



GOVERNMENT OF PUERTO RICO
Ports Authority

**REQUEST FOR QUALIFICATIONS FOR THE
PROVISION OF CIVIL ENGINEERING AND MECHANICAL
PROFESSIONAL (CEMP) DESIGN, ELECTRICAL
PROTECTION STUDY, ENVIRONMENTAL DATA
COLLECTION, PERMITTING, AND FURTHER RELATED
DOCUMENTS AND SERVICES FOR THE CONSTRUCTION
OF A COMBINED HEAT AND POWER COGENERATION
PROJECT**

Issued Date: October 2, 2020

Submission Deadline: October 26, 2020, at 3:30 p.m. AST

Issued by the Puerto Rico Ports Authority



REQUEST FOR QUALIFICATIONS (RFQ)
A/E DESIGN SERVICES

Provision of Civil Engineering and Mechanical Professional (CEMP) Design, Electrical Protection Study, Environmental Data Collection, Permitting, and further related Documents and Services for the Construction of a Combined Heat and Power Cogeneration Project

Instructions and Conditions

I. Introduction

A. Project Description

The Luis Muñoz Marín International Airport (the “Airport”) owned by the Puerto Rico Ports Authority (“PRPA”) is a public use, commercial service Airport, operated by Aerostar Airport Holdings, LLC (“Aerostar”) under a public private partnership in accordance with Act 29-2009. The Airport is a critical asset for the transportation of people, supplies, and commerce, both for Puerto Rico and the Caribbean Region. In 2019, there were 4.7 million passenger enplanements at the Airport (meaning 9.5 million passengers visited the Airport’s facilities) and approximately 371,151,825 pounds of cargo were flown through the Airport. Finally, in 2019 there were approximately 145,676 aircraft operations (takeoffs and landings) at the Airport.

Due to the hurdles faced after Hurricanes Irma and María, PRPA has decided to pursue a project that proposes an alternate, reliable power source for the Airport to ensure reliable, clean, stable power in the event of grid instability, interruption, or failure. As described in “Transformation and Innovation in the Wake of Devastation: An Economic and Disaster Recovery Plan for Puerto Rico” (also referred to as the Recovery Plan), Puerto Rico’s electrical infrastructure is exceptionally exposed and vulnerable to natural hazards. The project provides an alternate source of power to this critical facility, ensuring that the Airport and its essential operations and functions are operational in the event the Puerto Rico Electric Power Authority (“PREPA”) electrical grid is damaged or fails.

PRPA has determined, after performing a full and complete assessment, that the peak electrical demand for the Airport as a whole is 11.5MW annually, with a gross average demand of 8.9MW. PRPA, after considering an array of options determined that an on-site combined heat and power cogeneration (“CHP/Cogen Facility” or the “Project”) was the best solution to provide a clean, resilient, and stable source of alternate power to the Airport. Therefore, the Project will consist of the engineering, design, and installation of a 12 MW CHP/Cogen, onsite LNG, or any other alternative fuel/energy option chosen by PRPA, fuel storage of approximately 210,000 gallons (sufficient for peak operations for seven (7) days), and all related and ancillary equipment necessary to safely, efficiently, and effectively integrate with existing components. The Project will be designed and installed to operate in parallel to

the existing PREPA grid and will meet all applicable interconnectivity and safety requirements. At this juncture, the Project has been divided into two stages: Phase I consists of the civil engineering mechanical professional (CEMP) engineering design, electrical protection study, environmental data collection, on-site environmental health and safety evaluation, and cost-benefit analysis data development of the Project (the “Phase I”) and Phase II will consist of the permitting and construction of the Project designed in Phase I (the “Phase II”).

PRPA seeks a registered professional design firm that has the qualifications, experience, and ability to complete this Project in a timely and professional manner, with particular emphasis on experience in completing similar or comparable CHP/Cogen projects.

The scope of work (“SOW”) is, for Phase I, the preparation of civil engineering mechanical professional (CEMP) engineering design, electrical protection study, environmental data collection, portions of the required permitting, and cost-benefit analysis data development for the Project and, for Phase II, the permitting including but not limited to construction and environmental and historical preservation, procurement specifications, any required modifications to design documents, preparation of other documentation needed to develop the proposed Project, and the provision of technical and professional assistance throughout the construction and start of operations of the Project, including project closeout after completion of Phase II. A detailed SOW for this Request for Qualifications (“RFQ”) is included hereto as Appendix A.

PRPA seeks to receive statements of qualifications (“Qualifications Statements and Responses”) from Architectural or Engineering Firms for the services and studies required for construction of the Project and as described in this RFQ, pursuant to Article XXVI of PRPA’s Regulation 8981 of July 7, 2017 known as Rules for Auctions and Request for Proposals (the “Regulation”), 2 C.F.R. 200.320(d)(5) and Chapter V, Section 2(g)(iii) of the Federal Emergency Management Agency’s Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R Part 200 (Uniform Rules) Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual of June 21, 2016.

The selected firm will provide professional design services as described in the SOW through Phases I and II.

PRPA has separately contracted for Program Administration and Project Management services for this Project. Program Administration and Project Management services are not included in the scope of this RFQ.

This project may be funded in whole or in part through the Hazard Mitigation Grant Program (“HMGP”) and will be subject to all applicable laws and HMGP regulations, policies, and guidance.

This Project will require periodic review by FEMA and/or the Central Office of Recovery and Reconstruction of Puerto Rico (“COR3”), which may result in adjustments to Project schedules and timelines. This will result in multiple phases of the Project and multiple notices to proceed for the selected Respondent.

II. Contact Information and RFQ Timeline

A. RFQ Contact

a. **Qualifications Statements and Responses must be submitted to the following contact:**

Romel Pedraza, P.E
Assistant Executive Director for
Planning, Engineering and Construction
airport.rfq@prpa.pr.gov

b. **Questions must be e-mailed to the following contact:**

airport.rfq@prpa.pr.gov

B. RFQ Timeline

The following is the projected timeline for this RFQ.

Table 1: RFQ Timeline

Target Date	Event
October 2, 2020	Publication of RFQ
October 15, 2020	Deadline to Submit Questions
October 21, 2020	PRPA to Provide Consolidated Response to Questions
October 26, 2020	Qualifications Statements and Responses deadline
November 2, 2020	Selection of Qualified Respondents
November 6, 2020	Notice of Award (Expected)

This timeline is subject to change at the discretion of PRPA. Changes to the timeline will be submitted on corresponding addenda through the PRPA's website (www.prpa.pr.gov). It is the responsibility of Respondent's to periodically review the official website for any changes to this timeline.

III. Purpose and Intent

A. Purpose

This RFQ is issued by PRPA. The purpose of this RFQ is to request Qualifications Statements and Responses from interested and qualified firms to provide all services as described in the SOW.

B. Intent

The intent of this RFQ is to award one (1) contract for the provision of all services as described in the SOW so that the Project will be installed and will meet all applicable interconnectivity and safety requirements, resulting in the Airport's continued and improved operations and services.

IV. RFQ Withdrawal

A. RFQ Withdrawal

PRPA reserves the right to withdraw this RFQ for any reason.

V. Submittal Requirements

A. How to Submit

All RFQ responses must be submitted to the contact identified in Section II-A in the form stated in Section IX. No Qualifications Statements and Responses will be accepted by any other means. Qualifications Statements and Responses submitted through any other means will be marked non-responsive.

B. Required Contents

All items in this RFQ are considered part of the Qualifications Statements and Responses. Qualifications Statements and Responses must address all of the items included in this RFQ in its entirety, and all forms and certifications included in this RFQ must be properly filled and signed in the appropriate places by an authorized representative of the Respondent. Qualifications Statements and Responses not including a complete, signed response will be considered non-responsive.

C. Submittal Deadline

The deadline for the Qualifications Statements and Responses is October 26, 2020, until 3:30 PM (AST). ("Submittal Deadline"). It is the Respondent's responsibility to have all documents correctly submitted to PRPA by the submittal deadline. No extensions will be granted, and no late Qualifications Statements and Responses will be accepted. Any Qualifications Statements and

Responses received after the Submittal Deadline will be considered non-responsive. Respondents are encouraged to submit their Qualifications Statements and Responses as soon as completed. The time and date of receipt, as recorded by PRPA, shall be the official time of receipt. PRPA is not responsible for late submission of the Qualifications Statements and Responses regardless of the reason. Late submissions of the Qualifications Statements and Responses will not be considered under any circumstances.

D. Rejections, Alterations, or Withdrawals of Qualifications Statements and Responses Documents

Issuance of this RFQ does not constitute a commitment by PRPA to award a contract. PRPA reserves the right to accept or reject, in whole or in part, and without further explanation, any or all Qualifications Statements and Responses submitted and/or to cancel this RFQ or another version of it, if it deems doing so is in the best interest of Puerto Rico.

Any submitted Qualifications Statements and Responses may be withdrawn, or a revised Qualifications Statements and Responses may be submitted prior to the Submittal Deadline. Notice of withdrawal must be submitted in writing to the contact identified in Section II-A. The Qualifications Statements and Responses that are submitted may not be altered, amended, or withdrawn by the Respondent after the Submittal Deadline.

E. Questions

a. Questions and Responses

Questions regarding the RFQ must be addressed to the contact identified in Section II-A until the question's deadline identified in Section II-B. Responses to the questions will be answered, at the sole discretion of the PRPA, after the question deadline in form of a published addendum. No responses will be given to questions submitted after the question's deadline. PRPA reserves the right to answer questions submitted by any other means by a Respondent prior to award by PRPA, if deemed appropriate by PRPA to be beneficial to all Respondents.

b. Replies and Addenda

Responses to inquiries which directly affect an interpretation or effect a change to this RFQ will be issued in writing by addendum and posted to the following website prpa.pr.gov. All such addenda issued by PRPA prior to the submittal deadline shall be considered part of this RFQ. PRPA shall not be bound by any reply to any inquiry unless such reply is made by formal written addendum. PRPA reserves the right to change or revise any part of this RFQ by issuing an addendum to the RFQ at any time.

c. Acknowledgement of Addenda

All addenda to the RFQ will be posted to the aforementioned website (prpa.pr.gov). The Respondent is responsible for visiting the website periodically to learn of and review any published addenda. Any Qualifications Statements and Responses that does not adhere to all published addenda will be considered non-responsive.

F. Notification of Errors or Omissions

Respondents shall promptly notify the contact identified in Section II-A of any omissions, ambiguity, inconsistency, or error that they may discover upon examination of this RFQ. PRPA shall not be responsible or liable for any errors and/or misrepresentation that results from Qualifications Statements and Responses that are inadvertently incomplete, ambiguous, inconsistent, or obviously erroneous. PRPA reserves the right to reject a response that contains an error or omission.

VI. Confidentiality and Ownership of Qualifications Statements and Responses

All information submitted in response to this RFP becomes the property of the PRPA. The documents and other records submitted to PRPA are part of the public record and subject to public disclosure. Accordingly, the information presented should be expected to be subject to public availability unless specifically marked as confidential by the Respondent.

PRPA shall have no obligation to treat any information submitted in connection with a Qualifications Statements and Responses as proprietary or confidential unless (i) the Respondent so identifies such information in its Qualifications Statements and Responses as proprietary or confidential, and (ii) PRPA determines that the information is proprietary or a trade secret and legitimately requires such treatment or that it must otherwise be protected from publication according to law. PRPA's obligations with respect to protection and disclosure of such information shall always be subject to applicable law. If the Respondent desires to identify any information in its Qualifications Statements and Responses as proprietary or confidential, it shall limit such designation to only those particular portions of the Qualifications Statements and Responses that actually constitute proprietary information, trade secrets, or other confidential matters or data. Identification of the entire Qualifications Statements and Responses or entire sections of the Qualifications Statements and Responses or other overly broad designations as confidential or proprietary are strongly discouraged and may result in the Qualifications Statements and Responses being deemed unresponsive. PRPA shall have the right to use all portions of the Qualifications Statements and Responses, other than those portions identified and marked as confidential or proprietary, as it considers necessary or desirable in connection with this RFQ; and, by the Qualifications Statements and Responses, the Respondent thereby grants to PRPA an unrestricted license to use such unrestricted portions of the Qualifications Statements and Responses.

