Recomendado por:**

Firma: *(Signature)*  
Nombre: Jorge L. Cotto Pérez  
Título: Director de Generación  
Fecha: 6/5/22 Teléfono: 1230

**Aprobado por:**

Firma: *(Signature)*  
Nombre: Josué A. Colón Ortiz  
Título: Director Ejecutivo  
Fecha: 11 MAY 2022 Teléfono: 4668

Estimado Original Núm.: \_\_\_\_\_

Menos Cantidad Aprobada \_\_\_\_\_

Estimado Supletorio \$ \_\_\_\_\_

*Inc 73000*

**Para uso exclusivo del Departamento de Presupuesto**

PMC: 2021-22

Transferencia: \_\_\_\_\_

Analista: *(Signature)*

Fecha: 11 de mayo de 2022

Ref. Retiro: \_\_\_\_\_



**Certificado por:**

Firma: *(Signature)*  
Título: Director Finanzas, Inc.  
Fecha: 11-mayo-2022

Núm. Cuenta	40	1831	18351	211	130	130000001619
ORACLE	Compañía	Cuenta	Subcuenta	Resp.	Tabla	Número de Estimado

## **Annex E**



FY2024 - Schedule of Approved and Requested Contracts  
Insurance Defense and FEMA Reimbursable Contracts  
(\$ in thousands)

#	Insurance Defense and FEMA Reimbursable Detail by Contract	PREPA Submitted	PREB Approved	Contract Number	Approval Date / Pending
1	Insurance Defense				
2	Freese and Nichols Inc.		\$ 446	[TBU]	9/27/2023
3	The Claro Group LLC		394	[TBU]	9/27/2023
4	Willis Tower Watson		947	[TBU]	9/27/2023
5	Contracts for Insurance Defense	\$ -	\$ 1,787		
6	FEMA Reimbursement				
7	McGuire Woods LLP		\$ 1,495	[TBU]	9/27/2023
8	Black & Veatch Puerto Rico, PSC	TBD- Awaiting negotiation			
9	CSA Architects & Engineers, LLP	2,664		[PENDING]	Submitted: 9/29/2023
10	Contracts for FEMA Reimbursement	\$ 2,664	\$ 1,495		

FY2024 HoldCo Approved Budget - Schedule of Approved and Requested Contracts

Labor Operating Expenses

(\$ in thousands)

#	Description	FY2023	FY2024	\$		%	
		FOMB CERTIFIED	FOMB CERTIFIED 06.30	FOMB Certified		Variance	
1	<b>HoldCo Labor Operating Expenses</b>						
2	Salaries & Wages	\$ 7,513	\$ 4,469	\$	(3,044)		-40.5%
3	Pension and Benefits	4,508	2,692		(1,816)		-40.3%
4	Overtime Pay	439	361		(78)		-17.8%
5	Overtime Benefits	53	43		(10)		-18.9%
6	<b>Total HoldCo Non-Labor Operating Expenses</b>	<b>\$ 12,513</b>	<b>\$ 7,565</b>	<b>\$</b>	<b>(4,948)</b>		<b>-39.5%</b>

#	Labor Operating Expenses Detail by Contract	PREPA Submitted	PREB Approved	Contract Number	Approval Date / Pending
7	<b>Pension and Benefits</b>				
8	Universal Medical Option Inc.	\$ 150		[PENDING]	Re-Submitted: 9/29/2023
9	<b>Contracts for Pension and Benefits</b>	<b>\$ 150</b>	<b>\$ -</b>		
10	Remaining Budget Funds Available	2,542	2,692		
11	<b>FOMB Approved Budget for Pension and Benefits</b>		<b>\$ 2,692</b>		

#	Labor Operating Expenses Detail by Contract	PREPA Submitted	PREB Approved	Contract Number	Approval Date / Pending
12	<b>Overtime Benefits</b>				
13	[CONTRACT PLACEHOLDER]				
14	<b>Contracts for Overtime Benefits</b>		<b>\$ -</b>		
15	Remaining Budget Funds Available		43		
16	<b>Approved Budget for Overtime Benefits</b>		<b>\$ 43</b>		