

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

**FIRST AMENDMENT  
Contract 2020-P00001 (EPA C-72-128-19)  
New Water Supply for the Aguirre Power Complex Phase V  
Final Effluent Tank and Water Retention Tank  
Rehabilitation Work**

**APPEAR**

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

AS SECOND PARTY: RG Engineering, Inc. hereinafter referred to as ("Contractor"), a corporation organized and existing under the laws of Puerto Rico, authorized to do business in Puerto Rico, represented in this act by its vice-president, Michelle Marie Camino Bonilla, of legal age, married, and resident of Guaynabo by virtue of Corporate Resolution dated as of February 10, 2020.-----

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

**WITNESSETH**

In consideration of the mutual covenants hereinafter stated, the Parties agree themselves, their personal representatives, and successors as follows: -----

**STATE**

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

WHEREAS: The appearing Parties executed the Contract 2020-P00001 (Contract) on May 24, 2019 with a not to exceed amount of three million forty eight thousand dollars (\$3,048,000) ("Contract Amount") to provide: labor, materials, equipment, tools; supervision, test, permits, and services for the New Water Supply for the Aguirre Power Complex Phase V, Final Effluent Tank & Water Retention Tank Rehabilitation Work (the Project). The mentioned works were awarded through the bid process RFP 1796 with a

*Handwritten signature*

term of three hundred thirty (330) calendar days for completion of the works, from the date of the Notice to Proceed. The Notice to Proceed was issued on July 1<sup>st</sup>, 2019. -----

WHEREAS: On March 15, 2020, the Governor of Puerto Rico signed the Executive Order 2020-023, that established a curfew and social distancing due to COVID-19 pandemic and ordered the closing of non-essential businesses.-----

WHEREAS: Following OE-2020-023 dispositions, the Contractor suspended the works related to this Contract on March 16, 2020.-----

WHEREAS: After the measures established in the abovementioned Executive Order were modified in subsequent executive orders to reactivate the Island's economic activities, the Contractor resumed the works related to the Contract for their management staff on June 1, 2020 and on June 9, 2020 resumed the field works.-----

WHEREAS: Article 15 of the Contract, Force Majeure, establishes the conditions in which any of the Parties "shall be excused from performing hereunder and shall not be liable in damages or otherwise, if and only to the extent that they shall be unable to perform or are prevented from performing by a force majeure event". As defined in the Contract, force majeure includes acts of God, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, among others, "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".-----

WHEREAS: Based on Article 15, on June 10, 2020, the Contractor submitted a letter requesting an extension of seventy-seven (77) calendar days to the Contract to compensate for the delay caused by the executive orders related to the COVID-19 pandemic. PREPA requested an updated project schedule showing the impact on the Contract timeline.-----

WHEREAS: As per Puerto Rico Comptroller's Office, the Contract is in effect until June 16, 2020.-----

In consideration of the mutual covenants hereinafter stated, the Parties agree themselves, their personal representatives, and successors as follows: -----

*REC*

THEREFORE, in consideration of the mutual covenants hereinafter stated, the Parties hereby agree to amend the Contract as follows:-----

TERMS AND CONDITIONS

FIRST: Article 4, Commencement and Completion of Work, Subsection 4.1, General, is amended to include the following language to extend the effectiveness of the Contract:--

-----  
The term of this Contract shall be extended until December 13, 2020.

The remaining language of Article 4, as amended, shall remain unaltered and fully enforceable. -----

The demand of the obligations of either party under this Contract will be subject to the filing of the Contract at the Office of the Comptroller of the Commonwealth of Puerto Rico, in compliance with Act of October 30, 1975, No. 18, as amended. -----

SECOND: The Contract Amount and the three hundred thirty (330) calendar days term to complete all task and project scope do not change. -----

THIRD: All payments performed under this First Amendment will be charged to PREPA's budget account number 01-1861-18743-000-000. -----

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

*REC*

and services to be provided, etc., will continue in full force and effect until the expiration of the thirty (30) days period.-----

FIFTH: Contractor will continue complying with all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico. The Contractor shall provide, the following documents:-

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.-----

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.-----

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

*Went*

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.-----

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.-----

*None*

8. Dispensation

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

9. 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. -----

10. Provisions Required under Act 14-2004, as amended

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. -----

11. 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

*ACM*

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 enough cause for 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 relation with the services to be rendered under this Contract and shall deliver evidence to PREPA as to its compliance with this requirement. -----

*Handwritten signature*



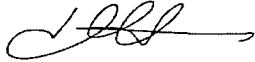
Contractor understands and agrees that PREPA is prohibited to process any payment under the Contract until the enumerated certifications and sworn statements are submitted to PREPA. \_\_\_\_\_

THEREFORE: The Parties agree that all other terms and conditions, stipulations, insurances, and requirements established in the Contract shall remain unaltered and fully enforceable. \_\_\_\_\_


In WITNESS WHEREOF, the Parties hereto have agreed to execute this First Amendment in San Juan, Puerto Rico, on this 16 day of June, 2020. –

Puerto Rico Electric Power Authority

RG Engineering, Inc.



\_\_\_\_\_  
José F. Ortiz Vázquez  
Executive Director

  
\_\_\_\_\_  
Michelle Marie Camino Bohilla  
Vice-president

