



GOVERNMENT OF PUERTO RICO  
PORTS AUTHORITY

**PUERTO RICO PORTS AUTHORITY**

**REQUEST FOR PROPOSALS**

**Design-Build Services for  
Runway 8-26 Reconstruction at  
Rafael Hernández International Airport, Aguadilla, Puerto Rico**

**ADDENDUM NO. 34**

**TO ALL OFFERORS:**

This Addendum forms part of the reference Request for Proposals.

**A. FILES ADDED TO THE SUPPORTING DOCUMENTATION ON THE SHARE  
FOLDER**

1. The revised SAMPLE CONTRACT - RFP Attachment B, is hereby included in this Addendum and replaces the previous version.
2. The revised Adjustments for Price Fluctuations, is hereby included in this Addendum and replaces the previous version.
3. The revised EXHIBIT N – RFP COST PROPOSAL FORM, is hereby included in this Addendum and replaces the previous version.
4. Updated Supplementary Technical Information List, is hereby included in this Addendum and replaces the previous version.

**B. REQUEST FOR PROPOSALS**

On Attachment C, Delete “College of Engineers and Surveyors of Puerto Rico New Policy Statement for Design Built Contracts” and substitute with the “Opinion of Secretary of Justice of January 26<sup>th</sup>, 2024”, provided in Addendum 28. All references for Attachment C shall also be adjusted.

**C. REVIEW ON PREVIOS ADDENDA ANSWERS**

No.	Addenda Reference	Questions	Previous Answers	Revised Answer, Delete the previous answer provided and replace with;
1	ADD4-1.3	Under Section 5.2 Contracting Approach, the Owner describes the Project as being delivered under a Two- Phase delivery method: Phase 1 – Preconstruction and Design Services and Phase 2 – Construction Service. Further, item #4 of the RFP Cost	On the proposal form, Item 4, the unit for this item is Lump Sum (LS). The PRPA is seeking a project team approach to design and construct. The Proponent represents the best value meeting or exceeding the requirements	The proponent shall follow the indications of the Request For Proposals (RFP), Part III, Section 10.6.3 of the RFP; “Proponent shall include a schedule of values for each cost form submitted as

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		<p>Proposal Form indicates that construction cost will be based on the 100% Construction Documents, but does not stipulate the “unit” for this pricing.</p> <p>a. Based on the foregoing, can the Owner confirm that construction pricing will only be established at the end of Phase 1 – Preconstruction and Design Services, once the Issued for Construction documents have been completed and approved?</p> <p>b. If the Owner’s intent is to require construction pricing to be established as part of this RFP, can the Owner advise as to what the applicable “unit” is and if there are opportunities for items to be reimbursable on an allowance basis, similar to the approach taken for items 7 through 9 of the RFP Cost Proposal Form?</p>	<p>outlined in this RFP along with the price proposal. Item 4 will be revised to read as follows: “Construction completed in place of work in accordance with the RFP and Design Criteria Package.....” The Proponent shall provide their offer price for the complete project at the time of proposal submittal using the proposal form included in the RFP. After contract formalization, the PRPA shall request to submit a Schedule of Values as per Attachment F - UNIFORM GENERAL CONDITIONS for Public Works Contracts in Puerto Rico, section 13.1.2 for Lump-Sum Contracts. During the preconstruction and design phase, the design- build team will finalize the construction documents as required to meet local and FAA requirements and to the level of detail to obtain all necessary permits and approvals.</p>	<p>outlined in the Cost Proposal Form. The schedule of values shall include major items that compose the Proponent’s cost form”.</p>
2	ADD4-1.38	<p>Will a bid bond be required with this proposal? if so, please provide form to be used.</p>	<p>A bid bond will be required of the successful Respondent within 10 days of the notice of contract award. Find the forms to be used in this Addendum.</p>	<p>A Bid Bond is required. Proposers shall submit the Bid Bond with the RFP Cost Proposal, as required by Exhibit K (Required Submission Checklist).</p>
3	ADD7-A.42	<p>Can you add a price escalation clause to the RFP to avoid unrealized contingencies?</p>	<p>No price escalation will be provided.</p>	<p>Adjustments for Price Fluctuations was provided on Addendum 17. A revised cost escalation clause is included as part of this addendum.</p>
4	ADD7-A.43	<p>Since this is a substantial technical and cost proposal effort to prepare the RFP, can you provide a stipend to cover a portion of the RFP cost in order to provide a much competitive proposal?</p>	<p>No stipend will be allowed.</p>	<p>Stipend allowed on Addendum 32. Section 8.5 of the RFP is amended.</p>
5	ADD7-A.52	<p>Please confirm if a stipend will be provided by PRPA for completion of the technical document and cost proposal to allow for completion of “bridging documents” by the respondents?</p>	<p>PRPA will not pay a stipend to unsuccessful JVD/Vs. See section 8.5 of the RFP.</p>	<p>Stipend allowed on Addendum 32. Section 8.5 of the RFP is amended.</p>
6	ADD7-A.154	<p>Although we know we are under an emergency situation due to Hurricane Fiona, we are including a critical question regarding the BQN-RFP for the record. QUESTION as follows: The JVD/V communicated on August 22, 2022 critical Contractual Questions and offered a Model Three Party Agreement for the PRPA to address. Given that the PRPA has not provided a response, we hereby request a time extension of no less than two weeks after September 19th or two weeks after the PRPA has issued an Addendum specific to the Contract matter whichever occurs last. In addition to a time extension relative</p>	<p>See Addendum 5.</p>	<p>Any reference to a three way contract was eliminated from this RFP in Addendum 6.</p>