VII. Collection and Use of Personal Information

Respondents are solely responsible for familiarizing themselves and ensuring that they comply with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning employees and employees of any subcontractors. If

this RFQ requires Respondents to provide PRPA with personal information of employees who have been included as resources in submissions to this RFQ, Respondents will ensure that they have obtained written consent from each of those employees before forwarding such personal information to PRPA. Such written consents are to specify that the personal information may be forwarded to PRPA for the purposes of responding to this RFQ and use by PRPA for the purposes set out in the RFQ. PRPA may, at any time, request the original consents or copies of the original consents from Respondents, and upon such request being made, Respondents will immediately supply such originals or copies to PRPA.

VIII. Project Considerations and Scope

A. A fixed sum contract will be negotiated. Before a contract is approved with the selected firm, cost reasonableness of the fee schedule will be considered. Please refer to Appendix G for additional terms and conditions that may be included as part of the awarded contract, at the sole discretion of the PRPA.

B. The Scope of Services which the selected firm must provide are as further described in Appendix A. The Scope of Services may change and be amended from time to time by PRPA.

C. The Project must comply with all applicable requirements specified on International Building Code 2018 and/or latest Building Construction Code (in force and effect on Puerto Rico during projects execution) and all applicable federal and state laws, regulations and policies.

D. The Project is considered a critical action, and therefore must include hazard protection from all potential natural hazards that could occur at the project location, including flooding, extreme wind, and seismic events.

IX. Qualifications and Submissions Format

A. In an effort to reduce paperwork and costs, all Qualifications Statements and Responses shall be submitted electronically through email. Hand carried delivery or USPS/UPS/FedEx delivery of hard copies and/or USB/CD-ROMs is not authorized. Facsimile submission is not authorized.

B. All Qualifications Statements and Responses must be emailed to the contact stated in Section II-A by 3:30 PM (AST) on October 26, 2020. Any Qualifications Statements and Responses received after this time will not be evaluated. Respondents must identify the email in the "subject" field as follows: *RFQ LMM CHP/Cogen Project [firm name]*. Qualifications Statements and Responses not identified correctly will be marked non-responsive.

C. Electronic Qualifications Statements and Responses should be combined into one PDF file named with the project number listed on the RFQ and the submitting firm's name. Use the "print" feature of Adobe Acrobat or similar software for creating a PDF rather than using a scanner. If possible, please reduce the file size of the PDF. (In Acrobat, go to Advanced, then

PDF Optimizer.) The Qualifications Statements and Responses are to be limited to maximum of one e-mail with the total file size of 9.5 MB.

D. Respondents should enumerate and letter responses to the contents of the RFQ exactly as follows. A checklist is included in Appendix F; use of this checklist is optional but encouraged:

a. Introduction (Cover Letter)

1. The cover letter must include a certification that the information submitted and the Qualifications Statements and Responses are true and accurate, and that the person signing the cover letter is authorized to submit the Qualifications Statements and Responses on behalf of the Respondents. The cover letter must include:
 - i. Name of the Respondent;
 - ii. Telephone and Address of the Respondent;
 - iii. A brief overview of the Respondent;
 - iv. A brief statement of the Respondent's understanding of the scope of the work to be performed in connection to the Project;
 - v. Name, title, telephone and email of the Respondent's official representative; (If there are multiple representatives of the Respondent, indicate which one will be primary contact. Indicate which other officers are also involved;
 - vi. Respondent must include the following signed certifications: (1) federal conditions clauses (See, Appendix B); (2) nepotism statement (See, Appendix C); (3) non-collusion statement (See, Appendix D); and, (4) local conditions clauses (See, Appendix E). Any other information that the Respondent feels appropriate; and
 - vii. The signature of an individual who is authorized to provide information of this nature in the name of the Respondent submitting the RFQ.

b. Background and Experience

Respondents should:

1. Describe Respondent's firm by providing its full legal name, date of establishment, type of entity and business expertise, short history, current ownership structure and any recent or materially significant proposed change in ownership.
2. Describe any prior engagements in which Respondent's firm has dealt with projects regarding renewable energy and/or cogeneration plant projects. Please provide at least two (2) prior engagements regarding the development of similarly complex cogeneration or CHP plants.
3. Describe any prior engagements in which Respondent's firm assisted a governmental entity in dealings with airport projects and any other projects relating to FEMA's Public Assistance and/or Hazard Mitigation Grant programs. Respondent should include all examples of work conducted on similar projects.

4. Respondent should provide the names, phone numbers, and emails of contact persons in the organizations for whom any projects referenced in this section were conducted. Respondent should include written references (letters or forms are acceptable) from previous clients attesting to the quality of work and compliance with performance schedules Respondent cites in this section.
5. Describe the firm's workload and capacity to accomplish the work in the required time.
6. Describe if Respondent is currently under any services contract or has been awarded a services contract (even if contract has yet to be executed) with PRPA.
7. Provide current information on professional errors and omissions coverage carried by Respondent's firm, including amount of coverage.
8. Provide evidence of adequate financial stability through certified financial statements, including a balance sheet and income statement. PRPA reserves the right to request any additional information to assure itself of a Respondent's financial status.

c. Personnel/Professional Qualifications

Respondents should:

1. Include resumes or curriculum vitae of each key staff members (including those provided by any subcontractors) proposed to be assigned to this Project, including name, position, telephone number, fax number, email address, education, and years and type of experience. Describe, for each such person, the projects relevant to airports, and renewable energy and/or cogeneration plant projects, on which they have worked. Provide the names, telephone numbers, and email addresses of contact persons with the firms or organizations with whom these staff members worked on airport or cogeneration plant projects; and
2. Include an organizational chart showing key personnel and team members and their respective roles in this Project.

d. Financial Capacity

Respondents should:

1. Present audited financial statement for the previous three (3) years, include Profit & Loss and Balance Sheets; for individuals present copies of the tax records for the previous three (3) years.
2. Respondents must demonstrate the firm's financial ability to cover the cost of the

firm's expenses based on a 30, 60, 90, and 120-day billing cycle.

X. Selection Criteria

A. All responses to this RFQ will be evaluated by a selection committee, in accordance with the following criteria:

Criterion	Possible Points
Firm experience and qualifications with similarly complex projects	Up to 20 points
Firm experience and qualifications with airport projects and FAA and TSA regulations	Up to 10 points
Firm experience and qualification with energy projects and networks	Up to 10 points
Firm experience with federally funded projects, with emphasis on FEMA funded projects	Up to 10 points
Key personnel qualifications and experience	Up to 20 points
Firm history of project delivery and performance (based on references)	Up to 10 points
Firm ability to commit to project schedule	Up to 10 points
Firm history of financial stability	Up to 5 points
Firm ability to incorporate local minority and women-owned business enterprises	Up to 5 points
Total Possible Points:	100 points

B. The Qualifications Statements and Responses will be evaluated on the basis of submitted materials and any references checked. Sufficient information must be included in the response to allow for evaluation of the Qualifications Statements and Responses against the requirements of this RFQ. Incomplete or incorrect information will result in a lower score or in the Qualifications Statements and Responses being scored non-responsive.

C. The contract will be awarded to the most appropriate qualified Respondent, whose requested Qualifications Statements and Responses is deemed most advantageous to PRPA, in order to protect the best of public interest. All factors and criteria shall be considered.

D. PRPA intends to award one (1) contract for professional A/E services. The most qualified Respondents must be ready to provide a proposal including, among others, a detailed scope of work and proposed fee and negotiate a contract with the PRPA within ten (10) days of the issuance of the Notice of Award. In the event the PRPA cannot negotiate a satisfactory contract fee with the first-ranked qualified Respondent, negotiations will be terminated with said firm and will then begin negotiations with the next second-ranked qualified Respondent and subsequently until reaching a reasonable fee.

E. However, PRPA reserves the right to accept or reject any or all Qualifications Statements and Responses submitted as part of further RFQ process and to award separate contracts for each of the selected Respondents, under the most advantageous conditions for the

PRPA, in order to protect the best of public interest.

F. Notwithstanding the above, when the contract is signed and executed by the parties, the time of performance of the contract to be awarded begins when the contract is duly registered at the Comptroller of Puerto Rico Registry of Contracts. No services shall be provided nor requested before that date.

XI. Small and Minority-Owned Businesses, Women's Business Enterprises, and Labor Surplus Firms

A. In accordance with 2 CFR, §200.321, it is the policy of the Government of Puerto Rico and PRPA to stimulate growth of local minority and women-owned business enterprises (M/WBE) by encouraging their participation in all phases of its contract and procurement activities and by affording them the opportunity to complete the all PRPA contracts. The purpose and objectives of this article are to:

- a.** Increase the capacity of local M/WBE firms to provide products and services.
- b.** Increase the opportunities for local M/WBE firms to expand their business with PRPA and other public and private sector business entities.

B. However, nothing herein shall require PRPA to award contracts for services to a M/WBE which is not also the most responsive and responsible proposer and otherwise qualified, unless PRPA may otherwise lawfully award the contract to someone other than the most responsive and responsible proposer.

XII. Respondent Requirements

A. Legal Entities

Respondents that are corporations, partnerships, or any other legal entity, US mainland or Puerto Rico based, shall be properly registered or capable to be registered to do business in Puerto Rico at the time of the submission of the Qualifications Statements and Responses, and shall comply with all applicable Puerto Rico and federal laws and/or requirements.

B. Conflicts of Interest

Respondents are required to detail any other current or former advisory contracts the firm has/had with any entity of the Government of Puerto Rico, or which bear any direct or indirect relation to the activities of the Government of Puerto Rico. Further, provide a description of any recent historical or ongoing legal proceedings, interviews, or investigations being conducted by any US and local law enforcement agencies involving the respondent's firm or team that are related to transactions executed in or on behalf of the Government of Puerto Rico, state agencies, and/or public corporations. In addition, provide a brief description of any work performed for any creditors or guarantors of the Government of Puerto Rico, a state agency, and/or a public corporation debt about their positions in Puerto Rico debt obligations. Indicate whether this

activity is ongoing, and if not, when the prior assignment concluded. A person or business, and their agents, who seek to contract or enter into an agreement with PRPA or the Government of Puerto Rico are required to file a conflict of interest statement. This statement must comply with 2 CFR, §200.112. This statement must be submitted with the Qualifications Statements and Responses. If no conflict exists, the Respondent must indicate the statement as Not Applicable or NA.

At some point in the selection process, PRPA may request information on any perceived conflict of interest. Also, PRPA may in the future request a list of direct or indirect relationships the firm or its professionals have to Board Members or executives of PRPA. In the event of real or apparent conflicts of interest, PRPA reserves the right, in the Government's best interest and at its sole discretion, to reject a Qualifications Statements and Responses outright or to impose additional conditions upon respondents. PRPA reserves the right to cancel any contract awarded pursuant to this RFQ with thirty (30) days of notice in the event that an actual conflict of interest, or the appearance of such conflict, is not cured to PRPA's satisfaction.

Each Respondent should clearly identify in its response any person or entity that has assisted the Respondent in the preparation of its Qualifications Statements and Responses.

C. Subcontractors

PRPA shall have a single prime contractor as the result of any contract negotiation. That prime contractor shall be responsible for all deliverables specified in this RFQ. This general requirement notwithstanding, respondents may enter into subcontractor arrangements. However, the Respondent must acknowledge the respondent's responsibility for the entire scope of services.

Unless provided for in the contract with PRPA, the prime contractor shall not contract with any other party for any services herein contracted without the express prior written approval of PRPA.

