

GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY
FIRST AMENDMENT
PROFESSIONAL SERVICES AGREEMENT
2023-P00020-A

-----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 No. 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, 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, of legal age, married, and resident of Washington D.C., who has authority to enter into this agreement by virtue of his position as a King & Spalding partner. -----

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

-----WITNESSETH-----

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 Agreement 2023-P00020 (the "Agreement") on July 22, 2022, and effective until June 30, 2023, with a not to exceed amount of One Million United States Dollars (\$1,000,000) (the "Agreement Amount"). Through this Agreement, King & Spalding provides PREPA legal services in connection with issues arising from the Renewable Energy and Energy Storage RFP Tranche 1 (the "Tranche 1 RFP") and any other legal service requested by PREPA, other than supporting PREPA on the Tranche 2 RFP process (as excluded in Section 1.3 of the Agreement);-----



WHEREAS: To continue receiving King & Spalding's services without interruption for the Tranche 1 RFP and to extend those services to the Tranche 2 RFP, Deputy Executive Director of Operations Office and the Legal Affairs Office request to increase the Agreement Amount by Five Hundred Thousand United States Dollars (\$500,000), from One Million United States Dollars (\$1,000,000) to One Million Five Hundred Thousand United States Dollars (\$1,500,000). The approval of this budget increase will allow PREPA to continue without interruption with King & Spalding legal support of strategically important activities; and-----

WHEREAS: On October 26, 2022, PREPA's Governing Board through Resolution 5006 approved the execution of this First Amendment (the "Amendment"); -----

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



-----TERMS AND CONDITIONS-----

FIRST: The Parties agree to amend the first sentence of Section 1.1 of the Agreement to end with "and any other PREB mandated Renewable and Energy Storage RFP." The remaining language of Section 1.1, as amended, shall remain unaltered and fully enforceable.-----

SECOND: The Parties agree to delete Section 1.3 of the Agreement in its entirety. -----

THIRD: The Parties agree to amend Section 6.1 to increase the Agreement Amount by Five Hundred Thousand United States Dollars (\$500,000), from One Million United States Dollars (\$1,000,000) to One Million Five Hundred Thousand United States Dollars (\$1,500,000). The remaining language of Section 6.1, as amended, shall remain unaltered and fully enforceable.-----

FOURTH: All payments performed under this Amendment will be charged to PREPA's budget account number 01-4019-92312-556-615. -----

FIFTH: The Parties agree to replace Appendix A (Timekeepers & Hourly Rates) attached to the Agreement with the Appendix A attached hereto, which provides a schedule of the attorneys assigned to this matter and their hourly rates for the current term. -----

SIXTH: 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 Agreement, 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 Agreement 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 Agreement 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 Agreement.

King & Spalding expressly agrees that the conditions outlined throughout this Section are essential requirements of this Agreement. 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 Agreement 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 Agreement 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 Agreement and shall forward evidence to PREPA as to its compliance with this requirement. -----

SEVENTH: 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 Amendment of the Agreement. -----

EIGHTH: 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 Agreement 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 Agreement.-----

NINETH: For this Agreement, 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.-----

TENTH: The Parties agree that all other terms, conditions, specifications, stipulations, insurances, and requirements established in the Agreement shall remain unaltered and fully enforceable. -----


IN WITNESS WHEREOF, the Parties hereto have agreed to execute this First Amendment to the Agreement in San Juan, ~~Puerto~~ Rico, on this 27 day of December, 2022.-----

Puerto Rico Electric Power Authority



Josué A. Colón Ortiz
Executive Director
Tax ID:

King & Spalding, LLP



Steven M. Kupka
Partner
Tax ID:



**APPENDIX A
 TIMEKEEPERS & HOUR RATES**

Timekeeper	Title	Rate (\$/hr)
Malone, Kelly	Partner	1,100
Zisman, Stuart	Partner	1,100
Koch, Alec	Partner	1,140
Borders, Sarah	Partner	1,169
Bowe, Jim	Partner	1,087
Katz, Jonathan	Partner	1,009
Kupka, Steve	Partner	1,033
Cagle, Kim	Partner	1,009
Clancy, Lachlan	Partner	1,098
Lang, David	Partner	1,013
McWhirter, Jill	Partner	1,021
Futch, Kevin	Counsel	1,009
Hirsch, Eric	Counsel	1,013
Ferkin, Zori	Counsel	1,041
Greenberg, Mark	Counsel	1,060
Vega-Byrnes, Thomas (Tom)	Counsel	1,070
Bromage, Zoë	Senior Associate	815
Snyder, Jesse	Senior Associate	849
Primrose, Sarah	Associate	886
Martin, Silvia	Associate	820
Langa, Fernando	Associate	824
Kazam, Alexander	Associate	770
Ye, Connie	Associate	739
Garza, Amanda	Associate	790
Cadauid, Miguel	Associate	730
Martinez, Russell	Associate	656
Pozzi de Calcena, Rafaela	Associate	656
Sheehy, Sean	Associate	600
Horan Mendez, Erin	Associate	600
Schofield, Sarah	Associate	600
Rizk, Philip	Associate	600
Smith, Lisa	Senior Attorney	751
Massoni, Greg	Consultant	562
Hosein, Saira	Paralegal	445
Crawford, Julie	Paralegal	360
de Varennes, P. Annette	Paralegal	423
Lindley, Kathleen	Paralegal	430

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Wheeler, Bob	Paralegal	735
Seufert, Jason	Paralegal	310
Scarmazzi, Carla	Specialist	445
Ward, Jarrett	Litigation Support	295
Dukes, Bill	Litigation Support	315
Shirley, Tammy	Research Supervisor	350
Kinsinger, Jeffrey	Director eDiscovery Ops	335



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:

None.

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:

None.

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 subcontractors, 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

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.

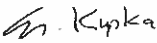
contractor must reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed contract.

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 Kupka

Date: 11/3/22

Signature:  Steven Kupka

