

GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY

SECOND AMENDMENT
CONTRACT 2019-P00109 B

-----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 No. 83 of May 2, 1941, as amended (Act 83), represented in this act by its Chief Executive Officer/Executive Director, mister José F. Ortiz Vázquez, of legal age, married, executive, and resident of San Juan, Puerto Rico. -----

AS SECOND PARTY: Design Build, LLC (Contractor), a Limited Liability Company, formed and existing under the laws of Puerto Rico, with a place of business at Toa Baja, Puerto Rico herein represented by its Managing Member, José L. Ortiz Serrano, of legal age, married and resident of Guaynabo, Puerto Rico, who has authority to enter into this contract by virtue of Corporate Resolution dated of June 25, 2019. -----

Both PREPA and Contractor are herein individually referred to as a "Party" and collectively referred to as the "Parties". -----

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

WHEREAS: The appearing Parties executed Contract 2019-P00109 on May 7, 2019 and effective until June 30, 2019, with a not to exceed amount of one million one



hundred forty-one thousand three hundred four dollars with thirty-five cents (\$1,141,304.35) (the "Contract"). Through this Contract, the Contractor shall provide labor, equipment and any incidental work necessary to completely repair existing, hurricane-damaged, streetlights assigned by PREPA. -----

WHEREAS: In accordance with Article 4.3, Contract Term, on June 30, 2019, the Parties executed the First Amendment to extend its term until June 30, 2020. -----

WHEREAS: The Contractor has been performing all the works assigned by PREPA. The Contract has reached the 75% of the total amount and as identified by the Transmission and Distribution Directorate it remains a lot of work to be done. -----

WHEREAS: On September 26, 2019, PREPA's Governing Board, through Resolution 4741, authorized the increase of the total amount budget for the Streetlight Repairs Project until June 30, 2020. -----

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NOW THEREFORE, in order to continue receiving the Contractor's services the appearing Parties hereby agree to enter into this Second Amendment under the following: -----

TERMS AND CONDITIONS


FIRST: The Parties agree to amend Article 3, Consideration, to increase its Contract Price by one million five hundred thousand dollars (\$1,500,000), from one million one hundred forty-one thousand three hundred four dollars with thirty-five cents (\$1,141,304.35) to two million six hundred forty-one thousand three hundred four dollars with thirty-five cents (\$2,641,304.35). All payments to be made under this Contract, as

amended will be charged to account number 01-4024-67000-550-474 and 01-4025-69300-550-474.-----

The remaining sentences and paragraphs of the Article 3 of the Contract, not affected by this amendment shall remain unaltered and fully enforceable.-----

SECOND: As for the original Contract, Contractor will continue to comply with all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico. Also, the Contractor shall provide, within seven (7) days after the execution of this Amendment the following documents and certifications, except the sworn statement in accordance with the Anti-Corruption Code, which shall be provided by the Contractor at the execution of the Contract:-----

1. Filing of Puerto Rico Income Tax Returns

 In compliance with Executive Order Number OE-1991-24 of June 18, 1991, Contractor hereby certifies that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. As evidence thereof, Contractor has delivered to PREPA an Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Income Tax Return for the last five (5) tax years. Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every contractor and subcontractor whose service Contractor has secured in connection with the services to be rendered under this

Contract and shall forward evidence to PREPA as to its compliance with this requirement. -----

2. Payment of Puerto Rico Income Taxes

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, Contractor, hereby certifies that it has complied and is current with the payment of all income taxes that are, or were due, to the Government of Puerto Rico. As evidence thereof, Contractor has delivered to PREPA a certification issued by the Treasury Department of Puerto Rico indicating that Contractor does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms. During the term of this Contract, Contractor agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico. Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each subcontractor whose service Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement. -----



3. Compliance with Requirements of the Department of Labor and Human Resources of the Commonwealth of Puerto Rico. -----

Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, Contractor certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security

for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. As evidence thereof, Contractor has delivered to PREPA: -----