XIII. REVIEW AND RECONSIDERATION

A. Protest and Judicial Review

Per Article XX of Regulation and Article 3.19 of the Puerto Rico Uniform Administrative Procedure Act, Act No. 38-2017, as amended, 3 LPRA § 9659 any Respondent adversely affected by a final decision or order by the PRPA may seek judicial review before the Puerto Rico Court of Appeals within twenty (20) days from the date in which a copy of the notice of the final decision or order of the PRPA is filed. The mere filing of an appeal for judicial review shall not have the effect of paralyzing or staying the award of the contested RFQ.

XIV. Additional Information and Requirements

A. Cost of Preparing Qualifications Statements and Responses

All costs associated with preparing a response to the RFQ are the sole responsibility of the Respondent. PRPA shall not be liable for any costs incurred by the Respondents prior to issuance of or entering into a contract. Costs associated with developing the Qualifications Statements and Responses, and any other expenses incurred by the respondent to the RFQ are entirely the responsibility of the Respondent and shall not be reimbursed in any manner by PRPA.

B. Legal Requirements

Respondents are responsible for complying with all applicable legal requirements relating to contracting with governmental agencies of the Government of Puerto Rico, including without limitation those set forth in Appendix E and with federal requirements including without limitation those set forth in Appendix B.

C. Nepotism Statement

The Respondent or any of its officers, if the Respondent is other than an individual, must submit a certification, properly signed and sealed, stating that such Respondent has not a relationship, either by blood or marriage, with any official or employee of PRPA and/or Aerostar Airport Holdings LLC (“Aerostar”), as Airport operator. (See, Appendix C)

D. Non-Collusion Statement

The Respondent must submit a certification, properly signed and sealed, affirming that they are duly authorized to execute the awarded contract, that this company, firm, partnership or individual has not colluded, conspired, connived or agree, directly or indirectly, with any other Respondent, in the preparation of this submittal, and that the contents of the Qualifications Statements and Responses as to prices, terms or conditions of the Qualifications Statements and Responses, have not been in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any employee or agent of any other Respondent or any other person engaged in this type of business, to secure any advantage against the awarded contract, prior to the official opening of the Qualifications Statements and Responses. (See, Appendix D)

E. Authorizations by Submission of a Qualifications Statements and Responses

Any information provided by a Respondent and its team members may be used by the PRPA to conduct credit and background checks. The Respondent agrees to execute any additional documentation requested by the PRPA to evidence this consent. At its discretion, the PRPA staff may contact references and industry sources, investigate previous projects and current commitments, interview some or all of the proposed development team members, and take any other information into account in its evaluation of the responses.

F. Teaming Arrangements and Special Purpose Entities

Multiple Respondents may form a joint venture for the purpose of submitting a Qualifications Statement and Response to this RFQ. A special-purpose entity may be created for the purpose of

submitting a response. PRPA may require that financial and performance guarantees or any other credit enhancement be provided by these and other Respondents as well as team members. (Note: PRPA will not be involved in facilitating partnering or teaming arrangements.) If a joint venture will be utilized, please present information for both entities and include with your response a copy of the legal documentation establishing the joint venture. No person or legal entity may join or participate with, directly or indirectly, as a team member in more than one joint venture with the purpose of submitting various separate Qualifications Statements and Responses to this RFQ.

G. Other Terms and Conditions

All applicable Puerto Rico and Federal laws and regulations will govern this RFQ and all agreements entered into in connection with this RFQ.

H. Not a Contract

This RFQ does not constitute and should not be construed in any way as an offer to enter into a contract with any individual or entity. Thus no contract of any kind is formed under, or arises from, this RFQ; provided, however, that nothing contained in this section shall affect in any way the rights and remedies afforded under this RFQ to the PRPA.

I. Confidentiality of Information Associated to the PRPA

Information associated with PRPA, Aerostar or any government entity obtained by the Respondents as a result of participation in this RFQ is confidential and must not be disclosed without prior written authorization from PRPA.

J. Reservation of Rights

PRPA reserves the right, in its sole and absolute discretion, to:

- a.** Change, modify or amend the business opportunities described in this RFQ;
- b.** Change, postpone, or suspend this RFQ process or any or all phases, at any time for any reason or no reason;
- c.** Accept or reject any response based on the selection criteria and as determined by the discretion of the PRPA;
- d.** Not accept any or all the Qualifications Statements and Responses;
- e.** Reject any or all of the Qualifications Statements and Responses without any obligation, compensation or reimbursement to any Respondent or any of its team members; and
- f.** Extend any date, time period or deadline provided in this RFQ, upon notice to all

Respondents.

K. Restriction of Damages.

Each Respondent agrees that:

- a.** If any or all Qualifications Statements and Responses are rejected, or this RFQ is modified, suspended or canceled for any reason, neither the PRPA nor any of its officers, employees, contractors or advisors will be liable, under any circumstances; and
- b.** By participating in this RFQ process, each Respondent agrees to indemnify and hold harmless the PRPA and its officers, employees, contractors, and advisors from and against any and all real estate and other brokerage fees or commissions, finder's fees, and any other forms of compensation related in any way to activities undertaken by any person as a result of such person's efforts towards and/or participation in this RFQ process or the submission by such person of a response, and liabilities, losses, costs and expenses (including reasonable attorney's fees and expenses) incurred by any indemnified party as a result of, or in connection with, any claim asserted or arising as a result of, or in connection with this RFQ process. This includes any and all activities related to the PRPA's exclusive negotiations with the qualified Respondent(s).

L. Disclosure

- a.** The information submitted by the Respondents may be subject to public disclosure in compliance with applicable law.
- b.** All public information generated with the process, including communications with the media and the public, must be coordinated with and is subject to prior approval of the PRPA.

M. No Obligation to Accept Qualifications Statements and Responses

The PRPA is not obligated to accept a Qualifications Statements and Responses where, at the discretion of the PRPA, it is not in compliance with the requirements of this RFQ; or it includes false or misleading statements, claims or information; or background checks reveal any false statements in the Qualifications Statements and Responses.

APPENDIX A

SCOPE OF WORK

A. Description of Work

The SOW generally comprises in Phase I:

- the preparation of civil engineering mechanical professional (CEMP) engineering design,
- electrical protection study,
- environmental data collection,
- portion of required permitting, and
- and cost-benefit data development

and in Phase II:

- the permitting including but not limited to construction and environmental and historical preservation,
- modifications to design documents,
- procurement specifications,
- preparation of other documentation needed to develop the proposed Project,
- the provision of technical and professional assistance throughout the construction, commissioning and start of operations of the Project, including project closeout after completion of Phase II.

The SOW covers all services required to prepare, including any required coordination, all necessary and requested plans, designs, specifications, and other supporting documents necessary for construction of the Project. These services include, but may not be limited to:

- a. a complete design, including preliminary and final stages and including any necessary revisions thereof. The design shall take into consideration the Project and its interdependence with, and integration into, the existing electrical and mechanical networks and facilities as described in SOW Section B “Project Background and Description” (following), and may include any required or advisable design solutions for improving such existing networks and facilities on the airport, and may include recommendations for improvements to interfaces with the current or future PREPA electrical grid.
- b. a procurement schedule including any necessary revisions;
- c. an order of work clause;
- d. a construction contractor submittal register;
- e. quantity and cost estimates based on design milestones;

- f. project cost estimates based on design milestones;
- g. a proposed project construction schedule including any necessary revisions;
- h. design analyses and calculations including any necessary revisions;
- i. a design documentation report;
- j. an engineering considerations and instructions report;
- k. an electrical protection and coordination study including any necessary revisions;
- l. final site selection and documentation of the selection process;
- m. Environmental permits, data collection and studies;
- n. Permitting;
- o. all investigation and documentation necessary to determine compliance with environmental and historic preservation laws, and regulations; and
- p. a draft operations and maintenance manual.

In addition, the successful Respondent may be tasked with construction oversight and/or quality assurance after successful completion of the design phase of the project.

PRPA has separately contracted for Program Administration and Project Management services for this Project. Program Administration and Project Management services are not included in the scope of this RFQ.

This Project may be funded in whole or in part through the HMGP and will be subject to all applicable laws and HMGP regulations, policies, and guidance.

This Project will require periodic review by FEMA and/or COR3, which may result in adjustments to project schedules and timelines. This will result in multiple phases of the Project and multiple notices to proceed for the selected Respondent. Therefore, deliverables will be required to comply with the conditions of approvals and requirements set forth by FEMA and/or COR3 for the Project.

Phase I of this Project must be completed and delivered to PRPA no later than May 25, 2020.

B. Project Background and Description

The Luis Muñoz Marín International Airport (the “Airport”) is a public use, commercial service Airport, owned by the Puerto Rico Ports Authority (“PRPA”) and operated by Aerostar Airport Holdings, LLC (“Aerostar”) under a public private partnership in accordance with Act 29-2009. The Airport is a critical asset for the transportation of people, supplies, and commerce, both for Puerto Rico and the Caribbean Region.

Due to the hurdles faced after Hurricanes Irma and María, PRPA decided to pursue a project that propose a reliable power source for the Airport to ensure reliable, clean, stable power in the event of grid instability, interruption, or failure. As described in *Transformation and Innovation in the Wake of Devastation: An Economic and Disaster Recovery Plan for Puerto Rico* (also referred to as the Recovery Plan), Puerto Rico’s electrical infrastructure is exceptionally exposed and vulnerable to natural hazards.

The Project provides an alternate source of power to this critical facility, ensuring that the Airport and its essential operations and functions are operational in the event the Puerto Rico Electric Power Authority (“PREPA”) electrical grid is damaged or fails.

PRPA has determined, after performing a full and complete assessment, that the peak electrical demand for the Airport as a whole is 11.5MW annually, with a gross average demand of 8.5MW. Therefore, the solution to the power availability/stability issue in the Airport must provide approximately 12MW of reliable, clean power. This 12MW will ensure sufficient power for peak loads, and that all critical functions, operations, and services of the Airport are not inoperable or interrupted due to power issues.

Currently, the Airport is fed by three (3) PREPA substations (1615, 1616, and 1617), located at the (i) Airport entrance, (ii) Base Muñoz, and (iii) Los Angeles (collectively, the “Substations”). As with much of PREPA’s electrical grid infrastructure, these Substations are vulnerable to damage and outage and have extensive maintenance and operations issues, though 1615 and 1617 did receive extensive maintenance in 2019.

The Airport has three chiller plants, operating as standalone systems for each of the main terminals (A, B and C/D), delivering approximately 3,000 tons of chilled water for air conditioning. Part of the Project will be to interconnect the chilled water piping from and into the chiller plants so that the Airport terminal is serviced by the chilled water generated at the CHP Plant.

PRPA, after considering an array of options determined that an on-site combined heat and power cogeneration (“CHP/Cogen Facility” or the “Project”) was the best solution to provide a clean, resilient, and stable source of alternate power to the Airport.

