

Execution Version

GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY

PROFESSIONAL SERVICES CONTRACT

by and between

THE PUERTO RICO ELECTRIC POWER AUTHORITY (PREPA)

and

STANTEC ENGINEERING PUERTO RICO PSC

AS CONSULTANT

DATED April 12, 2021

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

APPEAR

THE PUERTO RICO ELECTRIC POWER AUTHORITY ("**PREPA**"), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended (Act 83), represented in this act by its Executive Director, Efran Paredes Maisonet, of legal age, married, and a resident of Bayamón, Puerto Rico; and STANTEC ENGINEERING PUERTO RICO PSC ("**Consultant**"), a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, and registered to do business in Puerto Rico, represented in this act by its Senior Vice President, David Bernier, of legal age, married, and a resident of Auburn, New Hampshire, authorized by virtue of Corporate Resolution dated February 4, 2021; (each, a "**Party**" and collectively the "**Parties**").

WITNESSETH

WHEREAS:

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

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B. Consultant has delivered on the date hereof to PREPA a true and complete original version of each of the certificates and sworn statements, duly notarized and signed by Consultant's authorized representative, set forth in Article 26 (*Compliance with the Commonwealth of Puerto Rico Contracting Requirements*) and Section 27.2 (*Sworn Statement*) of this Contract;

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

TERMS AND CONDITIONS

Article 1 Services

1.1 General. Subject to Section 1.2 (*Commencement of Services*), Consultant shall perform any portion of, or all (as PREPA may require) of the services set forth in Annex A (*Services*) as well as other services described in this Contract (collectively, the "**Services**"), including the preparation and submission to PREPA of specific deliverables (the "**Deliverables**"), related to the implementation of a Section 404 Hazard Mitigation Project, Section 406 Hazard Mitigation Work or a Section 428 Project (each, a "**Stafford Act-Funded Project**"), within the time frame set forth in a task order (each, a "*Task Order*"), each in the form of Annex B (*Form of Task Order*), as mutually agreed by the Parties. In this Contract:

- a. **“Section 404 Hazard Mitigation Project”** means a project for the implementation of measures on PREPA’s facilities to reduce the risk of loss of life and property from future disasters, funded by the Federal Emergency Management Agency (“**FEMA**”) under Title IV, Section 404 (*Hazard Mitigation*) of the Stafford Act (Title 42 of the United States Code, Sections 5170c et seq.);
- b. **“Section 406 Hazard Mitigation Work”** means work, performed in conjunction with the repair of the disaster-damaged portion of the electrical system in Puerto Rico, which reduces the potential of future, similar disaster damages to such system, funded by FEMA under Title IV, Section 406 (Repair, Restoration, and Replacement of Damaged Facilities) of the Stafford Act (Title 42 of the United States Code, Sections 5172, et seq.);
and
- c. **“Section 428 Project”** means a project for the repair, restoration, and replacement of damaged facilities forming part of the electrical system in Puerto Rico, funded by FEMA under Title IV, Section 406 (Repair, Restoration, and Replacement of Damaged Facilities) of the Stafford Act (Title 42 of the United States Code 5172, et seq.) administered according to alternative procedures adopted under Title IV, Section 428 (Public Assistance Program, Alternative Procedures) of the Stafford Act (Title 42 of the United States Code, Sections 5189 et seq.), which includes, among other things, making grants on the basis of fixed cost estimates.

1.2 Commencement of Services. Consultant shall not commence the performance of Services relating to a Stafford Act-Funded Project unless and until a Task Order covering such project has been executed by the Parties. Consultant acknowledges and agrees that PREPA has no obligation to (i) enter into any Task Order under this Contract, or (ii) remit payment for Services rendered in relation to any Stafford Act-Funded Project except for those Services performed pursuant to a duly executed Task Order relating to such project.

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

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

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1.5 Design Documentation. For each final submission by Consultant of design drawings and specifications for a Stafford Act-Funded Project under this Contract, Consultant shall ensure that (i) a Professional Engineer, registered in the Commonwealth of Puerto Rico, who serves as a member of the College of Engineers and Land Surveyors of Puerto Rico in the discipline applicable to such submission, shall have signed and sealed such submission, and (ii) such design complies with the DCD (as defined in Section 3.1 of Annex A), federal, state, and local regulations and all applicable laws and permits.

Article 2 Services Coordination

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

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

2.3 Consultant Representative. Consultant designates David Bernier as its representative and single point of contact with respect to the Contract, and who shall have complete authority to act on behalf of Consultant on all matters pertaining to the Services, including signing any amendments or written change order. Consultant shall promptly provide PREPA with written notice of any change in Consultant's designation of its

representative, which change will be subject to PREPA's prior written approval. If, at any time, PREPA objects to Consultant's representative, then Consultant shall replace such representative with a person reasonably acceptable to PREPA.

Article 3 Subcontracts

3.1 General. 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. Consultant shall ensure that any and all subcontractors approved by PREPA register in the System for Award Management (SAM). In each case where Consultant enters into a subcontract with an approved subcontractor for the performance of any portion of the Services, Consultant shall (i) 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 (ii) ensure that such subcontract includes as a condition for its legal validity and enforceability (A) a provision whereby PREPA has the right to substitute, subrogate or assume Consultant's rights under the subcontract, in the event that PREPA declares Consultant in breach or default of any of the Contract terms and conditions, and (B) a provision establishing for the subcontractor the obligation to comply with all Consultants' obligations under the Contract (*mirror image clause*), except for such obligations, terms and conditions which exclusively relate to works or services not included under such subcontract. Consultant shall invoice for Services performed by

subcontractors in accordance with the roles and rates stated in Section 6.2 (*Rates*), and the amounts so paid shall count toward the Contract Amount.

3.2 Certifications. For each subcontractor that enters into a subcontract with Consultant for the performance of any part of the Services, Consultant shall provide PREPA with such subcontractor's certificate of formation and operating agreement (if applicable), and good standing certificates as proof that they are duly authorized to do business in Puerto Rico and have complied with its annual corporation report filing obligations. Consultant shall ensure and certify to PREPA that all of its authorized subcontractors comply with Puerto Rico laws and regulations, specifically those provisions related to the required government certifications.

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

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

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

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

Article 4 Contract Term

The term of this Contract shall extend from the date (“**Effective Date**”) of satisfaction by Consultant, and/or waiver by PREPA, of the conditions precedent set forth in Annex D (*Conditions Precedent*) (as evidenced by a certificate signed by an authorized representative of PREPA in the form set forth in Annex E (*Form of Conditions Precedent Certificate*)) until June 30, 2021 (“**Contract Term**”). At the exclusive option of PREPA and subject to the availability of funds and authorizations required by PREPA, PREPA may, with at least sixty (60) days prior written notice, (i) elect to extend the Contract Term for an additional annual fiscal period, for a maximum extension of two (2) annual fiscal periods after the end of the original Contract Term, or (ii) require Consultant to enter into a new professional services agreement upon the same terms and conditions as set forth in this Contract; provided, however, in either case of (i) or (ii), the Parties shall agree upon a reasonable adjustment to the rates set forth in Section 6.2 (*Rates*).

