

COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY

PROFESSIONAL SERVICE CONTRACT

2022-P00026 <sup>A</sup>  
FIRST AMENDMENT

APPEAR

AS FIRST PARTY: The Puerto Rico Electric Power Authority (PREPA), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act 83 of May 2, 1941, as amended (Act 83), represented in this act by its Executive Director, Josué A. Colón Ortiz, of legal age, married, engineer and resident of Caguas, Puerto Rico. -----

AS SECOND PARTY: King & Spalding, LLP (King & Spalding), a limited liability partnership formed and existing under the laws of the State of Georgia, United States of America, with a place of business at 1700 Pennsylvania Ave., NW, Washington, DC 20006, herein represented by Steven M. Kupka, who has authority to enter into this agreement by virtue of his position as a King & Spalding partner.-----

PREPA and King & Spalding are herein individually referred to as a "Party" and collectively referred to as the "Parties". -----

WITNESSETH

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

STATE

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

WHEREAS: The appearing Parties executed Contract 2022-P00026 on November 22, 2021, and effective until March 31, 2022, with a not to exceed amount of three million one hundred twenty-five thousand dollars (\$3,125,000) (the "Contract"). Through this Contract, King & Spalding provides PREPA legal services in connection with



issues arising from hurricane restoration, restructuring, and other operational matters, such as: Hurricane and corresponding relief efforts; PREPA's emergency and power restoration procurement and contracting; Federal Emergency Management Agency (FEMA) reimbursements and project worksheets; Audit(s) by different entities, including the Office of the Inspector General (OIG) of the United States; Federal and Puerto Rico criminal investigations related to hurricane relief efforts; Internal investigations and/or OIG investigations related to hurricane relief and restoration contracting; document production and responses to requests for information related to FEMA, OIG, and hurricane restoration contracting; FEMA regulations; Assistance in pending and future litigation and or regulatory proceedings, as needed; Major bankruptcy cases; and Title III PROMESA restructuring.-----

King & Spalding will also provide to PREPA legal representation in matters of renewable energy and all in accordance with Article 1 of the Contract, Scope of Services.-----

WHEREAS: On February 25, 2022, PREPA's Governing Board, through Resolution 4954 authorized PREPA to execute an Amendment to Contract 2022-P00026 with King & Spalding to increase the Contract Amount by five hundred thousand dollars (\$500,000), for a total Contract Amount of three million six hundred twenty-five thousand dollars (\$3,625,000) and to extend its term from April 1, 2022 until June 30, 2022. On March 18, 2022, the Financial Oversight and Management Board for Puerto Rico approved the Amendment.-----

THEREFORE: In order to continue receiving King & Spalding's services the appearing Parties hereby agree to enter into this First Amendment under the following:-----

TERMS AND CONDITIONS

FIRST: The Parties agree to amend Article 4, Agreement Term, the Parties agree an extension to its term from April 1, 2022 until June 30, 2022. -----

The remaining sentences and paragraphs of Article 4, not affected by this amendment, shall remain unaltered and fully enforceable. -----

SECOND: The Parties agree to amend Article 6, Payment, to increase the Contract Amount by five hundred thousand dollars (\$500,000), from three million one hundred



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twenty-five thousand dollars (\$3,125,000) to three million six hundred twenty-five thousand dollars (\$3,625,000). The payments to be made under this Contract for Fiscal Year 2021-2022, will be charged to account 01-4019-92319-556-673. -----

The remaining sentences and paragraphs of Article 6 of the Contract, not affected by this amendment, shall remain unaltered and fully enforceable. -----

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

Further, King & Spalding hereby certifies, guarantees, acknowledges and agrees to the following:-----

King & Spalding hereby certifies that as of the execution of this Contract, it has filed income, sales and use ("IVU" for its Spanish acronym), and property taxes returns, in Puerto Rico for the past five (5) years. King & Spalding also certifies that it does not have any outstanding debt or other debts with the Government of Puerto Rico for income, IVU



taxes (collected by the Department of the Treasury), real or chattel property taxes (collected by the "*Centro de Recaudación de Ingresos Municipales*" ("CRIM")), unemployment insurance premiums, workers' compensation payments, Social Security for chauffeurs from the Department of Labor and Human Resources, nor have debts with the Puerto Rico Child Support Administration (known in Spanish as the *Administración Para El Sustento de Menores* (ASUME). In the event that King & Spalding owes taxes or premiums to said government agencies, it agrees that PREPA may withhold any monies due to King & Spalding under this Contract to be applied to the payment and cancellation of said debt. King & Spalding also certifies that it is in corporate "Good Standing" at the Department of State of Puerto Rico. King & Spalding hereby represents and certifies that it is duly authorized to do business under the laws of Puerto Rico by the Department of State and the execution, delivery and performance of all the services under this Contract are within King & Spalding authorized powers and are not in contravention of law. King & Spalding also certifies that it is in compliance with the Merchant's Registration. Accordingly, King & Spalding has submitted to PREPA its RUP Certification from the General Services Administration. King & Spalding shall maintain its certificate valid for the duration of this Contract.-----

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

Consequences of Non-Compliance

King & Spalding expressly agrees that the conditions outlined throughout this Section are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be sufficient cause for PREPA to render this Contract null and void. If any of the certifications listed in this Section shows a debt, and King & Spalding has requested a review or adjustment of this debt, King & Spalding hereby certifies that



it has made such request at the time of the Contract execution. If the requested review or adjustment is denied and such determination is final, King & Spalding will provide, immediately, to PREPA a proof of payment of this debt; otherwise, King & Spalding accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. King & Spalding accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every contractor and subcontractor whose service King & Spalding 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.-----

FOURTH: The Parties acknowledge that King & Spalding 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, as amended, signed by King & Spalding'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 First Amendment.-----

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

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

SEVENTH: All other terms and conditions, specifications, stipulations, insurance, and requirements established in the Contract, as amended, shall remain unaltered and fully enforceable. -----



In WITNESS WHEREOF, the Parties hereto have agreed to execute this  
First Amendment of the Contract in San Juan, Puerto Rico, on this  
24 day of March, 2022.-----



Josué A. Colón Ortiz  
Executive Director  
Puerto Rico Electric Power Authority  
Tax ID:



Steve M. Kupka  
Partner  
King & Spalding, LLP  
Tax ID:   
Email:



## 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 contract<sup>1</sup> is (are) the following:

**Contractor will not use subcontractors.**

2. Neither the contractor nor any of its owners<sup>2</sup>, 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:

**Contractor has no exceptions.**

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

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

<sup>2</sup>For 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.

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: Steven M. Kupka

Date: March 3, 2022

Signature:                     *S. Kupka*                    

A handwritten signature in blue ink, appearing to be 'S. Kupka', located in the lower-left quadrant of the page.