GOVERNMENT OF PUERTO RICO
Local Redevelopment Authority
for Roosevelt Road

ADDENDUM NO. 2
ISSUED ON JUNE 5, 2018

REFERENCE:

REQUEST FOR PROPOSALS
RFP 2018-001

MICROGRID ENERGY DISTRIBUTION AND GENERATION
for
ROOSEVELT ROADS, CEIBA, PUERTO RICO

Issued by the Local Redevelopment Authority
for
Naval Station Roosevelt Roads ("LRA")

Proposal Deadline for Respondents:
July 9, 2018, at 4:00 P.M. AST

One (1) Original, Six (6) Copies and One (1) Electronic Version of Each Proposal
Shall Be Submitted To:

Local Redevelopment Authority for Naval Station Roosevelt Roads
Fomento Industrial Building
#355 Roosevelt Ave. Suite 106
Hato Rey, PR 00918

For more information, visit
www.rooseveltroads.pr.gov

This addendum has been issued to address the following revisions to the Request for Proposals RFP 2018-001, Microgrid Energy Distribution and Generation for Roosevelt Roads document, published by the LRA on May 1, 2018:

1. DELETE the following item (shown as ~~strikethrough~~ text), and **INSERT** the following items (shown in red), on page 26, **Exhibit A Microgrid Management Agreement:**

Note: ~~Will be~~ Is available on the LRA's website ~~shortly~~.

END

EXHIBIT A

MICROGRID MANAGEMENT AGREEMENT

This Microgrid Management Agreement ("**Agreement**"), effective as of [_____], 2018 (the **Effective Date**"), is by and between the Local Redevelopment Authority for Naval Station Roosevelt Roads (the "LRA") and _____, a _____ [Jurisdiction] _____ [entity type] ("**Services Provider**"). Services Provider and the LRA are sometimes referred to herein individually as a "**Party**" or collectively as the "**Parties**."

RECITALS

WHEREAS, the LRA seeks to have Services Provider provide a series of electrical distribution and generation services to serve end-use customers at certain areas of the former Naval Station Roosevelt Roads ("**Roosevelt Roads**") in the municipalities of Ceiba and Naguabo, Puerto Rico, as more particularly described in **Exhibit A** (the "**Site**"), in order to provide such customers with superior electric reliability;

WHEREAS, the Parties are entering into this Agreement in connection with the Request for Proposal issued by the LRA on May 1 , 2018 (the "**RFP**"); and

WHEREAS, Services Provider agrees to provide such electric services to end-use customers at the Site, as further described in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1 –RELATIONSHIP BETWEEN THE PARTIES

1.1 Actions by Services Provider. Services Provider shall provide all Distribution Services and Generation Services (as defined below, and collectively, the "**Services**"), as well as all other applicable and associated actions required to effectively provide the Services to End Use Customers (as defined below).

1.2 Ownership of Distribution System. Ownership of the Distribution System (as defined below) shall reside with the LRA, and such ownership structure shall not be altered or interpreted to be altered by the provision by Services Provider of the Services or under any applicable law or regulation, including without limitation the Final Microgrid Regulations issued on May 16, 2018, by the Puerto Rico Energy Commission at http://energia.pr.gov/wp-content/uploads/2018/05/Resolution-Adoptation- of-Microgrid-Regulation-Final.pdf (the "**Final Microgrid Regulations**"), without the prior approval of the LRA in its sole discretion.

1.3 Ownership of Generation Resources. Any and all electrical generation systems, including without limitation fossil fuel and/or renewable energy based systems as permitted by the Final Microgrid Regulations (collectively, the "**Generation Resources**") constructed or installed by the Services Provider, shall be owned by either the Services Provider, or, with the Services Provider's consent, a third party pursuant to one or more contracts with Services Provider (a "**Third Party Generation Provider**").

ARTICLE 2 –TERM

2.1 Term. The term of this Agreement shall commence on the Effective Date and terminate on the date that is [_____] ([____]) years after the Effective Date, unless terminated sooner in accordance with terms specified herein (the "**Term**"). Upon the termination of this Agreement pursuant to this Section 2.1, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination (without regard to obligations that shall survive the termination of this Agreement in accordance with Section 18.10).

ARTICLE 3 –DISTRIBUTION SERVICES

3.1 Distribution Services. Services Provider shall provide the following distribution management services (collectively, the "**Distribution Services**") to the LRA:

3.1.1 Services Provider shall be responsible for procuring, building, financing, constructing and operating all equipment necessary to operate an integrated electrical distribution system within the Site as more particularly described in **Exhibit B** (the "**Distribution System**").

3.1.2 Services Provider shall be responsible for all operations on the Distribution System necessary to transmit and deliver electricity to all residential, commercial and industrial customers that are interconnected to and receive electrical power from the Distribution System, whether located on of off of the Site ("**End-Use Customers**").

3.1.3 Services Provider shall be responsible for all necessary maintenance, repairs and applicable replacements of any equipment that is part of the Distribution System.

3.1.4 Services Provider shall (i) prepare and submit for LRA approval an emergency plan to minimize the occurance of any disruptions in service or outages that may occur on the Distribution System, and (ii) following the approval of such plan, maintain the capability to implement such plan should the need arise.

3.1.5 Services Provider shall perform all other Distribution Services-related duties at the Site as reasonably requested by the LRA.