Article 5 Termination

5.1 For Convenience. PREPA shall have the right to terminate this Contract 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 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), 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. Consultant shall have no further right to compensation except for what has been accrued for Services properly rendered and expenses properly incurred under the Contract until said date of effective termination.

5.2 For Default. PREPA shall have the right to terminate this Contract upon the occurrence of any of the following events: (i) Consultant's negligence or dereliction of duties; (ii) Consultant's breach of any of the provisions of this Contract concerning assignment or subcontracting, (iii) Consultant's breach of any representation, warranty or obligation arising out of this Contract; (iv) a prolonged delay by Consultant in performing its obligations hereunder or any Task Order; (v) failure to carry out an instruction from PREPA in relation to the performance of the Services; (vi) Consultant's failure to comply, or act or omission that causes PREPA to fail to comply, with any applicable laws, and (vii) the commencement of any insolvency, receivership or bankruptcy proceedings by or against Consultant; or (viii) abandonment or repudiation by Consultant of this Contract or any Task Order. Termination of the Contract shall take effect ten (10) 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 ten-day period. A termination under this Section 5.2 (*For Default*) and Consultant's liability for additional costs and expenses shall be without prejudice to other remedies which may be available to PREPA under this Contract, at law, or otherwise. If

any court or tribunal finds that any termination by PREPA of this Contract for default under this Section 5.2 (*For Default*) failed to comply with the requirements of this Contract or otherwise deems such termination unenforceable, then such termination for cause shall be deemed to be a termination for convenience under Section 5.1 (*For Convenience*).

5.3 Post-Termination Obligations. Upon a termination by PREPA of this Contract, Consultant shall: (i) discontinue the performance of the terminated Services in an orderly manner; (ii) issue no further subcontracts with respect to such terminated Services, except with the written consent of PREPA; (iii) assign to PREPA those subcontracts for which PREPA requests assignment in writing; (iv) procure cancellation terms satisfactory to PREPA of all subcontracts affected by such terminated Services that are not assigned to PREPA; (v) cooperate with PREPA in the efficient transition of the terminated Services and Deliverables; (vi) properly protect and secure the Services as required by PREPA; (vii) promptly forward to PREPA all Work Product (as defined in Section 12.1 (*Title*)), developed or conceived by Consultant prior to the date of such termination; and (viii) 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.

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

- a. In the event PREPA terminates this Contract for default pursuant to Section 5.2 (*For Default*), PREPA shall pay Consultant only the compensation earned to the time of notice of termination, less any additional costs and expenses incurred by PREPA by reason of such breach, including additional costs incurred by having to obtain a replacement consultant to complete the Services.
- b. In the event that PREPA, or the Office of the Chief of Staff of the Governor of Puerto Rico (Secretaría de la Gobernación), terminates this Contract for convenience pursuant to Section 5.1 (*For Convenience*) or Section 5.5 (*Termination by Chief of Staff.*), 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.

5.5 Termination by Chief of Staff. The Chief of Staff has the authority to terminate this Contract at any time.

Article 6 Payment

6.1 Contract Amount. In accordance with the terms and conditions contained herein, PREPA agrees and Consultant accepts that the total amount to be paid under the Contract shall never exceed a cumulative amount of six million one hundred thousand U.S. dollars (\$ 6,100,000), including reimbursable expenses (the “**Contract Amount**”). PREPA shall charge all payments under this Contract to its internal account no. 01-1747-17556-555-664. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be required to make advance payments for any future service to be rendered by Consultant under the Contract. Nothing herein shall preclude the Parties from agreeing to increase said amount in writing and signed by both Parties.

6.2 Rates. PREPA will pay for the Services rendered by Consultant according to the following negotiated hourly rates:

TITLE	HOURLY RATE (USD)
Program Manager	\$ 229.00
Project Manager	\$ 175.00
Administrative Manager	\$ 120.00
Design Manager	\$ 161.00
Documents Control Manager	\$ 112.00
Environmental & Permitting Compliance Mgr	\$ 168.00
Health and Safety Manager	\$ 165.00
Information Technology Mgr	\$ 150.00
Project Control Manager (Schedule, costs)	\$ 140.00
Archaeologist	\$ 102.00
Architect	\$ 150.00

TITLE	HOURLY RATE (USD)
Biologist	\$ 110.00
Civil Engineer - Power Line Design	\$ 150.00
Civil Engineer - Substation Design	\$ 150.00
Computer Aided Design Drafter	\$ 92.00
Document Control Specialist	\$ 85.00
Electrical Engineer - Substation Design	\$ 154.00
Engineering Discipline Lead	\$ 178.00
Environmental & Permitting Specialist	\$ 125.00
Geotechnical Engineer	\$ 146.00
Health and Safety Officer	\$ 140.00
Hydrological / Hydraulic Engineer	\$ 170.00
Information Technology Specialist	\$ 117.00
Office Coordinator, Supervisor of Admin Personnel	\$ 110.00
Project Controls Specialist (schedule, costs)	\$ 115.00
Secretary, Administrative Support	\$ 85.00
Skilled Labor	\$ 105.00
Structural Engineer	\$ 151.00
Surveyor	\$ 135.00
Unskilled Labor	\$ 75.00

6.3 Notification. 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, Consultant, in coordination with PREPA, will ensure that the aggregate invoice amounts for all Services rendered shall never

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exceed the Contract Amount, except when authorized by written amendment agreed upon by both Parties. In addition, Consultant shall present an itemized list of the remaining billable Services under the Contract.

6.4 Withholding. Consultant acknowledges and agrees that PREPA may, in addition to any other rights under this Contract, deduct or withhold any amount due or payable under this Contract that Consultant owes or that PREPA disputes, including amounts related to any loss due to: (i) 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; (ii) a claim arises for warranty or defects regarding the Services rendered or goods provided under this Contract; (iii) any breach by Consultant of any term or provision of this Contract; (iv) the assessment of any fines or penalties against PREPA as a result of Consultant's failure to comply with applicable laws; (v) amounts incorrectly paid by PREPA to Consultant in any prior invoice or for which there was insufficient or inaccurate supporting information; (vi) failure of Consultant to make payments to subcontractors as required under their respective subcontracts; or (vii) other costs or liabilities which PREPA has incurred for which Consultant is responsible.

Article 7 Fees, Expenses and Disbursements

7.1 Non-Billable Time. PREPA should not be billed for (i) time spent in processing conflict searches, or preparing billing statements, or in responding to PREPA inquiries concerning Consultant's invoices; or (ii) travel time. Moreover, PREPA requires that only professional services be billed on an hourly basis in accordance with Consultant's fixed hourly rates. Accordingly, PREPA shall not be billed for the

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

7.2 Reimbursable Expenses. Subject to Section 7.3 (*Non-Reimbursable Expenses*), PREPA shall reimburse 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. Consultant shall maintain a system in place that requires those who bill time and disbursements to PREPA matters do so promptly and accurately.

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

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

- 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 (d) 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. 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.