Therefore, the Project will consist of the engineering, design, and installation of a 12 MW CHP/Cogen Facility, onsite LNG, or any other alternative fuel/energy option chosen by PRPA, fuel storage of approximately 210,000 gallons (sufficient for peak operations for seven (7)

days), and all related and ancillary equipment necessary to safely, efficiently, and effectively integrate with existing components. The CHP/Cogen will be designed and installed to operate in parallel to the existing PREPA grid and will meet all applicable interconnectivity and safety requirements.

a. Energy Baseline

i. Distribution Grid

Three (3) main substations feed electric power into the Airport. These are substations 1615, 1616 and 1617 located at the Airport Entrance, Base Muñiz, and Los Angeles, correspondingly (Substations). The primary voltage for all three substations is 38kV, and the secondary is 4,160V. Substation are physically interconnected, to create a loop, through a 4,160V distribution grid with over 50 switching units combined using normally open/closed circuit breakers, connecting to all corresponding loads.

ii. Load Profile

The Airport energy use baseline was established using metered data from permanent revenue-grade meters installed at the three main substations. The analysis period used for establishing the energy baseline was from January 2019 to December 2019. Based on metered data, the Airport has:

- Average demand of 8.5 MW
- Peak demand of approximately 11.5 MW

For the peak energy consumption month (July 2019), the Airport had:

- Average demand of 9.2 MW
- Peak demand of approximately 11.5 MW

iii. Emergency Power

As per current configuration, energy sources at the Airport are limited to the utility grid (PREPA) and stand-by generators, in the case of a grid failure. Currently, back-up generators provide coverage to approximately 50% of the critical loads within the Airport terminal facility. As part of the Project, definition and prioritization of critical loads under emergency operations and investments shall be performed with the aim to add stand-by generators capacity (where required), strengthening the existing paralleling system, and interconnecting cooling loads to the emergency power system.

C. Environmental Data Collection Analysis

The following specific provisions will apply to all environmental and historic preservations data collection, assessment, and studies for this Project:

- a.** EHP deliverables (additional studies, agency consultations) will be site specific and contingent upon the scope of work and design.
- b.** This project will require compliance with all applicable federal laws and Executive Orders (EO's) including, but not limited to, the National Environmental Policy Act, National Historic Preservation Act (NHPA), Clean Water Act (CWA), Coastal Zone Management Act (CZMA), Executive Order 11988 – Flood Plain Management, Executive Order 11990 – Protection of Wetlands, and the Endangered Species Act (ESA).

Any units being placed on the 0.2 annual change floodplain probability must comply with EO 11988 – Flood Plain Management because the LMM Airport is considered a critical facility. The applicant will need to demonstrate that the proposed project site is the most practicable alternative 44 C.F.R. 9.6. To aid in this analysis, FEMA would need details regarding the applicant's site selection process. This should include a list of alternative sites considered to the proposed project, and reasoning for dismissal of alternatives. Practicability of sites considered may be weighed against:

- i.** Natural environment (topography, habitat, hazards, floodplain, etc.);
- ii.** Social concerns (aesthetics, historical, and cultural values, land patterns, etc.);
- iii.** Economic aspects (costs of space, construction, services, and relocation);
- iv.** Legal constraints (deeds, leases, etc.). Per 44 C.F.R. 9.11d, Mitigation/minimization standards should be described for any units placed in floodplain i.e. elevation above BFE. In addition, 44 C.F.R. Part 9 (d)(1) prohibits unit placement in the floodway i.e. "There shall be no new construction or substantial improvement in a floodway, and no new construction in a coastal high hazard area, except for: (i) a functionally dependent use or (ii) facilitates open space use."

APPENDIX B

FEDERAL PROVISION COMPLIANCE CERTIFICATION

_____, certifies, represents, and warrants to the Puerto Rico Ports Authority ("PRPA") that:

1. **No Government Obligation to Third Parties.** PRPA and Respondent acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to the awarded contract and shall not be subject to any obligations or liabilities to PRPA, Respondent, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
2. **Program Fraud and False or Fraudulent Statements and Related Acts (31 U.S.C. 3801 et seq).** Respondent acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., "Administrative Remedies for False Claims and Statements," apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Respondent certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract for which the awarded contract work is being performed. In addition to other penalties that may be applicable, the Respondent further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Respondent to the extent the Federal Government deems appropriate.
3. **Access to Records and Reports.** The following access to records requirements apply to the awarded contract: (1) The Respondent agrees to provide PRPA, the Government of Puerto Rico, FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Respondent which are directly pertinent to the awarded contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Respondent agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The Respondent agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
4. **Equal Employment Opportunity (20 CFR Part 1630, 41 CFR Part 60 et seq).** During the performance of the awarded contract, the Respondent agrees as follows: (1) The Respondent will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Respondent will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, 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. The Respondent 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. (2) The Respondent will, in all solicitations or advertisements for employees placed by or on behalf of the Respondent, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin. (3) The Respondent will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Respondent's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (4) The Respondent will 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. (5) The Respondent will 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 his 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. (6) In the event of the Respondent's noncompliance with the nondiscrimination clauses of the awarded contract or with any of the said rules, regulations, or orders, the awarded contract may be canceled, terminated, or suspended in whole or in part and the Respondent 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 as 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. (7) The Respondent will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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. The Respondent will 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 a Respondent becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Respondent may request the United States to enter into such litigation to protect the interests of the United States.

5. **Government-wide Suspension and Debarment.** By signing and submitting Submittal of Qualifications, Respondent or contractor agrees to comply with the following: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Respondent is required to verify that none of the contractor, its 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). (2) The Respondent must 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. (3) This certification is a material representation of fact relied upon by (insert name of sub-recipient). If it is later determined that the Respondent 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 (name of state agency serving as recipient and name of sub-recipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The Respondent or contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Respondent or contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. **Contract Work Hours and Safety Standards Act (20 CFR §5.5(b)).** (1) Overtime requirements - 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 hours in such workweek. (2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States 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 (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section. (3) Withholding for unpaid wages and liquidated damages – PRPA 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 the Respondent or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section. (4) Subcontracts - contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
7. **Lobbying (Byrd Anti-Lobbying Amendment, 31 U.S.C § 1352, as amended).** Respondents who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies 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. Each tier shall also 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. APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING. Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000). The undersigned Respondent certifies, to the best of his or her knowledge, 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. (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction 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. § (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to 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.

8. **Clean Air (42 U.S.C. § 7401 et seq).** Respondent 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. The Respondent agrees to report each violation to PRPA and understands and agrees that PRPA will, in turn, report each violation as required to assure notification to the State of Texas, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. Respondent also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
9. **Clean Water (33 U.S.C. § 1251 et seq).** Respondent 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. Respondent agrees to report each violation to PRPA and understands and agrees that PRPA will, in turn, report each violation as required to assure notification to the State of Texas, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. Respondent also agrees to

include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

10. **Procurement of Recovered Materials (42 U.S.C. § 6962).** (1) In the performance of the awarded contract, the contractor shall make maximum use of products containing recovered materials that are 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. (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
11. **Department of Homeland Security Seal, Logo, and Flags.** The Respondent shall not use the DHS seal(s), logo(s), crest(s), or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
12. **Compliance with Federal Laws, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Respondent will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

Company:

Representative Name

Signature

Date

APPENDIX C

NEPOTISM STATEMENT

The Respondent or any officer, if the Respondent is other than an individual, shall disclose whether Respondent has a relationship, either by blood or marriage, with any official or employee of the PRPA by completing the following:

If Respondent is an individual:

- I am not related by blood or marriage to any official or employee of the PRPA.
- I am related by blood or marriage to the following official(s) or employee(s) of the PRPA:

Name of PRPA's official or employee: _____
Relationship: _____

If Respondent is not an individual:

- The officers of the company submitting these Submittal of Qualifications are not related by blood or marriage to any official or employee of the PRPA.
- The officers of the company submitting these Submittal of Qualifications are related by blood or marriage to the following official(s) or employee(s) of the PRPA:

Name of company officer: _____
Title of company officer: _____
Name of PRPA's official or employee: _____
Relationship: _____

APPENDIX D

NON-COLLUSION STATEMENT

The undersigned affirm that they are duly authorized to execute the contract, that this company, firm, partnership, or individual has not prepared this Submittal of Qualifications in collusion with any other respondent, and that the contents of this Submittal of Qualifications as to prices, terms, or conditions of said Submittal of Qualifications have not been communicated to the undersigned nor any employee or agent to any other person engaged in this type of business prior to the official opening of this submittal.

Respondent: _____

Address: _____

Phone: _____

Email: _____

Name of Respondent's Authorized Representative: _____

Position: _____

Signature: _____

Date: _____

APPENDIX E

STATE PROVISION COMPLIANCE CERTIFICATION

_____, certifies, represents, and warrants to the Puerto Rico Ports Authority ("PRPA") that:

1. Under penalty of nullity, no official, employee, or contractor of the PRPA will derive or obtain any benefit or profit of any kind from the contractual relationship that will result from this procurement. If such a benefit exists, the required waiver has been submitted before the Submittal of Qualifications.
2. None of the members of the Board of Directors, executives, authorized representatives, or shareholders of our company have been accused and convicted of crimes against the Government of Puerto Rico or the Federal Government that involve appropriation of public funds or fraud against public property.
3. There is no criminal or civil procedure or investigation pending for any of the crimes or felonies described on the precedent paragraphs against any of the members of its Board of Directors, executives, authorized representatives, or shareholders.
4. We will inform the PRPA of any situation or procedure that may be initiated against any of the parties mentioned above any time after the signing of any agreement resulting from this RFQ.
5. Our company: (a) does not discriminate in any manner against an employee, an applicant for employment, subcontractor or any person because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, sexual orientation, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) includes a provision similar to that contained in subsection above in any subcontract executed in connection with the services to be provided under the contract resulting from this RFQ, but excluding subcontracts for standard commercial supplies or raw materials; (c) posts in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause; and (d) maintains a written sexual harassment policy and informs our employees of the policy.
6. When issuing this Submittal of Qualifications, as an employer, we are in full compliance with Act Number 5 of December 30, 1986, as amended, also known as Organic Act for the Administration of Child Support Enforcement of the Government of Puerto Rico.
7. The Submittal of Qualifications have been prepared and developed without collusion with other eligible proponent and without effort to preclude the PRPA from obtaining the best competitive Submittal of Qualifications.
8. If an agreement is reached with the PRPA, we will be registered to do business in Puerto Rico and have any required business and professional licenses.

9. We understand that violation of these certifications may lead to resolution of the agreement resulting from this RFQ without prior notice.
10. No PRPA's official, employee, or contractor involved in this procurement has a financial interest in this contract, purchase, or commercial transaction, and neither has had, directly or indirectly, financial interest in this company for the last four years.
11. No PRPA's official, employee, or contractor solicited or accepted, directly or indirectly, for his/her, some member of its family unit or any other person, gifts, allowances, favors, services, donations, loans, or any other thing of monetary value.
12. No PRPA's official, employee, or contractor associated with this transaction solicited or accepted valuable goods from any person from my entity as payment to complete the duties or responsibilities of his/her job.
13. No PRPA's official, employee, or contractor asked, directly or indirectly, for him/her, or any member of his/her family unit, nor any other person, business or entity, valuable goods, including gifts, loans, pledges, or favors in exchange of acting to favor me or my entity.
14. I have no relationship within the fourth level of consanguinity or second of affinity with any employee that has the power to influence or participate in the organizational decisions of the PRPA.
15. Our company meets the appropriate state licensing requirements, for the corresponding services (ej. engineer, architect, etc.) to practice in Puerto Rico.
16. Our company has not had a record of substandard work within the last five (5) years.
17. Our company has not engaged in any unethical practices within the last five (5) years.
18. Our company acknowledges its complete responsibility for the entire contract, including payment of any and all charges resulting from the contract.

Company: _____

Representative Name: _____

Signature: _____

Date: _____

APPENDIX F

SUBMITTAL CHECKLIST

Requirement	Included	Not Included	Not Applicable
Cover Letter (signed) (<i>see, Section IX.D.a</i>)			
Qualifications submittal, to include:			
<ul style="list-style-type: none"> • Background and Experience (<i>see, Section IX.D.b</i>) 			
<ul style="list-style-type: none"> • Certificate of Authorization to Do Business in Puerto Rico 			
<ul style="list-style-type: none"> • Personnel/Professional Qualifications (<i>see, Section IX.D.c</i>) 			
<ul style="list-style-type: none"> • Financial Capacity - Certified, audited financial statements, including balance sheet and income statement or tax records (previous three years) (<i>see, Section IX.D.d</i>) 			
<ul style="list-style-type: none"> • Financial Capacity – Demonstration of financial ability to cover firm’s expenses based on a 30, 60, 90, and 120-day billing cycle (<i>see, Section IX.D.d</i>) 			
Appendix B: Federal Provision Compliance Certification (signed)			
Appendix C: Nepotism Statement (signed)			
Appendix D: Non-Collusion Statement (signed)			
Appendix E: State Provision Compliance Certification (signed)			

APPENDIX G

GENERAL TERMS AND CONDITIONS
[Please see attached]



GOVERNMENT OF PUERTO RICO

Ports Authority

PROFESSIONAL SERVICES AGREEMENT

AP-_____

In San Juan, Puerto Rico, this _____ day of _____, 2020.