3.2 Distribution Performance Standards. Services Provider shall manage, maintain, operate, repair and otherwise cause the electrical capacity and operability of the Distribution System to scale in accordance with the "**Distribution Performance Standards"** (as set forth and defined in **Exhibit C**). In the event Services Provider fails to achieve the Distribution Performance Standards during any calendar quarter during the Term, or in the reasonable determination by the LRA that such failure has occurred or is likely based on any factors, including but not limited to End-Use Customers' load demand during any such applicable quarter, Services Provider shall, at its sole cost and expense, promptly make repairs, replacements and/or improvements as may be required to satisfy the electrical capacity and operability of the Distribution System to scale in accordance with the Distribution Performance Standards. Upon the completion of such repairs, replacements and/or improvements, Services Provider shall prepare and deliver to the LRA any and all applicable reports evidencing the achievement of the Distribution Performance Standards.

ARTICLE 4 –GENERATION SERVICES

4.1 Generation Services. Services Provider shall provide the following generation resource management services (collectively, the "**Generation Services**") to the LRA:

4.1.1 Services Provider shall be responsible for procuring, building, financing, constructing and operating all equipment necessary to allow electrical output produced by Generation Resources, regardless of ownership, to be injected onto the Distribution System, in accordance with the requirements specified in **Exhibit D**.

4.1.2 For Generation Resources owned by the Services Provider, Services Provider shall be responsible for all operations required for such Generation Resources to produce, interconnect and deliver electricity to the Distribution System at the applicable Distribution System Point of Interconnection (as that term is defined in **Exhibit E**).

4.1.3 For Generation Resources owned by a Third Party Generation Provider, the Services Provider shall ensure that the Third Party Generation Provider provides all operations required for such Generation Resources to produce, interconnect and deliver electricity to the Distribution System at the Distribution System Point of Interconnection.

4.1.4 Services Provider shall perform all other Generation Services-related duties at the Site as reasonably requested by the LRA in the specific location set forth in **Exhibit A**.

4.2 Generation Performance Standards. Services Provider shall manage, maintain, operate, repair and otherwise cause the electrical capacity and operability of all Generation Resources, regardless of ownership, to scale in accordance with the "**Generation Performance Standards**" (as set forth and defined in **Exhibit F**). In the event Services Provider fails to achieve the Generation Performance Standards during any calendar quarter during the Term, or in the reasonable determination by the LRA that such failure has occurred or is likely based on any factors, including without limitation to existing or predicted End Use Customers' load demand during any such applicable year, Services Provider shall, at its sole cost and expense, promptly make repairs, replacements and/or improvements as may be required to cause the electrical capacity and operability of all Generation Resources, regardless of ownership, to scale in accordance with the Generation Performance Standards. Upon the completion of such repairs, replacements and/or improvements, Services Provider shall prepare and deliver to the LRA any and all applicable reports evidencing the achievement of the Generation Performance Standards.

ARTICLE 5 –STANDARD OF CARE AND RELATED RESPONSIBILITIES

5.1 Standard of Care. Services Provider shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with prudent utility practices for similar services and shall devote adequate resources to meet its obligations under this Agreement in a timely and reliable manner.

5.2 Services Provider's Generation Services Obligations.

5.2.1 Services Provider shall:

(a) before the date on which the respective Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary permits, licenses and consents and comply

with all relevant laws and regulations applicable to the provision of such Services, including without limitation the Final Microgrid Regulations and Reglation 8701 of the Puerto Rico Energy Commission;

(b) comply with all rules, regulations and policies of the LRA, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by the LRA to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;

(c) maintain complete and accurate records relating to the provision of the respective Services under this Agreement, including records of the time spent and materials used by Services Provider in providing such in such form as the LRA shall approve. During the term of the Agreement and for a period of three (3) years thereafter, upon the LRA's written request, Services Provider shall allow the LRA to inspect and make copies of such records and interview Services Provider personnel in connection with the provision of the Services;

(d) obtain the LRA's written consent, prior to entering into agreements with or otherwise engaging any person or entity, including all permitted contractors and affiliates of Services Provider, other than Services Provider's employees, to provide any Services pursuant to this Agreement (each such approved Permitted Subcontractor or other third party, a "**Permitted Contractor**"). The LRA's approval shall not relieve Services Provider of its obligations under the Agreement, and Services Provider shall remain fully responsible for the performance of each such Permitted Contractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Services Provider's own employees. Nothing contained in this Agreement shall create any contractual relationship between the LRA and any Permitted Contractor or any supplier of the Services Provider;

(e) require each Permitted Contractor to be bound in writing by the confidentiality and intellectual property assignment or license provisions of this Agreement, and, upon the LRA's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to the LRA;

(f) ensure that all of its equipment used in the provision of the respective Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the LRA; and

(g) keep and maintain any LRA equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the LRA's written instructions or authorization.

5.3 Securities. At its cost, Services Provider shall procure and maintain the following securities for the benefit of the LRA, each of which is a material obligation of Services Provider and a continuing condition under this Agreement. The LRA shall be entitled to draw any amounts owed or payable by Services Provider under this Agreement from any of the Services Provider securities listed below:

(a) The receipt by the LRA contemporaneously with the signature of this Agreement (and as a continuing obligation until all Services Provider obligations are fulfilled and expired under the Agreement) of a Guaranty of the ultimate parent of Services Provider in the form and substance acceptable to the LRA in its sole discretion. To the extent required under governing law, should any additional documentation or revisions be required from time to time during the term of this Agreement in order to

maintain such Guaranty fully effective and enforceable, the Services Provider shall immediately procure and provide such documentation and/or revisions.