- c. 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). 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. Airfare necessary to attend PREPA's official business will be paid by PREPA according to these guidelines.
- d. Maximum Per Diem Rates:
 - i. Meals: - sixty U.S. dollars (\$60) 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 U.S. dollars (\$200) per person, per night including government fees and taxes. Consultant may use an economical alternative of lodging, including temporary rentals of apartments or rooms (Airbnb like rentals). For any travel period longer than five (5) days, temporary rentals shall be coordinated when this temporary rental (including all taxes and applicable fees) is less expensive than hotel accommodation, and evidence of said temporary rental shall be provided; and

- iii. Ground Transportation in Puerto Rico: - shall be reimbursable at cost, including Uber type services, taxis or car rentals (rental cars require a previous approval by PREPA) and associated driving expenses such as, but not limited to parking fees, highway tolls, and fuel.
- e. Reimbursable expenses shall not exceed ten percent (10%) of the Contract Amount in one (1) year (or such greater amount as may be agreed by PREPA in writing) and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses.
- f. 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.
- g. Third-Party Services - The approval of PREPA must be obtained in writing prior to retaining any third-party services. Consultant shall be responsible for requiring that there is no Conflict of Interest between any third party and PREPA or between any third-party clients and PREPA. In addition, all arrangements with third-party vendors should include an appropriate undertaking of confidentiality and data privacy. Invoices from third-party vendors should be paid directly by Consultant, incorporated into its invoice to PREPA and should include appropriate detail. Copies of third-party

invoices may be requested by PREPA and should be retained in accordance with PREPA's guidelines.

- h. 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 (*Fees, Expenses and Disbursements*) as per diem shall be provided.

Article 8 Invoices

8.1 Invoicing Procedure.

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

individual, at a minimum: (1) detailed information of the Services performed, (2) the number of hours worked daily; and (3) the state, territory or province where the Services were performed, for each personnel. The monthly summary sheets shall be used to monitor the progress of the Services.

8.2 Invoice Review. PREPA will use reasonable efforts to review the invoices and notify Consultant 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 by PREPA, and if each invoice is in compliance with the requirements set forth in this Contract, PREPA will proceed with payment of undisputed amounts owed. Payment of undisputed amounts owed shall be due sixty (60) days after receipt of Consultant's invoice and all required supporting documentation and certifications. Notwithstanding the foregoing, requests for additional, non-standard documentation or certifications not identified in this Contract do not extend the sixty (60) day payment term, unless Consultant fails to deliver such additional documentation or certifications within five (5) business days of such request. PREPA reserves the right to conduct the audits it deems necessary, and it will not be subject to finance charges regarding invoice payments subject to an audit.

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8.3 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:

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. In order to comply with the certification requirements set forth above, Consultant shall require that subcontractors, if any are approved by PREPA, providing Services also make the certification set forth above in any invoices submitted in connection with the Services. Consultant shall provide PREPA its proposed form of invoice within fourteen (14) days after the Effective Date for PREPA’s written approval.

8.4 Consultant’s Suspension for Non-Payment.

a. Notwithstanding anything to the contrary in this Contract, Consultant shall have the responsibility at all times to prosecute the Services diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Services to be delayed; provided, however, subject to PREPA’s right to withhold or offset payment to Consultant under this Contract, if PREPA fails to pay undisputed invoiced amounts due and owing to Consultant exceeding, in the aggregate, two hundred fifty thousand U.S.

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dollars (\$250,000) and PREPA has failed to cure such failure within thirty (30) days after Consultant's written notice to PREPA to cure such failure, Consultant may suspend performance of Services under the applicable Task Order until Consultant receives payment for such undisputed invoiced amounts.

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

Article 9 Assignment & Transfer

9.1 Funds. If Consultant decides to assign or transfer funds, due or payable, to which it is entitled for Services rendered or goods provided during the Contract Term, Consultant shall notify PREPA of such assignment, in accordance with the provisions of Act 21-2012. Said notice shall clearly indicate the rights granted, including a copy of the contract under which the assignment or transfer of such receivable is made, the exact amount to be assigned or transferred, and specific identification information regarding the assignee (full name of the person or company), address and any other contact information. Consultant also acknowledges and agrees that PREPA's payment obligation

under any assignment of funds will cease upon payment of the outstanding amounts under this Contract. PREPA shall not be required to make payments or transfer any funds for an amount that exceeds the payment to which Consultant is entitled under this Contract. Consultant shall include with its notice of assignment pursuant to this Section 9.1 (*Funds*), a cashier's check or money order for two hundred dollars (\$200), payable to "Puerto Rico Electric Power Authority", to cover administrative costs in processing such assignment. Except as otherwise set forth in this Section 9.1 (*Funds*), Consultant shall not assign or transfer any of its rights or obligations under this Contract without the prior written approval of PREPA, which approval shall not be unreasonably withheld.

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

Article 10 Information and Material Facts

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). 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. Consultant shall be entitled to rely upon the accuracy of the Rely Upon Information identified in the Task Order. Notwithstanding anything to the contrary, Rely Upon Information shall not include (i) information provided by or on behalf of PREPA after the effective date of the applicable Task Order, (ii) the information in Annex A, or (iii) the scope of Services under the applicable Task Order. Documents referenced in or attached to a “Rely Upon Information” document are not themselves “Rely Upon Information” unless specifically designated as such.

Article 11 Information Disclosure and Confidentiality

11.1 Confidentiality. Consultant shall keep confidential, and use only for the purposes contemplated by the terms of the Contract, the information provided by PREPA. Consultant shall 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, disclose or distribute such information in violation of the terms of this Contract.

11.2 Non-Disclosure. Consultant agrees that, except as otherwise agreed to in writing by PREPA, Consultant will not, and ensure that each of its subcontractors will not, at any time after the expiration or early termination of this Contract disclose any confidential information to any person whatsoever, or permit any person whatsoever to examine and/or make copies of any reports prepared by Consultant or a subcontractor until the fifth (5th) anniversary of the date of final payment by PREPA and closeout of all pending matters related to 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. Consultant may retain one file copy of any confidential information for its records, other than in respect of grid security or safety related matters.

11.3 Confidential Information. The term "confidential information" shall include, but not be limited to, all information provided to Consultant by or on behalf of PREPA, including information regarding its facilities or operations or trade secrets related to its business or affairs and any and all information gathered or developed by Consultant regarding the same. 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.

11.4 Injunctive Relief. Consultant acknowledges that disclosure of any confidential information of PREPA will give rise to irreparable harm to PREPA which is inadequately compensable in damages. Accordingly, PREPA may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies, which may be available.

11.5 Post-Termination Obligation. Upon the expiration or early termination of this Contract, Consultant shall maintain in strictest confidence (both during the term of this Contract and subsequent to termination of this Contract), as all PREPA confidential information including, without limitation, information relating to PREPA's operations or trade secrets relating to the business or affairs of PREPA which Consultant may acquire or develop in connection with or as a result of the performance of the Services hereunder. In the event of an actual or threatened breach by Consultant of the provisions of this Section 11.5 (*Post-Termination Obligation*), PREPA shall be entitled to injunctive relief for such breach. Nothing herein shall be construed as prohibiting PREPA from pursuing any other legal remedies available, including the recovery of damages from Consultant.