No.	Addenda Reference	Questions	Previous Answers	Revised Answer, Delete the previous answer provided and replace with;
		to questions we also request a time extension for proposal due date to Friday, November 18, 2022.		
7	ADD7-A.168	69. As stated in the Exhibit 1 Teaming Agreement Clause 8 (assignment) we would like to confirm if in case of requiring financing for the project, PRPA will allow the assignment of credit rights to a third party (a financial institution).	No.	Teaming Agreement eliminated as per Addendum 6. Assignment of credit rights is contemplated in Article 5.4 of the Sample Contract provided " prior written approval of the Authority".
8	ADD7-A.172	2. In the event that the bids submitted exceed the budget and the work is not awarded, could be considered paying a stipend to reimburse expenses?	Not stipend to JVD/Vs shall be paid. See RFP requirements. Once bids are received, the PRPA and FAA will determine if additional funding is available and the funding will be put in place before awarding and signing the contract with the successful Respondent.	Stipend allowed on Addendum 32. Section 8.5 of the RFP is amended.  The Government of PR is committed to this project and will provide the necessary funding.
9	ADD7-A.174	2. Q&A ref. 8 in Addendum 04 makes reference to section 3.2.5 in the Uniform General Conditions for Public Work Contracts in Puerto Rico (UGCPR) but said section has been crossed out within the bidding documents provided. Please confirm that crossed out wording within the UGCPR (including but not limited to section 3.2.5) is of no reference.	The previous answer shall be deleted because the reference to the section 3.2.5 of the UDCPR has been crossed out. In order to provide an adequate answer to your request, please provide more information related to "Corporate risk policies will not permit our companies to assume unlimited liability"	See Answer on Addendum 32-C.4.  An overall cap of contractor's liability shall be the amount equivalent to 75% of the Total Contract Price.
10	ADD8-F.5	Teaming Agreement, 9. We kindly request to limit the Designer and Contractor maximum responsibility up to a reasonable amount based on the Bid Price, including on it the maximum accumulated penalties.	Teaming Agreement was deleted in Addendum 6. A dispute resolution process must be included in the JV Agreement.	Teaming Agreement was deleted in Addendum 6. A dispute resolution process must be included in the JV Agreement in accordance with Article 16 UGCPW.
11	ADD8-F.22	n. Sample Design-Build Agreement Art. 22.8: "Responsibility to keep the insurance in force: It shall be the responsibility of the Design/Builder to maintain adequate insurance coverage at all times." Please confirm that each, Designer and Contractor, will only be responsible for maintaining their respective insurance coverage relevant to their respective work to be carried out for the project, consistent with the CIAPR policy. Specifically, please consider revising this section to provide as follows: Responsibility to keep the insurance in force: It shall be the responsibility of the Designer and the Contractor to maintain adequate insurance coverage for their respective portions of the Work at all times.	See previous.	See answer to 10 et seq.
12	ADD8-F.26	Teaming Agreement. The proposed Teaming Agreement to be Yes. The JV Agreement must provide a dispute resolution executed between the designer and the contractor deals with process that	Yes. The JV Agreement must provide a dispute resolution process that does not impact the PRPA rights keeping in mind that the main objective is finding	Yes. The JV Agreement must provide a dispute resolution process that does not impact the PRPA's rights, keeping in mind that the main objective is find a