(b) The issuance to the LRA of an advance payment bond and a performance bond (collectively, a "**Bond**") by a commercial bank or surety approved by the LRA, guaranteeing Services Provider's obligations under this Agreement, and which shall remain in force until the termination hereof, in the form and substance acceptable to the LRA in its sole discretion. If under its terms the validity of the Bond is related to a calendar expiry date and not the event, the Services Provider shall arrange an appropriate extension of its validity for the required period. If the required extension has not become effective at least thirty (30) Days prior to its current expiration date, then the LRA shall be entitled to draw the full amount of each Bond.

If either of the above mentioned securities shall become unacceptable to the LRA due to a detrimental change in the financial position of the issuer, Services Provider shall promptly furnish such additional or replacement security as may be reasonably required by the LRA.

ARTICLE 6 – ANCILLARY SERVICES

6.1 Ancillary Services. Services Provider shall provide such services to end-use customers outside of the Site as more particularly described in **Exhibit G**.

6.2 Services Provider's Obligations.

6.2.1 With respect to the provision of Ancillary Services, Services Provider shall:

(a) [Street lighting together with _____].[1]

ARTICLE 7 – INTERCONNECTION WITH PREPA

7.1 Interconnection Agreement. Services Provider shall execute an interconnection agreement with the Puerto Rico Electric Power Authority ("**PREPA**") in order to allow Generation Resources to inject power onto PREPA's electric grid.[2]

ARTICLE 8 - COMPENSATION

8.1 Fees and Expenses.

(a) In consideration for the provision of the Services by Services Provider, the LRA shall permit Services Provider (i) to construct and operate the Generation Resources on the Site, (ii) to exclusively provide Services to End-Use Customers located on the Site, and (iii) to provide Services to such other End-Use Customers located off the Site, as may execute End-Use Customer Agreements.

(b) Services Provider in its sole discretion shall determine the cost of such Services; provided, however, that Services Provider agrees that such Capacity Charge, together with the Energy

[1] Note to draft: Provision of ancillary services to customer outside of the Site, including the potential provision of ancillary services to PREPA, to be described upon negotiation of this agreement, as applicable

[2] Note to draft: Additional provisions to be included upon negotiation of this agreement and requirements at such time of PREPA.

Charge and Ancillary Services Charges (as those terms are defined in **Exhibit H**) (collectively, the "**Total Charges**") payable by each End-Use Customer shall not exceed the rates for electrical services that absent this Agreement would otherwise be charged to each End-Use Customer by PREPA at any time through the fourth anniversary of the Effective Date and thereafter at a rate not to exceed 115% of the PREPA rate then in effect, subject in all cases to the rquirements of the Final Microgrid Regulations.

(c) The methodology for calculating each End-Use Customer's Total Charge, and the methodology for calculating the monthly Total Charges to be collected by the Services Provider, shall be set forth in **Exhibit H**.

(d) The LRA shall have no compensation obligation to Services Provider. Services Provider is solely responsible for any and all costs or expenses incurred by Services Provider in connection with the performance of the Service, and in no event shall the LRA reimburse Services Provider for any such costs or expenses, other than the LRA's direct use of Services, for which the LRA shall enter into a separate End-Use Customer agreement.

ARTICLE 9 - REPRESENTATIONS AND WARRANTIES.

Services Provider represents and warrants to the LRA that:

9.1 Authorization; Enforceability. The execution and delivery of the Services by Services Provider and the performance of its respective obligations under this Agreement has been duly authorized by all necessary action, does not and will not require any further consent or approval of any other person, and does not contravene any provision of, or constitute a default under, any indenture, mortgage or other agreement binding on Services Provider, or any valid order of any court, or regulatory agency or other body having authority to which Services Provider is subject. This Agreement constitutes a legal and valid obligation Services Provider, enforceable against Services Provider in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity whether such enforceability is considered in a proceeding in equity or at law.

9.2 Organization. Services Provider is duly organized, validly existing and in good standing under the laws of its state of incorporation and of the Commonwealth of Puerto Rico, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

9.3 No Conflict. Services Provider's execution and delivery of this Agreement and Services Provider's performance of the Services does not and will not conflict with or result in any violation of, or constitute breach or default under any other agreement, rule, law, regulation, permit, license, note, judgment, or order to which Services Provider is subject.

9.4 No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

9.5 Hazardous Materials. Services Provider agrees to assume full responsibility for, and protect, indemnify and defend LRA against, any liability or cleanup obligations for any contamination or

pollution or breach of laws related to use or presence of any hazardous or toxic substances, wastes or other contaminants or pollutants, including, but not limited to, petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutants," "regulated substances," "solid wastes," or "contaminants" or words of similar import, under any applicable law (collectively, "**Hazardous Materials**") in or under the Site that are attributable to the actions of Services Provider or arise hereunder in respect of any obligation of Services Provider.

9.6 Compliance with Laws. Services Provider shall perform the Services in compliance with all applicable federal, state, and local laws, permits and regulations, including without limitation the representations, warranties and covenants required under the following laws and regulations of the Commonwealth of Puerto Rico:

9.6.1 The Services Provider states that it has received a copy of Law No. 84 of June 18, 2002, known as the Ethics Code for Contractors, Suppliers and Appliers of Economic Incentives from the Executive Agencies of the Commonwealth of Puerto Rico, and hereby agrees to comply with all of its dispositions, as well as with the Law of Governmental Ethics of the Govern ment of Puerto Rico.

9.6.2 The Services Provider is responsible for rendering all applicable income tax returns and reports and making corresponding contributions to the Social Security Administration of the United States of America and the PR and/or United States of America Treasury Department (Internal Revenue Service) over any amount as a result of the revenues generated under this Agreement.