11.6 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 to expeditiously notify and submit to PREPA a copy of any court order or subpoena and to the extent possible provide any assistance to PREPA (in the form of documents) related to responding to any such court order or subpoena.

Article 12 Rights and Title to Work Product

12.1 Title. Subject to Section 12.2 (*Rights*), all reports, documents, analyses, investigations and any other work product or by-product (including Deliverables) (collectively, “**Work Product**”) conceived or developed by Consultant as a result of performing its obligations under this Contract shall constitute “*works made for hire*” and all rights, titles and interest in the 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 Consultant creates 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 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 shall not otherwise vest in PREPA, then Consultant shall, subject to Section 12.2 (*Rights*), 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.

12.2 Rights. As between PREPA and Consultant, Consultant shall retain ownership of all proprietary intellectual property rights owned by Consultant or its affiliates outside this Contract, including proprietary software, program settings or other engineering tools used, modified or adapted for performance of the Services (collectively, “**Consultant’s Intellectual Property**”) and nothing in this Section 12.2 (*Rights*) shall result in a transfer of ownership of any Consultant’s Intellectual Property or the proprietary

intellectual property owned and developed by a Consultant's subcontractor outside this Contract ("**Subcontractor Intellectual Property**").

12.3 License. With respect to such Consultant's Intellectual Property and Subcontractor Intellectual Property relating to the Work Product, Consultant hereby grants PREPA an irrevocable, perpetual and royalty-free license with rights to sublicense (including the right to assign its rights without further consent) to use, modify, copy, and disclose such Consultant's Intellectual Property and Subcontractor Intellectual Property for any purpose. All subcontracts shall contain provisions consistent with this Section 12.3 (*License*). Consultant warrants that it is entitled to grant licenses under any Consultant's Intellectual Property and Subcontractor Intellectual Property necessary for PREPA to exploit and have exploited its full and unrestricted rights regarding the use of Consultant's and any subcontractor's work product (including Deliverables) for any purpose related to the project.

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

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12.5 Indemnity. Consultant shall defend, indemnify, and hold harmless PREPA for any suit or action brought against either Party based on a claim that any Work Product 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 confidential information by Consultant or its subcontractors. The Party subject to the claim or that becomes aware of a potential claim shall promptly notify in writing the other Party, and give the authority, information, and assistance reasonable and necessary for the defense of such claim.

Article 13 Warranties

13.1 General. Consultant warrants that:

- a. it has the necessary expertise, including enough and competent supervisory and other personnel and all necessary facilities to efficiently and timely perform and complete the Services;
- b. it has satisfied itself as to the nature and requirements of the scope of Services, the general and location conditions, and 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 first class engineering firms in performing services of a similar nature;
- d. all Deliverables shall (i) remain free from defects, including defects in design, and (ii) comply with the Design Criteria Documents, developed for the modernization of the electric grid in Puerto Rico;

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- e. it shall perform the Services in accordance with all applicable laws, applicable codes and standards, approvals and permits; and
- f. the Services will comply with the requirements of (i) the Contract, (ii) RFP 99708 Professional Architectural Engineering Services, issued by PREPA on December 4, 2019 (as updated and clarified by PREPA thereafter, the “RFP”), and (iii) to the extent that PREPA instructions pursuant to any Task Order so require, the Performance Metrics, the System Operation Principles and the System Remediation Plan, in each case as the Transmission and Distribution System Operation and Maintenance Agreement, dated June 22, 2020, between PREPA and the Operator thereunder define such terms (collectively, as amended, revised and/or updated from time to time, the “**T&D System Operator Requirements**”).

13.2 Corrective Work. In the event that any part of the Services provided by Consultant fail to comply with the warranties set forth in Section 13.1 (*General*), Consultant shall take all necessary corrective measures to rectify such Services, at its own and exclusive cost, as promptly as possible; provided that PREPA shall have notified Consultant of such non-compliance no later than (i) sixty (60) days from the date on which a member of PREPA’s senior management first became aware of such non-compliance, and (ii) the second (2nd) anniversary of the completion or earlier termination of the applicable Task Order. The rectification of deficient Services by Consultant shall not 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 rendering such deficient Services.

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

Article 14 Responsibility for Damages

The Parties agree that their responsibilities for damages under this Contract will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico.

Article 15 Independent Contractor

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

Article 16 Employees Not to Benefit

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

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Article 17 Conflict of Interest

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

17.2 Loyalty. Consultant acknowledges that in executing its Services pursuant to this Contract it has a duty of complete loyalty towards PREPA which includes not having a Conflict of Interest. “**Conflict of Interest**” means representing clients who have or may have interests that are contrary to PREPA but does not include rendering services that are unrelated to the Services covered in this Contract. Also, Consultant shall have the continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons that would result in a Conflict of Interest.

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

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

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

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

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

Article 18 Notices

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy, 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:

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

Attention: Efran Paredes Maisonet
Executive Director

To Consultant: Stantec Engineering Puerto Rico PSC
5 Dartmouth Drive, Suite 200
Auburn, NH 03032-3984

Attention: David Bernier
Senior Vice President

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. Also, the Parties expressly agree that the state courts of Puerto Rico will be the only courts of competent and exclusive jurisdiction to preside over the judicial controversies that the Parties may have among them regarding the terms and conditions of this Contract.

Article 20 Change in Law

During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, which cause an increase in Consultant's costs when providing the Services, shall be Consultant's responsibility and PREPA shall not be obligated to increase the Contract Amount or modify the rates included in Section 6.2 (*Rates*). Notwithstanding the foregoing, if a change in law after the effective date of a Task Order requires additional services to revise Services in progress or completed Deliverables under such Task Order, Consultant shall have the right to seek an equitable adjustment to 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. If accepting such change, PREPA shall reasonably adjust any budgeted amount set out in the applicable Task Order (as applicable) to account for such additional Services. 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 (i) delays or prevents the affected Party's performance of its obligations under this Contract; and (ii) 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 occurrence 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. Consultant agrees to save and hold harmless, defend, and to indemnify PREPA for all expenses and costs of any nature (including reasonable attorneys' fees) incurred by PREPA arising out of any third party claim made by any person for bodily injuries, including death, or for property damage, to the extent caused by the negligent act or omission of Consultant (or its subcontractors, or any persons directly or indirectly employed by Consultant or its subcontractors or anyone for whose acts they may be liable), in the performance or nonperformance of its obligations under the Contract, but not to the extent caused by negligence or tort of PREPA or a third party, which is not an employee or subcontractor of 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

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

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

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:

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:

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

f. Requirements under the Policies:

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

i As additional insured.

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

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

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

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- iv Waiver of subrogation in favor of Puerto Rico Electric Power Authority (PREPA).
- v The following language on Breach of Warranties or Conditions:

“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.
 - ii Consultant shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded.
 - iii PREPA may require additional insurance policies and or additional insurance coverage subject to evaluation from the PREPA Risk Management Office and according to the applicable scope of work (SOW).

Article 26 Compliance with the Commonwealth of Puerto Rico Contracting Requirements

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

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

workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. Consultant accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every consultant and sub-consultant whose service Consultant has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

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

agreed to by Consultant with the Government of Puerto Rico with regards to its property taxes.