APPEARS

AS PARTY OF THE FIRST PART: THE PUERTO RICO PORTS AUTHORITY, a public corporation and governmental instrumentality of the Government of Puerto Rico, created by the Law No. 125, approved May 7, 1942, as amended (“Act No. 125”), known hereafter as the “Authority” or “PRPA”, and represented by its acting executive director, Joel A. Pizá Batiz, esquire, of legal age, married, and resident of San Juan, Puerto Rico.

AS SECOND PARTY: [NAME OF ENTITY], a [TYPE OF ENTITY] organized under the laws of the State of [STATE] and duly authorized to do business in Puerto Rico, with registry number [REGISTRY NUMBER], known hereafter as the “Consultant”, and represented by its [TITLE OF AUTHORIZED REPRESENTATIVE], [NAME OF AUTHORIZED REPRESENTATIVE], [PROFESSION], of legal age, [MARITAL STATUS], and resident of [COUNTY/MUNICIPALITY, STATE], with license number [LICENSE NUMBER] who has been Authorized by a corporate resolution.

WITNESSETH

WHEREAS, the Authority is aware of the importance for [SERVICES] during [PROJECT].

WHEREAS, on [____], the PRPA issued a Request for Qualifications for Civil Engineering and Mechanical Professional (CEMP) Design, Electrical Protection Study, Environmental Data Collection, and Permitting, and further related Documents and Services for the Construction of a combined Heat and Power Cogeneration Project (the “RFQ”) under the Federal Emergency Management Agency (“FEMA”) Hazard Mitigation Program (“HMGP”).

WHEREAS, on [____], Consultant submitted to PRPA its response to the RFQ (the “Proposal”).

WHEREAS, on [____], Consultant was awarded this agreement pursuant to the RFQ published by PRPA.

WHEREAS, after considering the Proposal, and evaluating the further needs of PRPA, the Parties have agreed as to the services to be provided to PRPA by the Consultant.

WHEREAS, PRPA wishes to engage the Consultant to provide the services described in Exhibit A.

WHEREAS, as stated in the RFQ and the Proposal, Consultant has the expertise to provide the services required with the highest degree of professionalism and is available and willing to offer such services.

THEREFORE, by virtue of the power conferred to the Authority by Act No. 125 the parties have agreed to sign this Professional Services Agreement (the “Agreement”), subject to the following:

TERMS AND CONDITIONS

ARTICLE 1. SCOPE OF SERVICES

The Consultant will provide the Authority the services set forth in Exhibit A, attached hereto, as entrusted by the acting Assistant Executive Director of Planning, Engineering, Construction and Environmental Affairs of the Authority or his authorized representative.

ARTICLE 2. AUTHORIZED REPRESENTATIVE

The [TITLE OF AUTHORIZED REPRESENTATIVE] or an authorized representative(s) of the Authority shall be responsible for ensuring faithful compliance with the provision of this Agreement.

ARTICLE 3. EFFECTIVENES

Unless terminated earlier, this Agreement is effective from [EFFECTIVE DATE] until [EXPIRATION DATE] (“Term”), provided that the Term may be extended by amendment executed in writing by both parties. This Agreement may be renewed for successive [___] terms (each a “Renewal Term”) in writing by the parties, executed not less than three (3) months prior to the expiration of the Term or any Renewal Term, as applicable.

ARTICLE 4. COMPENSATION

- A. The maximum amount payable by the Authority under the terms of the Agreement will not exceed [AMOUNT]. The Authority shall not make any payment in excess of the amount provided in this clause, whether or not the Consultant, exceeds the same regardless of the reasons that the Consultants may have for said excess unless authorized in writing by the Authority. *This certification meets with the legal provisions and other rules established by the Office of the Comptroller. This Agreement meets the OE-2017-001 about the ten percent (10%) reduction of professional services agreements.*
- B. The Consultant’s services shall be paid as set forth below:
[BREAKDOWN OF THE COST]

- C. The Authority shall make all payments under this Agreement from the professional and services account [ACCOUNT NUMBER]. The obligations of the Authority to make payment under this Agreement are expressly subject to appropriations by the Authority of funds that are lawfully available to be applied to such purpose. Expenditures on services provided and invoiced under this Agreement shall be subject, at all times, to the availability of funds allocated and property certified. No services or expenditures will be paid, unless they have been referred or certified by the [TITLE].
- D. When payment made by the Authority under this Agreement has reached seventy-five percent (75%) of the maximum amount, the Consultant shall give written notice of this fact to the Authority and submit an estimate of the time and budget needed to complete the referred services.

ARTICLE 5. EXPENSE, TRAVEL AND AUTHORIZATION OF PAYMENTS

- A. The Authority will not reimburse expenses for messaging services, copies, faxes, emails, phone calls, mileage, or parking, unless otherwise authorized in writing by the Authority.
- B. The Authority's reimbursement of expenses shall be made based upon the present value, without any additional costs. Said reimbursement payments are subject to the standards set by the Government of Puerto Rico and the Authority for the payment thereof. Prior to payment, the Consultant shall submit evidence of having incurred in said expenses, together with evidence of the Authority's approval. Payment for the expenses will be met from the maximum amount provided in Article 4(A) of this Agreement.
- C. The Consultant requires prior written consent from the Authority to incur in air travel expenses, which will be refunded within the parameters of the government spending. The Authority shall not reimburse expenses incurred for air travel in First Class or Business Class, as only Economy Class will be paid.
- D. The Consultant shall not incur in any obligation or fund expenditures on behalf of the Authority, during the Term of this Agreement without the express written consent of the Authority. The Consultant shall inform and coordinate with the Planning, Engineering and Construction Department, or its authorized representative, the expenses related to the services and tasks to be performed under this Agreement.

ARTICLE 6. INVOICES

- A. The Consultant shall submit to the project manager assigned by the Authority, the invoices in original, certified in duplicate and signed in original by an authorized officer, which shall

describe in detail the services provided, the period of time covered and the corresponding record of hours worked by the personnel offering the services and a description of the work rendered. Any invoice that is not submitted to the project manager of the Authority shall not be processed for payment.

- B. The Acting Assistant Executive Director of Planning, Engineering, Construction and Environmental Affairs in charge of administering this Agreement, or its authorized representative, will review in detail the correctness of said invoice and, when found appropriate, will certify the services and submit the invoices for payment.
- C. All invoices submitted by the Consultant shall contain the following certification:
“Under penalty of absolute nullity, I hereby certify that none of the employees of the Puerto Rico Ports Authority are parts or have any interest in the profits or benefits obtained from the Agreement upon which this invoice is based on, or if they have part or any interest in the profits or benefits from this Agreement, a dispensation must have been previously approved. The only consideration for submitting the goods and services object of this Agreement has been the payment agreed upon with the Authority’s authorized representative. The amount in this invoice is true and correct and all the services have been rendered and no payment has been received.”
- D. The Authority will not pay the Consultant for any invoice that does not contain the aforementioned certification.
- E. In addition, the Authority reserves the right to review the books and perform audits of services rendered by the Consultant under this Agreement.
- F. If the Consultant owes a sum of money to the Authority because the Authority paid in excess of the Agreement’s maximum amount, or for any other valid reason, Consultant authorizes the Authority, to make the adjustment and necessary deductions from the corresponding reconciliation.
- G. The Consultant acknowledges and agrees that final payment shall not to be made under this Agreement until the Consultant submits a Debt Certification indicating that it has no debt with the Department of Treasury. Also, the Consultant accepts and agrees to cancel any debt that cannot clear up with the Department of Treasury, through the retention of the payment it is entitled to receive under this Agreement, as required by the Circular Letter 1300-29-19 of June 25, 2019 amending Circular Letter 1300-16-16 of the Department of the Treasury.
- H. The Consultant acknowledges that Aerostar Airport Holdings LLC (“Aerostar”), as operator of the Luis Muñoz Marín International Airport¹, may from time to time make payments on behalf

¹ The Authority and Aerostar entered into a Lease Agreement, dated July 24, 2012, as amended, whereby Aerostar

of the Authority for authorized invoices and agrees to accept these payments as if they were done by the Authority.

ARTICLE 7. AGREEMENT EFFECTS, FISCAL RESPONSIBILITY AND REQUIRED DOCUMENTS

- A. The parties are independent contractors as to each other. Nothing in this Agreement shall be construed as creating any agency or employment relationship. Neither party shall make any representations tending to create an apparent or implied agency or employment relationship. Neither party has the authority to act for the other or to create obligations or debts binding on the other. Neither party shall be responsible for any obligations or expenses incurred by the other.
- B. This Agreement does not constitute any agency agreement, partnership or employment between the parties and shall not have the effect of conferring employee status to officers, employees or any other person employed by the Consultant. The Consultant shall not be entitled to fringe benefits granted to the government employees.
- C. The Consultant acknowledges that this is solely responsible to pay for wages, salaries or emoluments of the personnel used to provide these services. Also, the Consultant will be solely responsible to pay for the State Insurance Fund, unemployment insurance and any other insurance required by law. The Consultant shall also make the appropriate deductions on Federal Social Security and Income Taxes to said personnel wages and salaries.
- D. On the other hand, the Authority shall be responsible to deduct payments made to the Consultant regarding income tax, the applicable percentage according to the provisions of the Internal Revenue Code of Puerto Rico, 2011, as amended, and Regulations, unless the Consultant submit the Authority a Certificate of Waiver issued by the Secretary of the Treasury, in accordance with applicable Regulations in force at the time payment is made. Also, in compliance with Act No. 48-2013, as amended, a special contribution of one-point five percent (1.5%) will be retained for all professional services, consulting, advertising, training, or guidance agreements. This special contribution does not apply if the service is provided by individuals whose aggregate amount of government hiring (including agencies and public corporations) does not exceed fifty thousand dollars (\$50,000.00) annually. Any partial or total waiver the Consultant may have does not apply to this special contribution.

became the operator of the Luis Muñoz Marín International Airport.