9.6.3 The Services Provider that holds real or personal property in Puerto Rico agrees to present to the LRA certification of debt by the Regional Office of the Center for Municipal Recollection of Income ("**CRIM**"), with regards to real and personal property. In case that the Services Provider is under a payment plan with the CRIM, it should certify said fact as well as certify that it is complying with its obligations under said payment plan.

9.6.4 The Services Provider hereby certifies and guarantees that, as applicable, at the time of executing this Agreement, it has submitted its local (Puerto Rico) income tax returns and paid municipal patents in Puerto Rico for the past five (5) years prior to this Agreement and through the current year, and that it has no debt for said concepts, or for any other type of contribution, license or tax with the Government of Puerto Rico or any of its municipalities. In case that the Services Provider holds any type of tax debt with the Government of Puerto Rico, and the same is under an adjustment or revision process, the Services Provider accepts that if the revision or adjustment does not proceed that it will cancel the tax debt by way of retention of the monies to be awarded pursuant to this Agreement until its complete repayment.

9.6.5 The Services Provider hereby certifies and guarantees that, as applicable, that if obligated to pay any type of alimony, that it recognizes that it is a breach of this Agreement not paying the same and that such breach would be sufficient to automatically, and without prior notice, terminate the present agreement pursuant to Act No. 86 of August 30, 1994 of the Laws of the Commonwealth of Puerto Rico.

9.6.6 The Services Provider expressly states that no employee nor officer of the LRA, nor any member of his/her family, has any pecuniary interest, direct or indirect, in the execution of this Agreement, as stated in Law No. 12 of June 25, 1985, known as the Law of Governmental Ethics and that if there is any it has obtained the necessary authorization and/or waiver from the Government of Puerto Rico. By the same token, the LRA representative in this Act expressly states and certifies that she has no pecuniary interest in the execution of this Agreement.

9.6.7 The Services Provider certifies that no public officer or employee of the LRA has requested or accepted, directly nor indirectly, for him or her, or for any member of his family unit or for any person gifts, gratifications, favors, services, donations, loans or any other type of thing of monetary value for the execution of this Agreement.

9.6.8 The Services Provider certifies that no public officer or employee of the LRA has requested nor accepted any type of property with monetary value, linked to this transaction, of any person of the entity the services provider represents as payment for rendering the obligations and responsibilities established in this Agreement.

9.6.9 The Services Provider recognizes that while performing its professional obligations it has a duty of complete loyalty towards the LRA, which includes, without limitation, not having adverse interest to those of the LRA. These adverse interests include, without limitation, representing clients who have, or may have, adverse interests to those of the LRA. The duty of loyalty also includes a continuous obligation to disclose to the LRA all the circumstances of its relationships with clients and other third persons and any other factor that may influence the LRA at the time of executing the Agreement or during its term.

9.6.10 It shall be understood that the Services Provider represents adverse interests when, on behalf of the LRA, it has a duty to protect or defend something which it must oppose in order to fulfill its obligations with a previous, current or future client or vice-versa. It also represents adverse interests when its conduct is described as such in the code of professional ethics of the profession it practices, or in the laws and regulations of the Commonwealth of Puerto Rico.

9.6.11 The Services Provider shall prevent the mere appearance of the existence of adverse interests.

9.6.12 The Services Provider acknowledges that the designated officers of the LRA or their authorized representative have the power to supervise that the Services Provider complies with the provisions mentioned herein above. If the designated officer of the LRA determines that there is a conflict of interests, or that a conflict arose with regard to the Services Provider, he/she shall notify in writing their findings, and their intention of rescinding the Agreement in a period of thirty (30) days. If the issue is not satisfactorily resolved or decided during said period of time, this Agreement shall be considered terminated.

9.6.13 The Services Provider certifies that it will perform its duties under this Agreement with the highest professional standards, and to the satisfaction of the LRA.

9.6.14 The representative of the Services Provider certifies that he has not been convicted in the federal or state jurisdiction as a result of any felony or misdemeanor against the public treasury, or related with wrongful use of public funds. This Agreement shall be resolved if the representative of the Services Provider is convicted, in either of the aforementioned jurisdictions, for any

of the previously mentioned crimes, and shall be disqualified to contract or bid with any of the executive agencies of the Commonwealth of Puerto Rico, according to the term established in Act No. 548, approved on December 29, 2000.

ARTICLE 10 – EVENTS OF DEFAULT

10.1 Services Provider Event of Default. Unless timely cured as set forth below, the following shall constitute events of default on the part of Services Provider (upon the expiration of any applicable cure period, a "**Services Provider Event of Default**") under this Agreement:

10.1.1 Services Provider fails to comply with any provision of this Agreement in any material respect;

10.1.2 Any representation of Services Provider set forth in this Agreement shall have been false in any material respect when given or any representation of Services Provider set forth in this Agreement which is of a continuing nature, shall become false in any material respect;

10.1.3 Services Provider becomes insolvent or files or has filed against it a petition for bankruptcy, reorganization, composition or compromise for protection of creditors, or similar proceeding, and Services Provider fails to take prompt action to vacate or stay such proceeding; or

10.1.4 Services Provider assigns or transfers this Agreement or any right or interest herein without consent of the LRA.

10.1.5 Notwithstanding the foregoing, Services Provider may cure or remedy such failure or breach within (a) [_____] ([____]) business days after the LRA notifies Services Provider of such failure or breach or (b) if such failure or breach cannot be cured [_____] ([____]) business days after Services Provider receives such notice, and provided that Services Provider has commenced to cure such failure [_____] ([____]) business days and thereafter diligently pursues such cure to completion, such time as is reasonably required to cure such failure but in no event more than one hundred and eighty (180) days after Services Provider receives such notice (the "**Services Provider Cure Period**").