- d. Consultant shall provide a Personal Property Tax Filing Certification, issued by the CRIM which indicates that Consultant has filed its Personal Property Tax Return for the last five (5) contributory terms or Negative Debt certification issued by the CRIM with respect to real and property taxes.
- e. Consultant shall furnish a Certification issued by the Treasury Department of Puerto Rico which indicates that Consultant does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms.
- f. Consultant shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Consultant has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods.
- g. Consultant shall provide a copy of Consultant's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.
- h. Puerto Rico Child Support Administration (*ASUME*): Consultant shall present, to the satisfaction of PREPA, the necessary documentation certifying that neither Consultant nor any of its owners, affiliates or subsidiaries, if applicable, have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with the Puerto Rico Child Support Administration (known in Spanish as the *Administración Para El Sustento de Menores (ASUME)*). Consultant will be

given a specific amount of time to deliver said documents. 3 L.P.R.A. § 8611 et seq.

- i. Consultant shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico.
- j. Consultant shall provide a Certification of Incorporation, or Certificate of Organization or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico.
- k. Special Contribution for Professional and Consulting Services: As required by Act 48-2013, as amended, PREPA will withhold a special contribution of one-point five percent (1.5%) of the gross amounts paid under this Contract.
- l. Social Security and Income Tax Retentions: In compliance with Executive Order 1991 OE- 24 and C.F.R. Part 404 et. Seq., 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.
- m. Income Tax Retention Law: PREPA shall deduct and withhold ten percent (10%) of any and all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of US citizens and Non-US citizens, who are nonresidents of the Commonwealth of Puerto Rico, PREPA will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda de Puerto Rico*). Consultant will

request PREPA not to make such withholdings if, to the satisfaction of PREPA, 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.

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

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

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

- t. Prohibition with respect to evaluation and approval by public officers: 3 L.P.R.A. §8615(f): No public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had a direct or indirect economic interest during the last four (4) years prior to his/her holding office.
- u. Prohibition with respect to execution by public officers' contracts with former public officers: 3 L.P.R.A. 8615(h): No executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.
- v. Dispensation: Consultant certifies that any and all necessary dispensations have been obtained from any government entity and said dispensations shall become part of the contracting record.
- w. Rules of Professional Ethics: 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.
- x. Provisions Required under Act 14-2004: Consultant agrees that articles extracted, produced, assembled, packaged or distributed in Puerto Rico by

enterprises with operations in Puerto Rico, or distributed by agents established in Puerto Rico shall be used when such service is rendered, provided that they are available.

- y. Pursuant to Memorandum No. 2021-003, Circular Letter 001-2021, of the Office of the Governor of Puerto Rico (Oficina del Gobernador de Puerto Rico) and the Office of Management and Budget (Oficina de Gerencia y Presupuesto de Puerto Rico - OGP), both Parties acknowledge and agree that the contracted services herein may be provided to any entity of the Executive Branch which enters into an interagency agreement with the contracting entity (PREPA) or by direct provision of the Office of the Chief of Staff of the Governor of Puerto Rico (Secretaría de la Gobernación). These services will be performed under the same terms and conditions regarding hours of work and compensation set forth in this Contract.

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

Article 27 Anti-Corruption Code for a New Puerto Rico

27.1 Compliance. Consultant agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time, which establishes the Anti-

Corruption Code for a New Puerto Rico. 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

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

Article 28 Dispute Resolution

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

Parties agree to resolve the dispute according to the jurisdiction established in Article 19 (*Applicable Law and Venue*).

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

Article 29 Non-Discrimination

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 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. 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 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 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.

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- 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 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)*), 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 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)*).
- 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 Consultant or subcontractor under any such contract or any other Federal contract with the same Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Consultant, such sums as may be determined to be necessary to satisfy

any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this Section 30.6 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)*). Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this Section 30.6 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)*) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Section 30.6 (*Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708)*).

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.

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- 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 Consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- b. Consultant shall comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. Consultant shall execute the certification attached hereto as Annex F (*Certification Regarding Debarment, Suspension and Other Responsibility Matters*). This certification is a material representation of fact relied upon by PREPA. If it is later determined that Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to PREPA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. Consultant shall, and shall cause all subcontractors of every tier to, comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C.

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

- a. Consultants that apply or bid for an award exceeding \$100,000 shall file the required certification. Consultant shall cause every subcontractor of every tier to certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant shall cause every

subcontractor of every tier to disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient (PREPA). Consultant shall also submit to PREPA the required certification regarding lobbying at Appendix B, 44 C.F.R. Part 18 attached to this Contract as Annex G (*Certification Regarding Lobbying For Contracts, Grants, Loans, And Cooperative Agreements*).

30.10 Procurement of Recovered Materials.

- a. In the performance of this Contract, Consultant shall make maximum use of products containing recovered materials that are Environmental Protection Agency (“EPA”) designated items unless the product cannot be acquired:
 - i competitively within a timeframe providing for compliance with the Contract performance schedule;
 - ii meeting Contract performance requirements; or
 - iii at a reasonable price.
- b. Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. 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

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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. 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.

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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 associated with the defense of that litigation, including costs and attorneys' fees, settlements, or adverse judgments arising from Consultant's failure to comply with the requirements under this Contract.

30.14 Costs. All costs incurred by Consultant in performance of this Contract must be in accord with the cost principles of 2 C.F.R. pt. 200, Subpart E. PREPA shall not be required to make payments to Consultant for costs which are found to be contrary to the cost principles 2 C.F.R. pt. 200, Subpart E.

30.15 Financial Management System. Consultant's financial management system shall provide for the following:

- 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.

30.16 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

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Consultant of liability to PREPA for damages sustained by PREPA by virtue of any other provision of this Contract.

30.17 Reporting Requirements. Consultant shall complete and submit all reports, in such form and according to such schedule, as may be required by PREPA.

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

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

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

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- 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 2 C.F.R. Part 206.

30.20 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.

30.21 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 three (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.

30.22 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.

30.23 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.

30.24 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.

30.25 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.

30.26 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.

30.27 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.

30.28 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.

30.29 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.

30.30 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.

30.31 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.

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

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30.33 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.

30.34 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.

30.35 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. Consultant agrees to send to each labor organization or representative of workers with which Consultant has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of 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. 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. Consultant will not subcontract with any subcontractor where 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 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 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).

30.36 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;
 - ii The classification is utilized in the area by the construction industry; and
 - iii The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- d. If Consultant and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise HUD or its designee or will notify HUD or its designee within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.).
- e. In the event 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 thirty (30) days of receipt and so advise HUD or its designee or will notify HUD or its designee within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.).

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

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- 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 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.

30.37 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 ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to contractors to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which

its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in 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.

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

30.39 Subcontracts. Contractor or subcontractor will insert in any subcontracts the clauses contained in Section 30.36 (*Additional Fair Labor Standards Provisions (HUD Form 4010)*) to Section 30.44 (*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.

30.40 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.

30.41 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.

30.42 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.

30.43 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 Consultant's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
- b. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration....makes, utters or publishes any statement knowing the same to be false....shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

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30.44 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.