- E. The Consultant certifies that it is duly organized and existing validly as a [TYPE OF ENTITY] under the laws of the Government of Puerto Rico, with full power and authority to perform all activities undertaken by it (or currently planned to take place). The Consultant owns, possesses, or has obtained all licenses, permits, orders and other governmental authorization necessary to conduct business in the Government of Puerto Rico as it is currently conducted. The Consultant certifies that the transactions made in this Agreement are within its powers and have been duly authorized by corporate resolution to that effect.
- F. The Consultant certifies and warrants that, at the time of the execution of this Agreement, it has fulfilled the tax obligations for the past five (5) years prior to the effective date of this Professional Services Agreement, including the filing of Income Tax Return and Sales and Use Tax for the past sixty (60) taxable periods (months) and does not have any current debt with the Government of Puerto Rico, relating to Income Tax, Sales and Use Tax, real property, personal property or excise taxes, or otherwise has a payment plan in place and is currently complying with its terms, contributions for unemployment insurance, non-occupational temporary disability and drivers' Social Security taxes required by the Department of Labor and Human Resources of Puerto Rico or child support to ASUME (by its Spanish acronyms), as applicable, as defined in the Administrative Bulletin No. OE-1991-24 issued By the Governor of the Commonwealth of Puerto Rico on June 18, 1991, as amended, and Circular Letter 1300-29-19 of June 25, 2019 amending Circular Letter 1300-16-16 issued by the Department of Treasury.
- G. The Consultant hereby certifies that if there is any judicial or administrative order demanding payment or any economic support under the Act for the Improvement of Family Assistance and for the Support of the Elderly (known in Spanish as "Ley de Mejoras al Sustento de Personas de Edad Avanzada de Puerto Rico"), Act. No. 168-2000, as amended, the same is current and in all aspects in compliance.
- H. Pursuant to the provisions of Act No. 237-2004, as amended, the following documents are made part of this Agreement:
- Certification of No Debt, issued by the Department of Treasury (Form 6096);
 - Certification of Tax Filing for the past five (5) years, issued by the Department of Treasury (Form 6088)
 - Certification of Tax Filing for Sales and Use ("IVU") for the past sixty (60) taxable periods (Model 2942);
 - Certification of Filing Personal Property Tax;

- Copy of the Certificate of Registration of Traders (Model SC 2918);
 - Certification of Debt for All concepts issued by the Center for Municipal Revenues Collections (“CRIM”, by its Spanish acronyms);
 - Certification of Registration as an Employer and of Debt regarding Unemployment and Disability Insurance, issued by the Department of Labor and Human Resources;
 - Certification of Registration as an Employer and of Debt regarding Drivers’ Social Security;
 - Certificate of Good Standing [Corporations]; and,
 - Certificate of no debt, or payment plan and compliance therewith and Worker’s Compensation Insurance policy issued by the Puerto Rico State Insurance Fund Corporation.
- I. Subconsultant, professional or technical personnel used by the Consultant with prior written authorization from the Authority shall comply with the obligations of this Agreement. To be considered subconsultants, twenty-five percent (25%) or more of their time shall be devoted to the services provided under this Agreement. The Consultant shall be responsible to require such subconsultant to provide and certify the required information stated above and notify the Authority about this matter.
- J. The Consultant expressly acknowledges that the certifications listed above are essential to the validity of this Agreement and if incorrect in whole or in part, it will be sufficient cause for the Authority to rescind this Agreement immediately and the Consultant shall repay the Authority all monies paid.

ARTICLE 8. COPYRIGHTS

- A. Any design, model or product of this Professional Services Agreement will be considered the sole property of the Authority, which shall have the absolute rights over them, with the understanding that the Consultant shall have no right whatsoever over the products developed as part of this Agreement.
- B. All documents and information provided by the parties and/or Aerostar for the duration of the Agreement, as well as all correspondence, reports, research, information or material relevant to this Agreement, obtained as a result of services rendered by the Consultant, shall be owned by the Authority and cannot be used by the Consultant for any purpose, without the prior written consent of the Authority, even after completion of the Agreement.

- C. By written request of the Authority or at the expiration, cancellation or termination of this Agreement, the Consultant shall provide the Authority any document, information or material owned by the Authority in relation to this Agreement. The unfinished work of the Consultant shall be submitted to the Authority, which shall be entitled to finish the work and use the material and ideas thereof. If necessary, the Consultant shall obtain the consent or approval of any third-party doing business with him for purposes of these services.

ARTICLE 9. CONFIDENTIALITY

The Consultant acknowledges that all information or data provided, obtained, and produced as part of the services under this Agreement shall be considered confidential and, as such, disclosure without the written consent of the Authority is strictly prohibited.

ARTICLE 10. NON-EXCLUSIVITY

Nothing in this Agreement shall be interpreted as limiting the Consultant's right to freely exercise its profession, and to conduct any lawful business as any other legal entity engaged in business, and the Authority's right to use consultants to other matters it deems relevant.

ARTICLE 11. PROFESSIONAL ETHICS

The Consultant is aware of the ethical standards of its profession, assuming responsibility for its actions. The Consultant agrees to provide competent and diligent services, pursuant to the Codes of Ethics governing its profession and making the best efforts in order to obtain fair and reasonable solutions for the Authority. The Consultant shall also immediately notify the Authority of any situation of importance in relation to the issues herein referred to and shall consult any important decision related to them. The Consultant shall not incur in any obligation regarding transactions or payment agreements without the express written approval of the Authority and is subject to the approval of the Board of Directors, if required, depending on the amount in question.

ARTICLE 12. GOVERNMENT ETHICS, CRIMES AGAINST THE TREASURY AND OTHERS

- A. The parties declare and certify that no official or employee of the Authority or any member of its household has pecuniary interest direct or indirect profits or benefits product of the present Agreement.
- B. The Authority certifies that none of its officials or employees who have the right to approve or authorize this Agreement, or any member of its household, have, or have had over the last four (4) years prior to her position, directly or indirectly, pecuniary interest with the Consultant.

- C. The Consultant certifies that neither it nor any of its shareholders, partners, officers, key employees, subsidiaries, or parent companies:
1. Have been convicted, or found probable cause for arrest, for any offense against the purse, faith and public service; against the government exercise; or that involve money or public property, at federal or state level.
 2. Have been convicted of offences against public integrity, as defined in the criminal code, misappropriation of public funds and that it has not declared guilty of a felony in state court of the Government of Puerto Rico, in the federal courts or the courts of any other jurisdiction of the United States of America, or any other country. Be guilty of the offences mentioned above, the Agreement shall be terminated.
 3. Have family that being public servant involved or have access to the process of decision making to determine the need for the services covered by this Agreement, or in the process of negotiating and granting the same, or have particular interests in case or matter of any kind that might create a conflict of interest or public policy during the provision of the services agreed under this Agreement and will not accept any agreement that may cause a conflict of interest or public policy with the Authority.
 4. Have employees, officers, directors or shareholders, as the case may be, that have served as civil servant or public employee related to specific services provided by virtue of this Agreement, within the two (2) years preceding the signing of the same.
- D. The Consultant certifies that in the act of granting of the Agreement received a copy and agrees to be bound by the provision of Act No. 2-2018, which settles, in Spanish language: TÍTULO III. CÓDIGO DE ÉTICA PARA CONTRATISTAS, SUPLIDORES, Y SOLICITANTES DE INCENTIVOS ECONÓMICOS DEL GOBIERNO DE PUERTO RICO (TITLE III. CODE OF ETHICS FOR CONTRACTORS, SUPPLIERS, SERVICES AND APPLICANTS OF ECONOMIC INCENTIVES OF THE GOVERNMENT OF PUERTO RICO”), the Puerto Rico Government Ethics Law and signed the certification of absence of conflict of interests, as provided in the letter Circular No. 2002-05 the Office of Government Ethics of Puerto Rico.
- E. The Consultant certifies that it does not receive compensation as regular employee of any agency, public corporation, municipality, or government agency, and that it has not signed any

agreement with other agency, public corporation, municipality or government agency of the Government of Puerto Rico, except as permitted by law. Also certifies that it is not official “ad honorem” of no agency, public corporation, or government agency of the Government of Puerto Rico.

- F. The Consultant certifies that it has obtained any exemptions required by law of any government entities authorized to grant such waivers, and that copy of these has been given the Authority to be part of the record of employment.
- G. The Consultant acknowledges its duty to inform the Authority on an ongoing basis during the Term of this Agreement any fact which relates with that this Article. This obligation is of a continuous nature during all stages of the recruitment and performance of the Agreement.
- H. The Consultant certifies and guarantees, for itself and on behalf of its shareholders and officers, that it is not subject to investigation, or civil or criminal proceedings for offences against the public treasury, faith, and public-service related events. The Consultant acknowledges that it has an obligation to inform the Authority in this respect during the Term of the Agreement, and of any investigation or civil or criminal process that it is related to public funds, testimony, public functions and public property at federal or state level.
- I. The Consultant certifies and guarantee that, in order to enter into this Agreement none of the officials or employees of the Authority have: (i) solicited or accepted, directly or indirectly for his/her, some member of its family unit or any other person gifts, allowances, favors, services, donations, loans or any other thing of monetary value; (ii) accepted valuable goods from any person or entity as a payment to complete the duties or responsibilities of his/her job; nor (iii) has asked directly or indirectly, for his/her, some member of its family unit or any other person, business or entity, valuable goods, including gifts, loans, pledges or favors in exchange for acting to favor de Consultant.
- J. If the Consultant or any of its shareholders or officers are guilty of crimes as defined by the Act No. 2-2018, this Agreement shall be resolved immediately and the Authority shall be entitled to demand the return of benefits that had been made in relation to the agreement directly affected by the commission of the offense.
- K. In accordance with provision of the Act No. 2-2018, the Consultant must file a sworn statement substantially in the form attached hereto as Schedule A.

ARTICLE 13. ADVERSE INTERESTS

- A. The Consultant acknowledges that, in rendering the services, it must be completely loyal to the Authority, including not having adverse interest toward the Government of Puerto Rico. These adverse interests include representing clients who have or may have conflicting interests with the Government of Puerto Rico. This duty also includes a continuing obligation to disclose to the Authority all the circumstances of her relationship with customers and third parties, as well as any interest that may influence the Authority when executing this Agreement or during its Term.
- B. The Consultant makes explicit recognition of the duty not to accept professional or personal interest in any matter to result in conflict of interest with the Authority. In addition, the Consultant certifies that, at present, neither it nor any of its shareholders, partners, officers, principles, employees, subsidiaries or parent companies, have professional or personal interest in any matter that results in conflict of interest with the Authority.
- C. The Consultant has conflicting interests when, on behalf of a client, it is duty to promote what must oppose to in complying with the obligations to any past, current or potential clients. The Consultant also represents conflicting interests when the behavior is described as such in the recognized standards of ethics of its profession, or the laws and regulations of the Government of Puerto Rico. In agreements with partnerships or firms, a violation of this provision will occur if any of her shareholders, directors, partners, or employees incurs in the conduct described herein. The Consultant must avoid even the appearance of the existence of conflicting interests.

ARTICLE 14. INSURANCE AND INDEMNIFICATION

- A. The Consultant shall procure and maintain insurance set forth in Exhibit B. Consultant shall cause the Authority and the operator of the airport, Aerostar to be listed as additional insured on any applicable general liability insurance policy carried by Consultant.
- B. The Consultant shall deliver to the Authority and Aerostar certificates of insurance evidencing the coverages and endorsements indicated in Exhibit B. Such certificates shall be furnished prior to commencement of the services and at renewals thereafter during the Term of the Agreement.
- C. At any time, the Authority may request that Consultant, at the Authority's sole expense, provide additional insurance coverage, increased, limits, or revised deductibles that are more protective than those specified in Exhibit B. If so requested by the Authority, and if commercially available, Consultant shall obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by the Authority and Exhibit B will be supplemented to incorporate these requirements.

- D. The Consultant shall be responsible for the loss or damage of material owned by the Authority under its custody and responsibility, pursuant to the Civil Code of Puerto Rico.
- E. The Consultant shall release, indemnify, and hold harmless the Authority and Aerostar of any penalty, punishment or damages caused by the fault or negligence of the Consultant in any court, administrative body or quasi-judicial entity. In such cases, the Consultant shall defend, indemnify and hold harmless the Authority and Aerostar, its affiliates, agents, officers, employees, shareholders, and authorized representatives from any claims liabilities, costs, expenses, fines, judgments, damages, including attorneys' fees when it has been proven that the Consultant has engaged in negligence, inaction, omission or misrepresentation in the defense of the Authority and Aerostar, as well as violation of law by the Consultant, claims product of the fault or negligence of the Consultant in the procurement; unauthorized obligations incurred on behalf of the Authority made by the Consultant, its agents, employees or third parties hired by the Consultant.
- F. The Consultant shall also release, indemnity and hold harmless the Authority and Aerostar for expenses incurred (including damage, costs and attorneys' fees) in claims and/or legal proceedings filed against the Authority related to libel, defamation, slander, invasion of right of privacy, piracy, plagiarism, unfair competition, misappropriation of ideas, violation of copy right and related claims arising out of the fault or negligence on the Consultant.