10.2 LRA Event of Default. The following shall constitute an event of default on the part of the LRA ("**LRA Event of Default**") under this Agreement:

10.2.1 The LRA fails to comply with any provision of this Agreement in any material respect.

10.2.2 Notwithstanding the foregoing, the LRA may cure or remedy such failure or breach within (a) [____] ([__]) days after the Services Provider notifies the LRA of such failure or breach or (b) if such failure or breach cannot be cured within [____] ([__]) days after the LRA receives such notice, and provided that the LRA has commenced to cure such failure within such [____] ([__]) days and thereafter diligently pursues such cure to completion, such time as is reasonably required to cure such failure but tin no event more than one hundred and eighty (180) days after the LRA receives such notice (the "**LRA Cure Period**").

10.3 Services Provider Remedies. Upon the expiration of the LRA Cure Period, Services Provider has the right to terminate this Agreement upon [_____] ([____]) business days' written notice to the LRA.

10.4 LRA Remedies. Upon the expiration of the Services Provider Cure Period, the LRA has the right to terminate this Agreement upon [_____] ([____]) business days' written notice to Services Provider. If this Agreement is terminated by the LRA for Services Provider Event of Default, and further provided that the Services Provider Cure Period has expired, Services Provider shall discontinue all Services except as is necessary at the LRA's direction to protect the Site, Distribution System, and all other associated property, and Services Provider agrees to carry out, at its sole expense, directives of the LRA in accomplishing the foregoing. Upon the expiration of the Services Provider Cure Period, the LRA shall have the right, at its sole option, to assume, or have its designee assume, any or all contracts and agreements that Services Provider has entered into with Permitted Contractors or otherwise in connection with the Services. If the LRA elects to assume any such contracts or agreements, Services Provider shall execute all instruments and documents and take all other reasonable steps requested by LRA or its designee which may be required to vest in the LRA or its designee all rights, title and interest in such contracts or agreements.

10.5 Consequences of Termination of Expiration of Term. In the event of termination of this Agreement in accordance with Section 10.1 or Section 10.2, or in the event that the Term of this Agreement expires, Services Provider shall:

10.5.1 Provide the policies, procedures, manuals, records, and equipment generated or purchased by Services Provider and paid for by the LRA for the Project, pursuant to this Agreement.

10.5.2 Reasonably cooperate with the LRA and any new services provider ("**Successor Services Provider**") to ensure a smooth transition of Services, such that there is a minimal impact to the supply of power and the operation and maintenance of the Distirbution System and electrical supply to End-Use Customers.

10.5.3 Assist the LRA as specifically requested in writing, in the delivery, maintenance, protection, and/or disposition of property acquired by the LRA under this Agreement.

10.5.4 At the LRA's request, reasonably assist the LRA in preparing an inventory of all equipment and supplies in use or in storage at the Project; assign to the LRA all subcontracts and other contractual agreements as may be designated by the LRA and which are assignable by Services Provider; and move from the Site all such equipment, supplies and rubbish as the LRA may reasonably request.

10.6 Effect of Termination. Except as expressly stated herein, notwithstanding termination, no Party shall be relieved from any obligations or liabilities accruing prior to the effective date of terminationThe LRA will retain clear rights to use at the Site the policies, procedures, manuals, records and equipment generated or purchased by Services Provider and paid for by LRA pursuant to this Agreement. The LRA's use of said policies and procedures shall be limited to the Project and they shall not be used in any other manner or at any other location or in any other form without prior written authorization by Services Provider. For the avoidance of doubt, effective upon the date of such termination, the Services Provider's obligations with respect to the Distibution Performance Standards and Generation Performance Standards shall terminate and be of no further force and effect.

10.7 Successor Services Provider.

10.7.1 Upon termination or expiration of this Agreement and at the request of the LRA, any purchaser of the Distribution System, or any successor to or assignee of the LRA (who for the purpose of this Section shall be considered the LRA), Services Provider shall continue to adhere to its duties under

this Agreement, and shall train, at the LRA's expense, a Successor Services Provider engaged by the LRA and such Successor Services Provider's managers and employees. The Services Provider shall continue to fulfill all of its obligations hereunder until such Successor Services Provider assumes the duties of the Services Provider hereunder; provided, however, that the Services Provider shall not be required to continue to perform its obligations hereunder for a period in excess of ninety (90) Days after the selection of such Successor Services Provider.

10.7.2 During any such transition period, other than where resulting from an Services Provider Event of Default, the Services Provider shall be reimbursed for reasaonable and actual costs incurred and the cost of training or double coverages of operating shifts or non-shift positions and shall be paid a reasonable training fee to be mutually agreed upon prior to the start of such training.

ARTICLE 11 – LIQUIDATED DAMAGES

11.1 Liquidated Damages. Services Provider shall pay to LRA as liquidated damages, for each day of applicable delay, a sum equal to US$[_____] per day upon the occurrence of any of the following events (collectively, "**Liquidated Damages Events**"):

11.1.1 Services Provider fails to comply in all material respects with the Distribution Performance Standards and/or the Generation Performance Standards within [_____] [(___]) days following receipt of notice from the LRA of such failure.