30.45 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.

30.46 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.

30.47 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.

30.48 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.

30.49 Patent Rights. All contracts are 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.

30.50 Contract Review Policy of the Financial Oversight and Management Board for Puerto Rico. The Parties acknowledge that the Contractor 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 Contractor'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.

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 (i) Consultant’s indemnification obligations under this Contract, or (ii) liabilities rising from Consultant’s gross negligence, willful misconduct or fraud.

31.2 Liability Cap. Consultant’s maximum aggregate liability for any and all claims arising out of or related to or connected with performing any part of the Services, whether by statute, or in tort, contract or otherwise shall not exceed the lesser of (i) three hundred percent (300%) of the cumulative budgeted amount of all Task Orders issued to date (as such budgeted amounts may have been increased from time to time) and (ii) one hundred percent (100%) of the Contract Amount; provided that the foregoing limitation shall not apply with respect to liability, cost or expense (i) arising out of (A) Consultant’s indemnification or confidentiality obligations under this Contract, (B) Consultant’s non-compliance with applicable law (including 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, or (ii) for which Consultant receives (or would have received but for the breach or other failure, act or omission on the part of Consultant, any subcontractors, or those for whom such persons may be responsible) proceeds under any insurance policy required by this Contract, but only up to the policy limits required herein.

Article 32 Miscellaneous

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

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

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

32.4 Successors. Unless otherwise expressly agreed in writing, all rights, covenants, warranties, obligations, duties, and liabilities created by or arising under this

Contract shall inure to the benefit of, or bind, as the case may be, the respective successors in interest of the Parties hereto.

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

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

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

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

32.9 Interpretation.

- a. As used in this Contract, the terms “include,” “includes” and “including” mean “including, without limitation,” or variant thereof. Unless expressly

stated otherwise, reference in this Contract to an Article or Section shall be a reference to an Article or Section contained in this Contract (and not in any Annexes to this Contract) and a reference in this Contract to an Annex shall be a reference to an Annex attached to this Contract.

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

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

[Signatures appear on the following page]

IN WITNESS THEREOF, the Parties hereto sign this Contract in San Juan, Puerto Rico

this 12 day of April, 2021.

Puerto Rico Electric Power Authority



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

Stantec Engineering Puerto Rico PSC



David Bernier
Senior Vice President
Tax ID: 66-0621748

ANNEX A
SERVICES

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

1. GENERAL

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

Task Order, then Consultant shall manage, and take full responsibility for, such work. Consultant shall promptly report any issues with completing these tasks such as inability to access a site to PREPA.

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

2. **ENGINEERING**

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

- a. All necessary calculations required to develop the specifications, drawings, and other technical documents;
- b. Performing design checks, and signoff of Consultant's Deliverables to ensure the quality of its Deliverables. The QA/QC process for ensuring the quality of engineering Deliverables is to be defined in Consultant's quality plan;

- c. Performing reviews and design checks of the construction contractor or supplier drawings for:
 - i. interface and integration into applicable engineering;
 - ii. interface and integration with all utility tie-ins; and
 - iii. the overall engineering of the work and to ensure supplier drawings and documents are properly included in the construction specifications; and
- d. Coordinating and monitoring all design performed by the construction contractor and material suppliers to ensure that the construction contractor's work shall comply with PREPA's operating and maintenance requirements, the Design Criteria Documents, applicable law and all applicable codes and standards.

2.2 Generation Projects. The Services include design, specifications, estimates, and construction phase support for improvements on the power plants, such as fences, grading, pavements, and storm drains. It may include improvements on facilities strengthening and safety in power units' structures and parts and ancillary equipment as per ASCE 24-05, a Flood Category IV, Puerto Rico Building Code 2018 and others applicable. It may also require design and specifications for electrical and mechanical engineering for auxiliary generation equipment and systems. The services may also apply to main facilities and equipment such as generating units, buildings, and other regulatory compliance.

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

- a. Analysis of conductor swing and wind vibration;
- b. Civil and structural designs (PLS-CADD design, plan, and profile drawings, earthwork, pavements, drainages, sediment, and erosion control);
- c. Construction support services such as submittal and RFI reviews;
- d. Design or selection of new structures per structural requirements;
- e. Design of guy wire support and concrete or pile foundations;
- f. Determination of conductor spans, sags, tensions and stringing parameters;
- g. Determination of underground line operating parameters, conduits, spacing, and backfill requirements;
- h. Easement or site acquisition studies and support;
- i. Electrical clearances;
- j. Environmental assessments and permits assistance and compliance;
- k. Manage construction permits;
- l. Geotechnical studies;
- m. Overhead ground wire, grounding system and communications optic fiber;

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

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

- a. AC and DC auxiliary systems;
- b. Acquisition of permits;
- c. Architectural design to facilitate the substation visual and noise impact on urban environments, especially when substations are located near residential areas or zones with high transit of people;
- d. Battery rooms;
- e. Bill of materials;
- f. Breakers;
- g. Cable and conduit lists;
- h. Civil and structural designs (drainage, earthwork, erosion and sedimentation protection, fences and gates, grading, pads and foundations, pavements, structures, water supply);
- i. Conduit layouts;
- j. Construction support services such as submittal and RFI reviews;
- k. Construction Specifications;
- l. Control house;
- m. Corrosion protection;
- n. Determination of electrical operational parameters;
- o. Determination of operating and maintenance requirements;
- p. Dikes for spill containment and other solutions against adverse environmental impact;
- q. Electrical plot plans and layouts;

- r. Environmental assessments, studies, management plan, assistance in acquiring permits and environmental compliance;
- s. Foundation/Embedment Design for Towers, Steel Support Structure;
- t. Grading Plan;
- u. Grounding and Ground Grid;
- v. Lightning Shielding;
- w. Lighting;
- x. Major equipment design, manufacturing drawings, specification and procurement assistance (transformers, circuit breakers, metal-clad switchgears, voltage regulators, switches, arresters, reclosers, among others);
- y. One-line diagrams;
- z. Permit Support;
- aa. Protection, relays and wiring;
- bb. Provide adequate safety signals and warnings;
- cc. Provide adequate site layouts to promote safe transit inside the substation;
- dd. Cable raceways;
- ee. Relay protection;
- ff. Instruments, meters, automation and control panels;
- gg. SCADA and other communication systems;
- hh. Site acquisition support;
- ii. Site assessment, underground and above ground utility location;
- jj. Soil studies, including bearing capacity and electrical resistivity;

- kk. Storm water Pollution Prevention Plan-SWPPP;
- ll. Substation site, structures, and equipment layouts;
- mm. Survey and title studies support;
- nn. Transformers;
- oo. Wiring diagrams (schematic and detailed);
- pp. Other related tasks for complete substation designs; and
- qq. Any other technical matters required to provide complete and functional transmission and distribution substation designs.