ARTICLE 15. TERMINATION

- A. **Termination for Cause.** If, through any cause, Consultant shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the Authority shall thereupon have the right to terminate this Agreement by giving written notice to Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by Consultant under this Agreement shall, at the option of the Authority, become property of the Authority and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, Consultant shall not be relieved of liability to the Authority for damages sustained by the Authority by virtue of any breach of the Agreement by Consultant, and the Authority may withhold any payments to Consultant for the purpose of set-off until such

time as the exact amount of damages due to the Authority from Consultant is determined.

- B. **Termination for Convenience of the Authority.** The Authority may terminate this Agreement at any time by giving at least ten (10) days' notice in writing to Consultant. If the Agreement is terminated by the Authority as provided herein, Consultant will be paid for the time provided and expenses incurred up to the termination date.
- C. **Interagency services clause.** Both parties recognize and agree to provide services to any entity of the Executive Branch with which the contracting entity shall perform an interagency agreement or by direct order of the Chief of Staff of the Governor of Puerto Rico. These services will be under the same terms and conditions as to hours of work and compensation contained in this Agreement. For purposes of this clause, the term "entity of the Executive Branch" includes all agencies of the Government of Puerto Rico, as well as the instrumentalities and public corporations and the Office of the Governor.
- D. **Termination Clause.** The Chief of Staff of the Governor of Puerto Rico shall have the Authority to terminate this Agreement at any time.

All Professional Services Agreement in excess of ten thousand dollars (\$10,000.00) that do not include the clause of interagency services and/or clause of termination is understood to be unauthorized and null from its beginning, including those Agreements granted in cases of emergency, according to defined un the subsection (c) of the section saw of Memorandum No. 2017-001 of the Chief of Staff of the Governor of Puerto Rico, and Circular Letter 141-17 of the Office of Management and Budget of January 30, 2017.

- E. Notwithstanding the aforementioned, the prior notice requirement does not apply, therefore annulling the Agreement immediately and freeing the Authority from any liability there under, when:
 - 1. When probable cause for arrest has been found against the Consultant or any of its shareholders, partners, officers, principals, employees, subsidiaries, or parent companies for an offense against the public finance, faith and public services against government or involving public, funds or property, in the federal or state level.
 - 2. The Consultant, or any of its shareholders, partners, officers, principals, employees, subsidiaries, or parent companies, incurs in negligence, abandons the duty, incurs in misconduct or breaches this Agreement.
 - 3. The Consultant, or any of her shareholders, partners, officers, principals, employees, subsidiaries, or parent companies has been convicted of crimes against public integrity,

as defined in the Penal Code or embezzlement of public funds and has not yet been convicted of the offense in the courts of the Government of Puerto Rico, in the federal courts or the courts of any other jurisdiction of the United States or any other country.

4. Whenever the Authority understands that there is an extraordinary physical situation that warrants immediate spending cuts.
- F. The parties acknowledge that in the event that the funds provided for this Agreement were somewhat limited or canceled for reasons beyond the control of the Authority, this Agreement shall be terminated and will end on the day in which the Consultant is notified in writing that said funds have been adjusted or cancelled. In this case, all services provided by the Consultant, including until the date of the written notice of cancellation or reduction of funds, will be compensated according to the terms of this Agreement. If funds were reduced, the parties will have the opinion to negotiate a new Agreement in writing in conformity with the availability of funds within the budget of the Authority.
- G. Upon completion of the work, either due to cancellation or termination of this Agreement, the Consultant shall submit the Authority a final written report of the services rendered, steps taken, and those pending by the termination date. The Authority will only pay or reimburse the Consultant for services rendered through the date of termination, resolution or expiration as indicated.

ARTICLE 16. AUDIT

FEMA, federal auditors, the Authority or state internal auditors shall have the option to audit all accounts directly pertaining to the Agreement for a period of three (3) years from the date of final payment or as required by applicable state and federal law. Records shall be made available during normal working hours for this purpose.

Also, if the Acting Executive Director of the Authority understands that an adverse interest exists or have arisen with the Consultant, the Consultant will be notified in in writing of the findings and the Authority's intention to terminate the Agreement within thirty (30) days. Within this Term, the Consultant may request a meeting with the Acting Executive Director of the Authority to make the case regarding the determination of conflict period the Acting Executive Director of the Authority will grant said meeting. Upon failure to request the meeting in the aforementioned term of thirty (30) days, or failure to resolve satisfactorily the dispute during the meeting granted, this Professional Services Agreement shall be deemed terminated.

ARTICLE 17. FEDERAL PROVISIONS – Compliance Clauses

The Consultant hereby certifies, represents, and warrants to the Authority that:

- A. No Government Obligation to Third Parties.** The Authority and Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to the awarded contract and shall not be subject to any obligations or liabilities to the Authority, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- B. Program Fraud and False or Fraudulent Statements and Related Acts (31 U.S.C. 3801 et seq).** Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., "Administrative Remedies for False Claims and Statements," apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract for which the awarded contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.
- C. Access to Records and Reports.** The following access to records requirements apply to the awarded contract: (1) The Consultant agrees to provide the Authority, the Government of Puerto Rico, FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to the awarded contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The Consultant agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. Equal Employment Opportunity (20 CFR Part 1630, 41 CFR Part 60 et seq).** During the performance of the awarded contract, the Consultant agrees as follows: (1) The Consultant will

not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, 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. The 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. (2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin. (3) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (4) The Consultant will 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. (5) The Consultant will 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 his 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. (6) In the event of the Consultant's noncompliance with the nondiscrimination clauses of the awarded contract or with any of the said rules, regulations, or orders, the awarded contract may be canceled, terminated, or suspended in whole or in part and the 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 as 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. (7) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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. The Consultant will 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 a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

- E. Government-wide Suspension and Debarment.** By signing and submitting Submittal of Qualifications, Consultant or contractor agrees to comply with the following: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Consultant is required to verify that none of the contractor, its 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). (2) The Consultant must 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. (3) This certification is a material representation of fact relied upon by (insert name of sub-recipient). If it is later determined that the 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 (name of state agency serving as recipient and name of sub-recipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The Consultant or contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Consultant or contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- F. Contract Work Hours and Safety Standards Act (20 CFR §5.5(b)).** (1) Overtime requirements - 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 hours in such workweek. (2) Violation; liability for unpaid wages;

liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States 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 (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section. (3) Withholding for unpaid wages and liquidated damages – the Authority 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 the Consultant or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section. (4) Subcontracts - contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

G. Lobbying (Byrd Anti-Lobbying Amendment, 31 U.S.C § 1352, as amended). Consultants who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies 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. Each tier shall also 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. APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING. Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000). The undersigned

Respondent certifies, to the best of his or her knowledge, 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. (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction 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. § (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to 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.

- H. **Clean Air (42 U.S.C. § 7401 et seq).** 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. The Consultant agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the State of Texas, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. Consultant also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- I. **Clean Water (33 U.S.C. § 1251 et seq).** 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. Consultant agrees to report each violation to the Authority and

understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the State of Texas, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. Consultant also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

- J. Procurement of Recovered Materials (42 U.S.C. § 6962).** (1) In the performance of the awarded contract, the contractor shall make maximum use of products containing recovered materials that are 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. (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- K. Department of Homeland Security Seal, Logo, and Flags.** The Consultant shall not use the DHS seal(s), logo(s), crest(s), or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- L. Compliance with Federal Laws, Regulations, and Executive Orders.** This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Consultant will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

ARTICLE 18. EMAIL OFFICER FOR SUPPLIERS AND CONTRACTORS OF THE GOVERNMENT OF PUERTO RICO

The parties recognize the need to accelerate the communication and processes among the Consultant, suppliers of goods and services, and agencies of the Government of Puerto Rico. In addition, accept the duty to protect and safeguard the record of official activities and the integrity of the content of all official communications and notifications between them, without putting at risk the Government's information system and ensure the safety. Therefore, the parties hereby agree that any natural or legal person that supplement services to the Government, shall be bound to order and use the e-mail account that is provided by the Government with receipt of the suppliers written an official communications with any agency with which there is an agreement, this being the only means of communication and notification authorized, for electronic communications, while this current Agreement. Provided email account will be used for all official communications with the Government

using the domain@Vendors.PR.Gov. These accounts will be activated to perfecting the Agreement, will remain active during the Term, and will be deactivated when the Term expires. In addition, Contractor can reactivate the email account with the renewal of agreements, after the corresponding notifications to the OGP, contracting agency.

ARTICLE 19. NOTIFICATION

Any notice relating to this Agreement shall be made in writing and shall be processed by hand or by registered mail. In addition to the Acting Executive Director of the Authority, or its authorized representative, the Consultant shall send a copy of any notice to the Acting Assistant Executive Director of Planning, Engineering, Construction and Environmental Affairs of the Authority. Notifications to the Authority shall be delivered to the following address:

Puerto Rico Ports Authority
Attn.: Acting Executive Director
PO Box 362829
San Juan, Puerto Rico 00936-2829

Notices to the Consultant shall be equally directed to:

[CONSULTANT]

Attn.: [NAME AND TITLE]

[ADDRESS]

ARTICLE 20. GENERAL PROVISIONS

- A. The failure of either party to object or take corrective action against the other party, for conduct in violation of any of the terms of the Agreement, shall not be deemed a waiver of said terms or any other.
- B. The Consultant shall not assign any rights or delegate any obligations included here without prior written consent of the Authority. Unless specifically stated to the contrary in any written consent to assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. However, upon prior written consent of the Authority, the Consultant may assign the amounts owed by the Authority under this Agreement to a financial institution, as provided by Act No. 16 of May 1, 1967 (3 LPRA sections 901 and 902) as security for payment of any present or future debt that the Consultants has or may have with that financial institution.
- C. This Agreement constitutes the entire agreement between the parties with respect to the service to be provided under it. Any amendment to this Agreement must be made in

writing signed by both parties during the Term pursuant to the Authority's needs, and subject to the availability of funds for the implementation of the amendment.

- D. This Agreement supersedes any other existing expressed or implied agreements between the Consultant and the Authority, and it may not be altered, modified, amended or terminated, except by written agreement.
- E. This Agreement shall prevail over any dispute arising out of interpretation between this and any letter and/or proposal submitted by the Consultant.
- F. The headings used in this Agreement are for reference purposes only and do not constitute an integral part thereof.
- G. It is stipulated that the terms and conditions of this Agreement are separate and apart from each other, and if one or more clauses are declared invalid by a competent court, it shall not affect the validity of the remainder of the Agreement, which will continue in full force and effect.
- H. The Consultant shall use and shall give preference to those items extracted, produced, assembled or packaged in Puerto Rico or distributed by agents established herein, provided that they have to meet the specifications, terms and conditions set forth in the statement of auction or purchase order and its price, after applying the appropriate investment parameters, is the lowest.
- I. The Consultant certifies that it has no demand with the Authority or other agencies, and it has no current agreements with other agencies, and that if it did, they are compatible with the services herein this Professional Services Agreement
- J. The Parties agree not to disclose or reveal either party's social security number used to identify the other party for other purposes not permitted by law and make it illegible, if they come to any copy of this Professional Services Agreement.

ARTICLE 21. JURISDICTION AND APPLICABLE LAW

- A. The parties irrevocably submit to the jurisdiction of the Government of Puerto Rico, Superior Court of First Instance of San Juan, regarding any dispute arising or in relation to this Agreement. Should it be deemed necessary, the Authority will pursue legal action for breach of this Agreement against the Consultant, the Consultant shall pay the

Authority all costs call my expenses and fees.

- B. This Agreement is governed by and shall be construed in accordance with the laws of the Government of Puerto Rico, and any cause of action arising out of it shall be filed only in the courts of the Government of Puerto Rico.