- a. A certification issued by the Bureau of Employment Security (Negociado de Seguridad de Empleo) of the Puerto Rico Department of Labor and Human Resources certifying that Contractor does not owe taxes regarding Unemployment or Disability Insurance. -----
- b. A certification issued by the Program for Social Security for Chauffeurs and Other Employees of the Puerto Rico Department of Labor and Human Resources certifying that Contractor has no debt with respect to such program n Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Income Tax Return for the last five (5) tax years. -----

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4. Real and Personal Property Taxes

Contractor hereby certifies and guarantees that it does not have any current debt regarding property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (Centro de Recaudación de Ingresos Municipales ("CRIM")). Contractor further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. ---

Contractor shall provide: -----

a. A certification issued by the Municipal Revenues Collection Center (“MRCC”), assuring that Contractor does not owe any tax accruing during the last five (5) years to such governmental agency with respect to personal property; or negative Debt certification issued by the MRCC with respect to personal property taxes and a sworn statement executed by Contractor indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last 5 years (or the time in which it has been providing professional services) it has had no taxable business or personal property on the 1st of January of each year, (iii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended and (iv) that for such reason it does not have an electronic tax file in the MRCC’s electronic system. -----

b. All Concepts Debt Certification issued by the MRCC assuring that Contractor does not owe any taxes to such governmental agency with respect to real and personal property; or Negative certification issued by the MRCC with respect to real property taxes. -----

5. Sales and Use Taxes

Contractor has delivered to PREPA: -----

a. Certification issued by the Puerto Rico Treasury Department indicating that Contractor does not owe Puerto Rico Sales and Use taxes to the Commonwealth



of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms. -----

b. Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods. -----

c. A copy of Contractor's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico. -----

6. Puerto Rico Child Support Administration (ASUME)

Contractor hereby certifies that it is not duty bound to pay child support, or if so, that Contractor is up to date or has a payment plan to such effects. As evidence thereof, Contractor has delivered to PREPA a certification issued by the Puerto Rico Child Support Administration (Administración Para El Sustento de Menores (ASUME) certifying that Contractor have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME. -----

7. Organization Documents

Contractor shall provide: -----

a. a Good Standing Certificate issued by the Department of State of Puerto Rico. ---

b. a Certification of Incorporation, or Certification of Organization or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico. -----

8. Contractor hereby recognizes and agrees that no payment for services under the Contract shall be done by PREPA until all the required certifications and sworn statement have been provided. -----

9. Dispensation

Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record. -----

10. Rules of Professional Ethics

Contractor acknowledges and accepts that it is knowledgeable of the rules of ethics of his or her profession and assumes responsibility for his or her own actions. -----

11. Provisions Required under Act 14-2004

Contractor 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. -----

12. Contractor hereby agrees to comply with the provisions of Act 2-2018, known as the Anti-Corruption Code for the New Puerto Rico.-----

Contractor shall furnish a sworn statement to the effect that neither Contractor 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 Contractor 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.-----

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

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



Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.-----

Consequences of Non-Compliance

Contractor expressly agrees that the conditions outlined throughout this Section 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 sufficient cause for the PREPA to render this Contract null and void. If any of the certifications listed in this Section shows a debt, and Contractor has requested a review or adjustment of this debt, Contractor hereby certifies 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, Contractor will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Contractor accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every contractor and subcontractor whose service Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement. -----

Contractor understands and agrees that PREPA is prohibited to process any payment under the Contract until the enumerated certifications and sworn statements are submitted to PREPA. -----



THIRD: The Parties agree that all other terms and conditions established in the Contract, as amended shall remain unaltered and fully enforceable. -----

In WITNESS WHEREOF, the Parties hereto have agreed to execute this Second Amendment of the Contract in San Juan, Puerto Rico, on this 11 day of October 2019. -----

Puerto Rico Electric Power Authority

Design Build, LLC

José F. Ortiz Vázquez
Chief Executive Officer
Tax ID: 660-43-3747

José L. Ortiz Serrano
Managing Member
Tax ID: 660-50-3377

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