3. PHASES DURING CONTRACT PERFORMANCE

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

3.1 Preliminary Design.

- a. After the issuance of a Task Order, Consultant shall meet with PREPA end users, technical leads, senior representatives and other authorized personnel consultants and external stakeholder representatives to discuss its proposed concept and to finalize a work plan and the scope of Services as well as contacts, roles, and responsibilities. Review proposed concept and provide feedback for recommended solutions, requirements, ideas and concepts. Preliminary designs require providing a thirty percent (30%) design and technical specifications to be submitted to FEMA by PREPA for project funding of a Section 428 Project.
- b. Consultant shall present alternatives to upgrades and hardening of the electrical infrastructure.

- c. Consultant shall (i) assist priorities based on PREPA's plans for permanent rehabilitation, and (ii) evaluate multiple routes or sites and make recommendations of the preferred one(s).
- d. Consultant shall incorporate a description of geotechnical challenges and assist in determining the geotechnical requirements for the design.
- e. Consultant shall prepare conceptual plans, per PREPA's request, showing planned routes (overhead or underground power lines), substation layouts or other facility layouts.
- f. Consultant shall (at the election of PREPA) assist with community outreach, providing a list of environmental studies and permits required, providing a list of other permits needed from federal, state, and local agencies and providing information on land or easement rights acquisition requirements.
- g. Consultant shall provide PREPA with design criteria documentation (the "**Design Criteria Documents**" or "**DCD**") during the preliminary engineering phase and update this document as the engineering progresses. Design criteria shall include the applicable NESC, IEEE, ASCE, IBC, and other national codes or guidelines required for substation design and shall meet PREPA guidelines. Load and strength factors shall be provided for each structural component, associated with the specific loads dictated by latest versions of national standards and codes. If a different method of load analysis was used, Consultant shall specify the factors applied to each load. For fault studies, document the source of impedances used for each component of the system being evaluated, and provide per unit

impedances. Document the NESC or industry clearances used for separation of components, such as the clearance from the overhead transmission conductor to any bus or switch, and the weather conditions assumed for the clearance verification. Document BIL levels chosen for bus support insulators, and bushings, and leakage distance specified. Document the basis for selection of grounding wires and components of the ground grid, as well as the maximum ground potential rise and other factors as dictated by IEEE 80.

3.2 Complete Design. In the event that PREPA instructs Consultant to prepare and submit a complete engineering design to one hundred percent (100%) of design development standards for a Stafford Act-Funded Project under any Task Order, Consultant shall provide (i) complete designs and technical specifications for equipment and bill of materials procurement, and (ii) technical services including preparing an estimate of construction cost, attending pre-bid meetings and assist in bid technical evaluation if so required. As part of the preparation and submission of a complete design, Consultant shall:

- a. (i) organize the design deliverables by phases, and (ii) submit a final sheet index, a final technical specifications index (both organized per design discipline), a schedule of progress including major design milestones and a formal roster of technical leads that will be involved in the Stafford Act-Funded Project;

- b. meet with PREPA end users, technical leads, senior representatives, and other authorized personnel, consultants, and external stakeholders to discuss the progress of the design, towards finalizing the concept; and
- c. provide software-based tracking of design preparation to enable PREPA and other authorized representatives to evaluate the progress of such design, including but not limited to, reviewing of updated design documents, reviewing of older versions of design documents, tracking all communications related to the tasks (such as RFIs and assorted technical references) and reviewing the updated schedule.

3.3 Services During Construction Services Procurement. At PREPA's request, Consultant shall provide support during the construction services procurement process, participating in pre-submittal meeting(s) for proponents and responding to requests for information and/or clarification. Upon receipt of proposals, Consultant shall evaluate proposals for conformance with design criteria parameters and performance requirements and shall summarize the information contained in the qualification statements and distribute to PREPA.

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

4. DELIVERABLES

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

5. PROJECT MEETINGS

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

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

- g. information requests made by either Party.

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

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

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

- a. review the progress of the project design team, including: (i) status of engineering design (engineering, drawings, equipment specifications/bid packages, etc.); (ii) discipline updates; and (iii) critical issues/concerns;
- b. review the progress of project design team related activities that affect the delivery of design information from the construction contractor and suppliers;

- c. review of deliverables, drawings and other documents for PREPA review and comment; and
- d. review of action items to be performed, comments will be recorded on an action items list by drawing or discipline along with the responsible party to resolve the comment and the action date for resolution. This action item list will be reviewed in subsequent design review meetings and discussed in the monthly progress meeting and included in each monthly progress report.

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

- a. safety and environmental updates, including any incident reports, safety issues trends, compliance issues, or other significant events;
- b. progress of the Services achieved in the prior month, and progress expected to be achieved in the current month, as reviewed against the current schedule;
- c. amounts invoiced against the not to exceed Contract Amount;
- d. critical items of the Services, including an evaluation of problem areas (i.e. issues that may impact cost, schedule, quality, or safety) with respect to the Services or the project;
- e. action items to be worked in the coming month;
- f. identification of potential change orders, and status of pending and approved change orders;
- g. risk reviews;

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- h. project cost, schedule quality, and safety performance metrics;
- i. any other matters affecting performance of the Services or the project; and
- j. any other matters normally discussed at the weekly progress meeting.

5.5 Miscellaneous Meeting Requirements.

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

6. **PERSONNEL APPROVAL PROCESS**

6.1 General.

- a. Within thirty (30) days after the Effective Date of this Contract (and any extension of the Contract), Consultant shall submit, for PREPA's written approval, an organization chart (in accordance with paragraph 6.2 of this Annex A) and a register of personnel anticipated to work under the Contract (in accordance with paragraph 6.3 of this Annex A). PREPA reserves the right to approve personnel submitted at its sole discretion. Consultant

acknowledges that PREPA will use such information in the justification of rates and charges when seeking reimbursement from FEMA.

- b. All personnel charging time to the Task Order are required to have been preapproved by PREPA as per paragraph 6.1(a) above. Consultant is responsible for managing its resources in an efficient and cost-effective manner and ensuring that only approved personnel properly engaged on the Task Order shall be charged.
- c. PREPA's written approval of Consultant's organization chart and personnel register is a condition precedent to any payment from PREPA.
- d. The rate attributable to an individual is not subject to adjustment for such individual's promotion during the Contract Term or any extension, other than as part of the approval process described under paragraph 6.1(a) above.
- e. Before commencing work on a Task Order, Consultant shall deliver to PREPA a list of preapproved personnel anticipated to perform Services under such Task Order and their anticipated role and hours. If the Task Order requires the participation of personnel not previously approved, or if Consultant wishes to make a change to the personnel information included in the personnel register for such Task Order, Consultant must obtain approval by resubmission of the organizational chart and personnel register, and the additional documentation for such new personnel, as required in paragraph 6.1(a) of this Annex A. After commencement of the Services under a Task Order, Consultant shall not make any changes to the

personnel staffed under such Task Order without PREPA's prior written approval.

- f. PREPA has the right, but not the obligation, to require Consultant to remove or cause to be removed any Consultant or subcontractor personnel from the Services.
- g. Consultant hereby certifies that all proposed personnel will have no Conflict of Interest with PREPA in accordance with Article 17 (*Conflict of Interest*) of this Contract. If such Conflict of Interest arises at any time during the Contract Term, Consultant shall notify PREPA in writing immediately.
- h. Consultant acknowledges that any changes to personnel or adjustments to approved organizational charts, personnel registers, and lists of personnel assigned to Task Orders shall comply with U.S. federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

6.2 Organization Chart.

- a. Consultant's organization chart shall indicate:
 - i. all personnel, key positions, lines of authority and general areas of responsibility with respect to the applicable Services;
 - ii. contact information for key personnel, including addresses, phone numbers and email; and
 - iii. the office location and contractual relationship to Consultant of all personnel (including employees and subcontractors).