ARTICLE 22. SPECIAL PROVISIONS

- A. **Force Majeure:** No party to this agreement shall be deemed in violation if it is prevented from timely performing any of its obligations by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority, or other circumstances for which the party is not responsible or which is not in its control.
- B. **Licenses and Permits:** Consultant shall secure and maintain all licenses and permits required to fulfill the scope of services of this Agreement.
- C. **Nepotism Statement:** By signing this Agreement, Consultant agrees that no principal of the Consultant is related by blood or marriage to any official or employee of the Authority. Along with the execution of this Agreement, Consultant must deliver to the Authority the certification included in Schedule B.
- D. **Non-Collusion:** The undersigned affirm that they are duly authorized to execute this Agreement, that the Consultant, firm, partnership, or individual has not prepared this Agreement in collusion with any other respondent, and that the contents of this Agreement as to prices, terms or conditions of said Agreement have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of its submittal of qualifications. Along with the execution of this Agreement, Consultant must deliver to the Authority the certification included in Schedule C.
- E. **E-Verify:** Consultant acknowledges and agrees to comply with federal law pertaining to E-Verify in the performance of services under this Agreement.

ARTICLE 23. RECORD IN THE OFFICE OF THE COMPTROLLER

No tradeoffs contained in this Agreement may be required until it is registered in the Office of the Comptroller of the Government of Puerto Rico, pursuant to the provisions of Act No. 18 of October 30, 1975, as amended.

ARTICLE 24. IDENTIFICATION BADGES

In order to provide the services described in this Agreement at the Airport, Consultant must obtain, at its sole cost and expense, Airport Identification Badges (“ID Badges”), which are issued by Aerostar’s Airport Credentials Office. Consultant must deliver within five (5) business days following the execution of this Agreement, a list of the names and position of the personnel providing the services at the Airport.

Consultant will be the sole responsible for any and all ID Badges issued in connection to this Agreement and must comply with any and all requirements, rules and regulations established by Aerostar.

ARTICLE 25. ACCEPTANCE

The parties express their Agreement to all terms and conditions contained in this Agreement, accepting it in its entirety on the day of its execution.

IN WITNESS WHEREOF the parties have signed this Agreement on the date and place indicated at the beginning of this Agreement.

PUERTO RICO PORTS AUTHORITY

[CONSULTANT]

[NAME]
[TITLE]
EIN: [NUMBER]
[ADDRESS]
PHONE: [NUMBER]
FAX: [NUMBER]

[NAME]
[TITLE]
EIN: [NUMBER]
[ADDRESS]
PHONE: [NUMBER]
FAX: [NUMBER]

**EXHIBIT A
SERVICES**

[TO BE INCLUDED]

EXHIBIT B INSURANCE REQUIREMENTS

I. Limits of Coverage

A. Commercial General Liability

\$1,000,000	General Aggregate
\$1,000,000	Products-Completed Operations Aggregate
\$1,000,000	Personal & Advertising Injury
\$1,000,000	Each Occurrence
\$ 100,000	Fire Damage
\$ 10,000	Medical Expense (per person)

Employers Liability (Stop Gap)

\$1,000,000	Each employee, by accident
\$1,000,000	Each accident, by accident
\$1,000,000	Each employee, by disease
\$1,000,000	Each policy, by disease

B. Automobile Liability

Consultant shall carry \$1,000,000 limit per occurrence, any auto, Combined Single Limit for property and bodily injury, if Consultant will be operating vehicles in the public area of the Airport; and \$5,000,000 limit per occurrence, any auto, Combined Single Limit, for property and bodily injury when Consultant will be operating vehicles inside the secured area of the Airport. An umbrella may be utilized to reach the aforementioned limits.

C. Professional Liability

Consultant shall maintain Protective Professional Indemnity insurance in the amount of no less than \$5,000,000 of professional liability coverage. Consultant's Protective Professional Indemnity shall provide for third party professional liability claims, as well as first party indemnity.

II. Endorsements. The Commercial General Liability Policy, Employers Liability Policy (Stop Gap), Worker's Compensation Insurance Policy, Professional Liability Policy and Automobile Liability Policy shall include the following endorsements:

A. Additional Insured. The following entities shall be named as an Additional Insured:

PUERTO RICO PORTS AUTHORITY
PO BOX 362829
SAN JUAN, PR 00936-2829

AEROSTAR AIRPORT HOLDINGS, LLC
PO BOX 38085
SAN JUAN, PR 00937-1085

B. Waiver of Subrogation. Consultant must include, in favor of the Additional Insured the following endorsement:

"The insurer hereby waives its right of subrogation against the PUERTO RICO PORTS AUTHORITY and AEROSTAR AIRPORT HOLDINGS, LLC, and any affiliated, associated

and/or subsidiary corporation or companies and/or any partners, officers, and/or individuals connected therewith. This insurance shall not be invalidated, should the insured warrant in writing prior to a loss, any or all rights of recovery against any party for loss occurring to the property described herein.”

- C. **Hold Harmless.** Consultant must include, in favor of the Additional Insured the following endorsement:

“The Insured shall defend, indemnify and hold harmless THE PUERTO RICO PORTS AUTHORITY and AEROSTAR AIRPORT HOLDINGS, LLC, as well as their corresponding affiliates, members, officers, directors, managers, employees and agents, and their respective successors and assignees (collectively, the “Additional Insured”), from and against any and all causes of action, claims, demands, losses, liens, liabilities, suits, damages, fines, costs or expenses of any nature whatsoever (including, without limitation, attorney's fees, other costs of legal defense, claims for personal injury, death and damage to property, clean-up costs commodity spills and damage to the environment) that the Additional Insured may incur, suffer or be required to pay arising from, in connection with, or relating to, directly or indirectly, to any acts or omissions by the Insured, its officers, members, shareholders, partners, affiliates, directors, employees, agents or contractors, related to the services provided by the Insured at the Luis Muñoz Marín International Airport or its business operations at the Luis Muñoz Marín International Airport and its insurers shall defend the Additional Insured from such claims, demands and/or suits and shall bear all the expenses for such defense contemplated within the coverages and limits provided by this policy.”

- D. **Notice of Cancellation.** Consultant must include, in favor of the Additional Insured the following endorsement:

“The coverage of this policy cannot be amended with the purpose of reducing the protection below the limits herein specified or any other circumstance, nor can the same be canceled without the previous written notification to the Additional Insured within thirty (30) days in case of non-renewal of the policy.”

- III. **Worker’s Compensation Insurance.** Consultant shall carry Worker’s Compensation Insurance in the Commonwealth’s Insurance Fund for all their employees in accordance with the Commonwealth of Puerto Rico (Workmen’s Accident Compensation Act of Puerto Rico) or federal law, whichever prevails.
- IV. **Commonwealth of Puerto Rico Disability Benefits Insurance.** Consultant shall carry Employee Disability Insurance in compliance with the Disability Benefits Act of 1968 (Law #139 of June 26, 1968, effective July 1, 1969) or any other plan authorized by that law.
- V. **Unemployment Insurance, etc.** Consultant shall pay all Commonwealth of Puerto Rico and federal taxes for unemployment insurance, or any other security tax with respect to all of its employees engaged in the performance of this Agreement, and agrees to pay the same, and further agrees to meet all requirements that may be specified in regulations now or hereafter, promulgated from time to time.

SCHEDULE A

GOVERNMENT OF PUERTO RICO PORTS AUTHORITY

SWORN STATEMENT

I _____, by myself or, in representation of _____, of legal age, (profession) _____, (marital status) _____ and a resident of _____, under the most solemn oath,

I HEREBY SWEAR AS FOLLOWS:

1. That my personal circumstances, or the circumstances of the corporation, professional corporation, partnership, cooperative or limited liability company (herein after referred as the “institution”).
2. That neither the undersigned, nor the institution have been convicted, nor have pleaded guilty at a state or federal court in any jurisdiction of the United States of America of crimes according to Article 24 (subsection (e)) of the Act No. 2-2018. That I recognize that crimes in above mentioned law are:
 - (1) aggravated illegal appropriation, in all its forms;
 - (2) extortion;
 - (3) construction fraud;
 - (4) construction fraud in carrying out work;
 - (5) fraud in the delivery of goods;
 - (6) unlawful and unwarranted intervention in bid contracting processes or in the operations of the Government;
 - (7) bribery in all its forms;
 - (8) aggravated bribery;
 - (9) offering bribes;
 - (10) undue or unlawful influence;
 - (11) offences against public funds;
 - (12) preparation of false documents;
 - (13) submitting false documents;
 - (14) falsifying documents;
 - (15) possession and transfer of forged document.
3. That I subscribe this sworn statement in conformity with what is established in Article 24 (subsection (e)) of the Act No. 2-2018.
4. Should I or the corporation, if such is the case, has(ve) been convicted of any crimes shown in the second paragraph, such crime or crimes should be disclosed. In addition, information as to the jurisdiction were the crime(s) was committed, as well as the year and the number of the case should be provided.
5. That I understand and accept that any guilty plea or conviction for any of the crimes in Act No. 2-2018 of said Act, will also result in the immediate cancellation of any contracts in force at

the time of conviction, between the undersigned, the corporation, on any special society that I may represent, and any government entity, public corporation or municipality. (If the information was affirmative, the crimes which the person was been found or pleaded guilty must be specified).

6. That neither the signer, nor the institution that I may represent has been convicted, nor has pleaded guilty of crimes in the federal jurisdiction, or in the jurisdiction of any state or territory of the United States of America or any other country, for crimes whose elements are equivalent to those enumerated in Article 24 (subsection (e)) of the Act No. 2-2018.
7. That the undersigned, or the institution that I may represent _____ is or _____ is not (mark one of the previous) under investigation in any legislative process, judicial or administrative proceeding, whether in Puerto Rico, the United States of America or any other country, to participate in the award or grant of any auction or contract, respectively.
8. That the undersigned, or the institution that I represent are committed to comply with the Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Government of Puerto Rico provided in the Act No. 2-2018.
9. That I make this sworn statement so that any government entity, public corporation or municipality may have knowledge of what is herewith declared and for any other administrative and/or legal purpose that may be required.

AND SO AS TO MAKE IT KNOWN, I hereby swear and sign this statement in _____ on this _____ day of _____ of _____.

DEPONENT

AFFIDAVIT NUMBER: _____

SWORN AND SUBSCRIBED before me by _____, with the aforesaid personal circumstances and whom I have identified by means of a _____, in _____, on this _____ day of _____.

NOTARY PUBLIC

SCHEDULE B
NEPOTISM STATEMENT

The Consultant or any officer, if the Consultant is other than an individual, shall disclose whether Consultant has a relationship, either by blood or marriage, with any official or employee of the Authority by completing the following:

If Consultant is an individual:

- I am not related by blood or marriage to any official or employee of the Authority.
- I am related by blood or marriage to the following official(s) or employee(s) of the Authority:

Name of the Authority's official or employee: _____

Relationship: _____

If Consultant is not an individual:

- The officers of the company submitting these Submittal of Qualifications are not related by blood or marriage to any official or employee of the Authority.
- The officers of the company submitting these Submittal of Qualifications are related by blood or marriage to the following official(s) or employee(s) of the Authority:

Name of company officer: _____

Title of company officer: _____

Name of the Authority's official or employee: _____

Relationship: _____

SCHEDULE C
NON-COLLUSION STATEMENT

The undersigned affirm that they are duly authorized to execute the Agreement, that this company, firm, partnership, or individual has not prepared this Agreement in collusion with any other respondent, and that the contents of this Agreement as to prices, terms or conditions of said Agreement have not been communicated by the Consultant nor by any employee or agent to any other person engaged in this type of business prior to the official opening of its submittal of qualifications.

Consultant: _____

Address: _____

Phone: _____

Email: _____

Name of Consultant's Authorized Representative: _____

Position: _____

Signature: _____

Date: _____