11.1.2 an interruption in electrical service to any End-Use Customer caused by the breach by Services Provider of an obligation hereunder;

11.1.3 Services Provider fails to provide electrical service to an End Use Customer within [_____] ([___]) following a request therefor; and

11.1.4 Services Provider fails to comply within [_____] [(___]) days following receipt of notice from the LRA or any governmental entity that its operations hereunder fail to meet the requirements of the Final Microgrid Rules or other applicable law.

11.2 Notwithstanding anything to the contrary herein, liquidated damages as provided in this Section 11 shall not be payable if the occurance of any Liquidated Damages Event is due to a Force Majeure Event (as defined in Article 16).

11.3 The liquidated damages payable under Section 11.1 shall, without duplication, be the sole and exclusive remedy and measure of damages with respect to any Liquidated Damages Event. Once payment of such liquidated damages and other amounts has been made, and Services Provider has performed all other work required hereunder with respect to this Agreement, Services Provider shall be relieved of any further liability with respect to such failure. Notwithstanding the relevant and applicable provisions of Section 14, further delay and/or the occurrence of two more more Liquidated Damages Events shall be deemed a Services Provider Event of Default, and shall entitle the LRA to terminate this Agreement by provision of written notice with immediate effect.

11.3.1 The Parties acknowledge and agree that because of the unique nature of this Agreement and the unavailability of substitute services, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by the LRA as a result of the occurance of a Liquidated Damages Event. It is understood and agreed by the Parties that the LRA shall be damaged

by the occurance of a Liquidated Damages Event and that (i) it would be impracticable or extremely difficult to fix the actual damages resulting therefrom; (ii) any liquidated damages that are payable under Section 11.1 are in the nature of liquidated damages, and not a penalty, and are fair and reasonable; and (iii) such payments represent a reasonable estimate of fair compensation to LRA for the losses that may reasonably be anticipated from the occurance of a Liquidated Damages Event. The Parties hereby acknowledge that Section 11.1 represents a reasonable allocation of risk.

ARTICLE 12 - CONFIDENTIALITY.

12.1 Services Provider acknowledges that Services Provider will have access to information that is treated as confidential and proprietary by the LRA, including without limitation the existence and terms of the Agreement, trade secrets, technology, and information pertaining to business operations and strategies, customers, pricing, marketing, finances, sourcing, personnel, other confidential information, or operations of the LRA and the Department of Economic Development and Commerce ("**DEDC**"), any affiliates, or their suppliers or customers, in each case whether spoken, written, printed, electronic, or in any other form or medium (collectively, the "**Confidential Information**"). Any Confidential Information that Services Provider develops in connection with the Services shall be subject to the terms and conditions of this clause. Services Provider agrees to treat all Confidential Information as strictly confidential, not to disclose Confidential Information or permit it to be disclosed, in whole or part, to any third party without the prior written consent of the LRA in each instance, and not to use any Confidential Information for any purpose except as required in the performance of the Services. Services Provider shall notify the LRA immediately in the event Services Provider become aware of any loss or disclosure of any Confidential Information.

12.2 Confidential Information shall not include information that:

12.2.1 is or becomes generally available to the public other than through Services Provider's breach of this Agreement; or

12.2.2 is communicated to Services Provider by a third party that had no confidentiality obligations with respect to such information.

12.3 Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. Services Provider agrees to provide immediate written notice to an authorized officer of the LRA of any lawsuit or administrative action seeking the release of Confidential Information, and shall cooperate with the LRA in responding to such lawsuit or action, sufficiently in advance of making any disclosure to permit the LRA to protect such Confidential information..

ARTICLE 13 - INDEMNIFICATION.

13.1 Except to the extent caused by the negligence or willful misconduct of the LRA or an LRA Indemnified Party (defined herein), Services Provider shall defend, indemnify and hold harmless the LRA, the DEDC, the Government of Puerto Rico, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (each an "**LRA Indemnified Party**"), from and against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing

any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**"), which directly or indirectly:

13.1.1 arises out of or results from (i) any negligent, reckless, willful misconduct or otherwise tortious act or omission (including strict liability), during the performance of the Services, or any curative action under any warranty work, of Services Provider, any Permitted Contractor or anyone directly or indirectly employed by any of them, or anyone for whose acts such person may be liable, or (ii) any claims asserted against or losses incurred by LRA as a result of Services Provider's failure to pay its Permitted Contractors in strict accordance with the terms of each contract (including purchase orders) or liens filed by Services Provider, Permitted Contractors or any other person providing goods and services on behalf of Services Provider or any Permitted Contractor;

13.1.2 arises out of or results directly from the failure of Services Provider, any Permitted Contractor or anyone directly or indirectly employed by any of them, or anyone for whose acts such person may be liable, to comply with applicable laws or the conditions or provisions of applicable permits or the requirements of this Agreement;

13.1.3 arises out of or in connection with any Hazardous Material (i) brought onto the Site or (ii) subsequently released or dispersed on or under the Site, in each case, by a Services Provider or Permitted Contractor;

13.1.4 arises out of or in connection with any claim or legal action for infringement or other unauthorized disclosure or use of any person's intellectual property rights arising from Services Provider's performance (or that of its Permitted Contractors) under this Agreement and/or asserted against the LRA that either (i) concerns any equipment, materials, supplies, or other items provided by Services Provider or any Permitted Contractor; or (ii) is based upon or arises out of the performance of the Services by Services Provider or any Permitted Contractor, including the use of any tools, implements or construction by Services Provider or any Permitted Contractor; or (iii) is based upon or arises out of the design or construction of any item or unit specified by Services Provider under this Agreement or the operation of any item or unit specified by Services Provider, or any Permitted Contractors; or

13.1.5 arises out of or in connection with any claim for property damage, personal injury (including emotional distress) and economic loss, that directly or indirectly arises out of or results from any and all insurance policies procured under Article 15 being vitiated as a result of (i) Services Provider's failure to comply with any of the requirements set forth in such policy or (ii) any other act by Services Provider or any Permitted Contractor.