- b. Consultant shall update the organization chart, contact addresses, phone numbers and e-mails as changes occur to Consultant's organization, or as requested by PREPA.

6.3 Personnel Register.

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

6.4 Additional Roles.

- a. If the Services under a Task Order require a role or expertise not identified in Section 6.2 (*Rates*) of the Contract, Consultant shall identify the new role and provide the following information in writing:
 - i. the proposed charge rate;
 - ii. the name of the person(s) intended to fill such role and their respective qualifications and CVs of professional education and experience;

- iii. a detailed justification of why such new role cannot be fulfilled by an existing role listed in Section 6.2 (*Rates*) of the Contract;
 - iv. the estimated number of hours to be performed under such new role;
and
 - v. the planned start and end date of the person(s) under such new role.
- b. PREPA may approve the new role in its sole discretion. New roles approved for a Task Order shall not be considered approved for future Task Orders without the PREPA Representative's prior written approval. Same roles with varying rates are not authorized unless a Change Order is approved to permanently increase its cost. New roles that are functionally similar to existing ones (per Section 6.2 (*Rates*) of the Contract) are not authorized.

6.5 Resource Calendar.

- a. If Consultant is working on more than one Task Order concurrently, Consultant shall provide a resource calendar which briefly identifies (i) distribution of personnel among each Task Order; and (ii) any team or resource constraints.
- b. Consultant shall (i) meet with PREPA to coordinate resources and resolve any issues identified in the resource calendar upon commencement of a Task Order, and (ii) provide PREPA with updated resource calendars if requested.

ANNEX B
FORM OF TASK ORDER

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

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

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

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

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

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

[

_____]

5. **PREPA's Contact Details —**

[


_____]

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

Puerto Rico Electric Power Authority

Efran Paredes Maisonet
Interim Executive Officer

Stantec Engineering Puerto Rico PSC



David Bernier
Senior Vice President

ANNEX C

APPROVED SUBCONTRACTORS

	Portion of the Services	Approved Subcontractors
1.	Engineering Support Services	CMA Architects and Engineers LLC
2.	Land Acquisition / Real Estate / Civil Engineering	Benitez, Ramos & Associates, PSC
3.	Surveying	Javier E. Bidot & Associates, PSC
4.	Geotechnical	Geo Cim, Inc.
5.	Cultural Resources	AM Group
6.	Public Assistance	Emergent Risk Solutions of Puerto Rico

ANNEX D
CONDITIONS PRECEDENT

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

ANNEX E

FORM OF CONDITIONS PRECEDENT CERTIFICATE

CONDITION PRECEDENT CERTIFICATE

Date: [●]

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

From: The Puerto Rico Electric Power Authority (“PREPA”)

To: [●] (“Consultant”)

We refer to the Professional Services Contract, dated [●] 2020, between PREPA and Consultant (the “PSC”). Unless the context otherwise requires, capitalized terms used in this Condition Precedent Certificate shall have the meanings ascribed to them in the PSC. PREPA hereby confirms that (i) Consultant has satisfied all of the conditions precedent under the PSC; and (ii) the Effective Date occurred on [●].

SIGNED: _____
FOR PREPA

DATE: _____

ANNEX F

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

INSTRUCTIONS FOR CERTIFICATION

1. By signing the Contract, Consultant provides the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the Contract was entered into. If it is later determined that Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. Consultant shall provide immediate written notice to PREPA's Representative if at any time Consultant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact PREPA's Representative to obtain a copy of those regulations.

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5. Consultant agrees by entering into the Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. Consultant further agrees by entering into the Contract, that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to

exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AN
VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

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

Stantec Engineering Puerto Rico PSC

CONSULTANT

Contract Number

David R. Bernier

Name

SVP Power & Dams

Title



Signature

05 February 2021

Date

ANNEX G

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

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

ORB

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

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

Stantec Engineering Puerto Rico PSC

Consultant Name

D. R. B.

Signature of Consultant's Authorized Official

David R. Bernier, SVP Power & Dams

05 February 2021

Name and Title of Consultant's Authorized Official

Date

ANNEX H
CONTRACTOR CERTIFICATION REQUIREMENT

Contractor Certification Requirement

The following certification shall be provided to the Oversight Board and the Commonwealth's Contracting Government Entity by the Chief Executive Officer (or equivalent highest rank officer) of each proposed contractor under contracts submitted for review:

1. The expected contractor's subcontractor(s) in connection with the proposed contract¹ is (are) the following:

**Engineering Support Services:
CMA Architects and Engineers LLC
Francisco Valentín**

**Land Acquisition/Real Estate / Civil Engineering:
Benitez, Ramos & Associates, PSC
Norberto Benitez**

**Surveying:
Javier E. Bidot & Associates, PSC
Javier Bidot**

**Geotechnical:
Geo Cim, Inc.
Luis García**

**Cultural Resources:
AM Group
Luis Alvarado**

**Public Assistance:
Emergent Risk Solutions of Puerto Rico
Kipp Nelson**

2. Neither the contractor nor any of its owners², partners, directors, officials or employees, has agreed to share or give a percentage of the contractor's compensation under the contract to, or otherwise compensate, any third party, whether directly or indirectly, in connection with the procurement, negotiation, execution or performance of the contract, except as follows:

Not applicable.

¹As used herein, the term "contract" is inclusive of any amendments, modifications or extensions.

²For purposes of this certification, a contractor's "owner" shall mean any person or entity with more than a ten percent (10%) ownership interest in the contractor.

3. To the best knowledge of the signatory (after due investigation), no person has unduly intervened in the procurement, negotiation or execution of the contract, for its own benefit or that of a third person, in contravention of applicable law.
4. To the best knowledge of the signatory (after due investigation), no person has: (i) offered, paid, or promised to pay money to; (ii) offered, given or promised to give anything of value to; or (iii) otherwise influenced any public official or employee with the purpose of securing any advantages, privileges or favors for the benefit of such person in connection with the contract (such as the execution of a subcontract with contractor, beneficial treatment under the contract, or the written or unwritten promise of a gift, favor, or other monetary or non-monetary benefit).
5. Neither the contractor, nor any of its owners, partners, directors, officials or employees or, to the best of its knowledge (after due investigation), its representatives or sub-contractors, has required, directly or indirectly, from third persons to take any action with the purpose of influencing any public official or employee in connection with the procurement, negotiation or execution of the contract, in contravention of applicable law.
6. Any incorrect, incomplete or false statement made by the contractor's representative as part of this certification shall cause the nullity of the proposed contract and the contractor must reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed contract.

The above certifications shall be signed under penalty of perjury by the Chief Executive Officer (or equivalent highest rank officer) in the following form:

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

By: Ramon Castella

Date: 11/16/2020

Signature:

