



## CERTIFICATE AS TO RESOLUTION

I, **JULIO LASSÚS RUIZ**, Secretary of the Board of Directors of the Puerto Rico Public-Private Partnerships Authority (“Authority”), **DO HEREBY CERTIFY** that attached hereto is a true, correct and complete copy of **Resolution 2023-01** which was duly adopted by the Board of Directors of this Authority at a meeting duly called and held on January 15, 2023 at which a quorum was present and acting throughout. Said Resolution has not been repealed, revoked, rescinded or amended, and is in full force and effect.

### RESOLUTION 2023-01

#### **TO APPROVE THE PUERTO RICO THERMAL GENERATION FACILITIES AGREEMENT AND THE PARTNERSHIP COMMITTEE REPORT THAT RECOMMENDS THE AGREEMENT BE AWARDED TO GENERA PR, LLC.**

**WHEREAS**, pursuant to the Public-Private Partnership Act, Act No. 29-2009, as amended (“Act 29”), the Puerto Rico Public-Private Partnerships Authority (“Authority”) is the entity in charge of implementing the governmental public policy that seeks to promote the establishment of public-private partnerships;

**WHEREAS**, pursuant to the enactment of the Puerto Rico Electric System Transformation Act, Act No. 120-2018 (“Act 120”), the Authority is designated as the government entity authorized to and responsible for, among others, implementing the public policy related to the sale, disposition and/or transfer of operations, functions and services of the Puerto Rico Electric Power Authority (“PREPA Transactions”);

**WHEREAS**, in accordance with the powers delegated to the Authority by virtue of Act 29 and Act 120, the Authority commenced a procurement process for the establishment of a public-private partnership for the management, operation, maintenance, management and the decommissioning, where applicable in accordance with the Integrated Resource Plan, of PREPA’s base-load generation plants and gas turbine peaking plants, and of fuel supply (the “Project”);

**WHEREAS**, on July 13, 2020, the Board of Directors of the Authority through Resolution 2020-36, in accordance with the provision of Act 29 and Act 120, designated the corresponding PREPA’s Thermal Generation Facilities Partnership Committee (the “Partnership Committee”), as follows:


- The Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority, or his/her delegate.
- The Executive Director of PREPA, the Partnering Government Entity, or his/her delegate.
- Ralph A. Kreil, as a Member of the Board of Directors of PREPA, the Partnering Government Entity, or his/her delegate.
- Edison Avilés, chosen by the Authority for his knowledge and experience in the kind of project covered by the public private partnership under

- consideration.
- Gerardo Loran, chosen by the Authority for his knowledge and experience in the kind of project covered by the public private partnership under consideration.

**WHEREAS**, on October 13, 2021, the Board of Directors through Resolution 2021-63, modified the composition of the Partnership Committee to replace the designation of Ralph A. Kreil, as a member of the Board of Directors of PREPA, the Partnering Governing Entity, for Fernando Gil and amend the Resolution 2020-36;

**WHEREAS**, Act 29 designates and authorizes the Partnership Committee to approve the documents as required by the procedures for qualification, the request for proposals, the evaluation and selection for the Partnership; to evaluate potential contractors and pre-qualify those most suitable to participate as Proponents; to evaluate the proposals submitted and select that which is best in each case, pursuant to the procedures provided in Act 29; to engage in or supervise the negotiation of the terms and conditions of the Partnership Contract and to prepare a report on the entire procedure leading to the establishment of a Partnership (the "Partnership Committee Report"), among others functions;

**WHEREAS**, Act 29 provides that once the negotiations are completed, the Partnership Committee must prepare a Partnership Report that must include the details of the process of pre-qualification of suitable Proponents, of the requests for proposals, and of the selection of the proposal and the chosen Proponent; the reasons for which a particular Proponent was chosen; and a summary of the most important aspects of the Partnership Contract;

 **WHEREAS**, Act 29 provides that the Partnership Committee shall present the Partnership Committee Report for the approval of the Board of Directors of the Authority and the Board of Directors of the Partnering Government Entity no later than thirty (30) days after completion of the negotiation of the Partnership Contract;

**WHEREAS**, Act 120 provides that the Partnership Committee shall present to the Puerto Rico Energy Bureau (the "Energy Bureau") the Partnership Committee Report and the proposed Preliminary Contract and that the Energy Bureau will evaluate the Partnership Committee Report and the Preliminary Contract to determine that such documents comply with the energy public policy and the regulatory framework, and if so, it will issue an Energy Compliance Certificate;

**WHEREAS**, Act 29 provides that the Board of Directors of the Authority and the Board of Directors of the Partnering Government Entity, must approve the Partnership Committee Report and the Partnership Contract through a resolution. Such resolution shall contain their agreement to or rejection of what the Partnership Committee has presented and recommended, together with the grounds for such determination;

**WHEREAS**, since their constitution, the Partnership Committee, with the collaboration of the Authority, has carried out its functions, keeping the Board of Directors of the Authority informed about the procurement process carried out for the establishment of the PREPA's Thermal Generation Facilities Public Private Partnership;

**WHEREAS**, in an ordinary meeting held on November 9, 2022, the Partnership Committee approved the Partnership Committee Report that recommends the selection of Genera PR, LLC as the Proponent to be awarded PREPA's Thermal Generation Facilities Agreement (the "Generation Agreement"), because the proposal submitted by Genera PR, LLC contained terms that were overall more favorable to the Government and the people of Puerto Rico, including (i) Genera's Operational Proposal

presented a tailored approach to the operation and management (“O&M”) services for the legacy generation assets, which demonstrated a strong understanding of PREPA and the context in which it operates and a unique commitment to transitioning PREPA generation employees; (ii) Genera’s Financial Proposal included an O&M Fixed Fee (which included the value of a Decommissioning Fixed Fee, as Genera’s Financial Proposal removed the concept of the Decommissioning Fixed Fee) with a net present value over the Contract Term significantly lower than that of the other qualified proponent; and (iii) Genera agreed to a form of the Generation Agreement that was substantially closer to the one prepared by the Authority and included in the RFP accepting, without significant change, the key elements of the Generation Agreement and required fewer material changes to the document, thus resulting in less risk and cost transfer from the operator to the Government;

**WHEREAS**, as required by Act 120, the Generation Agreement was presented to the Board of Directors for review, comments, and discussion. Subsequently, informative meetings were held on December 29, 2022 and on January 13, 2023, for the purposes of addressing the Directors’ inquiries on the transaction and entertaining their suggestions with regards to the language of the Generation Agreement;

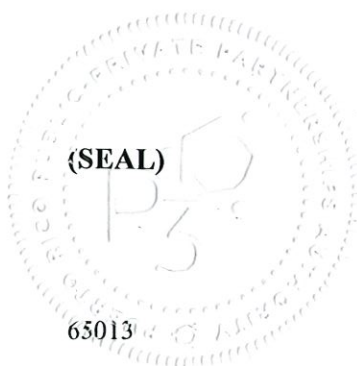
**WHEREAS**, upon clarification of the Directors’ inquiries and modification of the Generation Agreement to specifically address their recommendations and following the issuance of the Energy Compliance Certificate by the Energy Bureau on January 15, the Board of Directors held an extraordinary meeting on January 15, 2023.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Puerto Rico Public Private Partnership Authority, to approve (i) the Generation Agreement and such other documents related to this transaction and contemplated in the Generation Agreement (“Transaction Documents”) and any other related actions, and (ii) the Partnership Committee Report that recommends the award of the Partnership to Genera PR, LLC and the execution of the Agreement by and between PREPA and Genera PR, LLC.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Puerto Rico Public Private Partnership Authority that the Executive Director and other officers of the Authority are hereby authorized to (i) undertake any additional not substantive modifications to the Partnership Committee Report for publication, and such additional non material final adjustments to the Transaction Documents, in each case as may be needed to benefit the Project, including to the Generation Agreement, and (ii) carry out any other action and sign all such documents, notices, certificates, and instruments deemed necessary or desirable to give effect or to continue to give effect to the provisions of this Resolution, in each of (i) and (ii) as the Executive Director shall approve, such approval to be conclusively evidenced by execution of such modifications and any documents, notices, certificate or instruments, respectively, which approvals are hereby ratified.

This Resolution shall take effect immediately upon its adoption.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the Puerto Rico Public-Private Partnerships Authority, this 24<sup>th</sup> day of January, 2023.



**JULIO LASSÚS RUIZ**  
**SECRETARY**