ARTICLE 14 - LIMITATION OF LIABILITY.

14.1 Generally. The Parties confirm that the express remedies and measures of damages provided in Article 11 of this Agreement satisfy the essential purposes hereof and if an express remedy and specific measure of damages is/are providedn this Agreement, no other remedy or measure of damages may be sought and any such hereby are waived. EXCEPT IN THE CASE OF FRAUD, NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES BY STATUTE, IN TORT OR CONTRACT (EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN); *PROVIDED*, THAT IF ANY PARTY IS HELD LIABLE TO A THIRD PARTY FOR CONSEQUANTIAL, INCIDENTAL, PUNITIVE DAMAGES AND THE PARTY HELD LIABLE FOR SUCH DAMAGES IS ENTITLED TO INDEMNIFICATION THEREOFR FROM THE

OTHER PARTY HERETO, THE INDEMNIFYING PARTY SHALL BE LIABLE FOR, AND OBLIGATED TO REIMBURSE THE INDEMNIFIED PARTY FOR, SUCH DAMAGES.

14.2 Exceptions. The foregoing limitations on liability in Section 14.1 shall:

14.2.1 not limit the LRA's right to receive proceeds of Services Provider's insurance required to be maintained pursuant to Article 15;

14.2.2 not apply to limit, nor shall they include, the costs of Services Provider's indemnification obligations under Article 13; or

14.2.3 exclude any liability of Services Provider or the LRA stemming from the fraud or willful misconduct of, with respect to Services Provider, any of its respective Permitted Contractors, or their respective employees or, with respect to the LRA, the LRA or its Permitted Contractors and employees, respectively.

14.3 Releases Valid in All Events. To the extent permitted by applicable law, all releases, disclaimers and limitations on liability expressed herein shall apply even in the event of the negligence, strict liability, fault or breach of contract (including other legal bases of responsibility such as fundamental breach) of the Party whose liability is released, disclaimed or limited.

14.4 Mitigation of Damages. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur or that may result to the other Party as a result of either Party's performance or non-performance of this Agreement.

ARTICLE 15 - INSURANCE.

15.1 Insurance. During the Term, Services Provider shall maintain, and shall cause any Permitted Contractors to maintain, in force adequate workers' compensation, commercial general liability, errors and omissions, and other forms of insurance, in each case with insurers reasonably acceptable to the LRA, with policy limits sufficient in the LRA's sole discretion to protect and indemnify the LRA and its affiliates, and each of their officers, directors, agents, employees, subsidiaries, partners, members, controlling persons, and successors and assigns, from any losses resulting from Services Provider's conduct, acts, or omissions or the conduct, acts, or omissions of Services Provider's agents, contractors, servants, or employees. The LRA shall be listed as additional insured under such policy, and Services Provider shall forward a certificate of insurance verifying such insurance upon the LRA's written request, which certificate will indicate that such insurance policies may not be canceled before the expiration of a [_____.___] [(____]) day notification period and that the LRA will be immediately notified in writing of any such notice of termination and will contain such other terms, conditions and/or endorsements as the LRA may request.

ARTICLE 16 - FORCE MAJEURE.

16.1 Generally. Each Party shall be excused from any failure to perform an obligation under this Agreement, other than the payment of amounts owed hereunder, to the extent such failure results from a Force Majeure Event (defined below) as long as the claiming Party (a) has notified the other Party in writing of the existence of the Force Majeure Event and its anticipated duration and effect upon the performance of the affected Party's obligations no more than five (5) business days after the affected

Party discovers such occurrence, (b) promptly exercises reasonably diligent efforts to minimize the effects of the Force Majeure Event and (c) notifies the other Party in writing of the cessation or termination of the Force Majeure Event. Notwithstanding anything in this Agreement to the contrary, if Services Provider fails to initially notify the LRA within the applicable five (5) business day period, such event or condition shall be deemed not to be a Force Majeure Event for the duration of such delay, and Services Provider shall only be entitled to relief from its obligations to perform the Services due to the Force Majeure Event from the date that Services Provider notifies the LRA of the Force Majeure Event.

16.2 Extended Force Majeure Event. The suspension of performance due to a Force Majeure Event shall be of no greater scope and no longer duration than is reasonably required under the circumstances. If a Party claims a Force Majeure Event that has delayed such Party's performance for more than ninety (90) Days, the Party not claiming a Force Majeure Event may terminate this Agreement, with no liability of either Party to the other as a result of such termination, by delivering at least ten (10) business days' prior written notice of such termination, during which ten (10) Business day period the Party claiming a Force Majeure Event shall have the right to withdraw its claim of a Force Majeure Event and perform the obligations in question.

16.3 Exclusions. It is specifically understood that none of the following acts or conditions shall constitute a Force Majeure Event: (i) general economic conditions, interest or inflation rates, or currency fluctuations, (ii) the financial condition of the LRA, Services Provider, any Permitted Contractor or any of their respective affiliates, (iii) union work rules, requirements or demand, which have the effect of increasing the number of employees employed at the Facility or otherwise increase the cost to Services Provider of performing the Services, (iv) the consequences of errors in design, construction or testing, on the part of Services Provider or any of its employees, agents, Permitted Contractors or affiliates, (v) the failure of Services Provider or any Permitted Contractor to furnish labor, services, materials or equipment on the dates agreed to, (vi) strikes, work stoppages or other labor disputes or disturbances, except for such events that are national or regional within the United States in scope and not specifically targeted at Services Provider or any Permitted Contractor, or (vii) the release or dispersal of any Hazardous Materials located at, on, under or in the immediate vicinity of the Site caused by Services Provider, any Permitted Contractor or anyone directly or indirectly employed by any such Person, or anyone for whose acts such person may be liable.

16.4 Definition. "**Force Majeure Event**" means any circumstance not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that (i) such circumstance, despite the exercise of due diligence, cannot be or be caused to be prevented, avoided or removed by such Party; (ii) such event is not due to such Party's fault, negligence or intentional misconduct; (iii) such event is not the result of any failure of such Party or such Party's affiliate(s), or Permitted Contractors, to perform any of its or their respective obligations under this Agreement; and (iv) such Party has taken all reasonable precautions, due care and alternative measures to avoid the effect of such event and to mitigate the consequences thereof. Subject to the foregoing conditions, Force Majeure Events may include: war, riot, sabotage, acts of a public enemy, terrorist acts or other civil disturbance; unusually severe adverse weather conditions or natural phenomena, including floods, explosions or fires arising from natural causes, earthquakes, hailstorms, tornados, typhoons, hurricanes, landslides, volcanic eruptions, range or forest fires and unsafe or hazardous conditions arising from such severe and unusual adverse weather conditions or natural phenomena.

ARTICLE 17 – CHANGES IN LAW

17.1 Changes in Law. Services Provider acknowledges and agrees that the LRA has entered into this Agreement, and the LRA's duties under this Agreement are, subject to current applicable law, including but not limited to the Final Microgrid Rules. If any change to any applicable law or regulation occurs, including but not limited to the Final Microgrid Rules (a "**Material Change in Law**") that would have a material impact on the LRA's rights and responsibilities under this Agreement, or the Services Providers rights and responsibilities under this Agreement, including without limitation the provision of the Services by Services Provider on behalf of the LRA, in addition to any other rights that the LRA may have hereunder, the LRA shall have the right to amend the terms of this Agreement in order for it to conform to such Material Change in Law. If any Material Change in Law materially affects the cost to the Services Provider of providing Services hereunder, Services Provider agrees that any such costs and expenses shall be the sole responsibility of Services Provider.

ARTICLE 18 - MISCELLANEIOUS

18.1 Entire Agreement. This Agreement, together with the RFP and Exhibits attached hereto, contains the entire agreement of the Parties with respect to the subject matter hereunder, and supersedes any and all prior and/or contemporaneous written and oral agreements, proposals, negotiations, understandings and representations pertaining to the provision of the Services. Additions, change orders, amendments or waivers to this Agreement may only be made in writing and must be executed by the Party against whom enforcement is sought.

18.2 Waivers. No failure to exercise, and no delay in exercising, any right, power or remedy under this Agreement shall impair any right, power or remedy which any Party hereto may have, nor shall such failure or delay be construed to be a waiver of any such rights, powers or remedies or an acquiescence in any breach or default under this Agreement, nor shall any waiver of any breach or default be deemed a waiver of any default or breach subsequently occurring under this Agreement.

18.3 Assignment. Services Provider shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the LRA. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Services Provider of any of its obligations under this Agreement.

18.4 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

18.5 No Third-party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement's terms.

18.6 Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the Commonwealth of Puerto Rico without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Puerto Rico or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Puerto Rico.

18.7 Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Puerto Rico in each case located in San Juan, Puerto Rico, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

18.8 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the Parties at the addresses set forth in the RFP or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.

18.9 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

18.10 Survival. Provisions of the terms of this Agreement, which by their nature should apply beyond the Term, will remain in force after any termination or expiration of this Agreement including, but not limited to Article 12 (Confidentiality), Article 13 (Indemnification), Article 14 (Limitation of Liability), Article 15 (Insurance), and Sections 18.6 (Governing Law) and 18.7 (Submission to Jurisdiction) and this Section 18.10.

18.11 Amendment. This Agreement may be amended, modified, or supplemented only by an agreement in writing signed by each Party hereto, and any of the terms thereof may be waived, only by a written document signed by each Party to this Agreement or, in the case of waiver, by the Party or Parties waiving compliance.

18.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered to be an original document, and all of which together shall constitute one and the same instrument.

18.13 Headings. The Article and Section headings herein have been inserted for convenience of reference only and shall not in any manner affect the construction, meaning or effect of the provisions herein contained nor govern the rights and liabilities of the Parties hereto.

18.14 Nature of Services. The Services to be provided by the Services Provider pursuant to this Agreement are not "Professional Services" within the meaning of the Puerto Rico Governor's Executive Order dated January 30, 2017 and entitled: Memorandum 2017-001, or (ii) Circular 141-17 issued by the Puerto Rico Office of Management and Budget.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Parties to this Agreement has caused this Agreement to be executed as of the date first written above.

THE LRA:

LOCAL REDEVELOPMENT AUTHORITY FOR NAVAL BASE ROOSEVELT ROADS

By: _____
Name:
Title:

SERVICES PROVIDER:

[_____]

By: _____
Name:
Title:

EXHIBIT A

Description of Site and Location of Generation Services

EXHIBIT B

Distribution System

EXHIBIT C

Distribution Performance Standards

EXHIBIT D

Generation Requirements

EXHIBIT E

Interconnection

EXHIBIT F

Generation Performance Standards

EXHIBIT G

Ancillary Services

EXHIBIT H

Total Charges