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		<p>does not impact the PRPA rights keeping in mind many matters that are only privy to the designer and the that the main objective is finding a way to resolve disputes contractor, and the wording proposed by PRPA is not without interruptions to the Work. necessarily the wording that fits the needs of the designer and the contractor. Forcing the designer and the contractor to accept many of those terms and conditions creates an unnecessary burden to the designer and contractor, and, in our view, does not bring any benefit to PRPA, which is not even a party to that document. Designer and contractor would prefer to set their own conditions in connection with, for instance, dispute resolution, limitation of liability, or IP related matters. Would PRPA consider the possibility of waiving the need for the Teaming Agreement and instead moving some of the clauses (e.g. the first paragraph of the Dispute Resolution clause) that are important to PRPA to the DB Agreement? Alternatively, if that is not acceptable, would the PRPA accept alternative language to the Teaming Agreement, provided that it does not impact PRPA's rights?</p>	<p>a way to resolve disputes without interruptions to the Work.</p>	<p>way to resolve disputes without interruptions to the Work. Any reference to a Teaming Agreement deleted as per Addendum 6 and the revised Sample Contract included herewith.</p>
13	ADD8-F.28	<p>7. In both: - paragraph 12.3 in ARTICLE 12 in Attachment B - SAMPLE CONTRACT, related to the Substantial Completion; and - paragraph 12.5 in ARTICLE 12 in Attachment B - SAMPLE CONTRACT, related to the Final Completion; it is stated as follows: "... At that time the PRPA will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, utilities, and the contractor's warranties and guarantee periods will begin to run." Please clarify when will the PRPA will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, utilities, and the contractor's warranties and guarantee periods will begin to run.</p>	<p>In case of discrepancy with, the UGCPW shall prevail.</p>	<p>See articles 12.3 and 12.5 of the revised Sample Contract.</p>
14	ADD8-F.38	<p>3.The RFP includes a proposed Teaming Agreement. Can Team Members use the existing executed version of the Teaming Agreement?</p>	<p>The teaming agreement was provided is as a reference when the three-way contract was an option. It no longer is. What is required by Proponents is to provide a Joint Venture Agreement that must include a Dispute Resolution Process following the process outlined in the Teaming Agreement previously provided.</p>	<p>Teaming Agreement Deleted as per Addendum 6. Dispute resolution process shall be included in the JV Agreement in accordance with Article 16 UGCPW.</p>

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15	ADD8-F.41	6. Can you add a price escalation clause to the RFP to avoid unrealized contingencies?	As a design build contract, all unrealized contingencies are the responsibility of the design-builder, not PRPA; with the exception of such acts of god not covered in the JV contract.	Adjustments for Price Fluctuations was provided on Addendum 17. A revised cost escalation clause is included as part of this addendum.
16	ADD8-F.42	7. Since this is a substantial technical and cost proposal effort to prepare the RFP, can you provide a stipend to cover a portion of the RFP cost in order to provide a much competitive proposal?	No.	Stipend allowed by Addendum 32. Section 8.5 of the RFP is amended.
17	ADD8-F.44	9. Article 4.5: the first sentence identifies Designer to be responsible for the "professional quality, completeness, technical accuracy, and coordination" of Construction. Will PRPA revise to state the Designer is responsible for the design and the Contractor is responsible for the construction?	As answered in A.1, the Three-way contract will not be used as per FAA norms and answer number A.8. The JVD/B will arrange their respective partners' responsibilities as they deem fit.	Three way contract was deleted in Addendum 6.
18	ADD10-B.9	2. Will the Ports Authority work with the winning team to negotiate the Prime Contract to ensure that the terms, (including but not limited to the Order of Precedence provision) are compliant with all applicable laws or regulations, including but not limited to the Law to Regulate Engineering, Architecture, Surveying, Landscape Architecture Professions in Puerto Rico, Law Num. 173 of 12 August 1988, as amended?	The Ports Authority (AP) will entertain a legal briefing on the subject matter if submitted within the next 10 calendar days, if the proponent so chooses. The term will not be extended. If upon such review the AP becomes aware of any issue regarding compliance with any law or regulation, it will then address the issue in the scope of contract negotiations. Keep in mind that the AP will not submit a reply to the briefing.	Any concerns about the compliance of the Joint Venture contract vehicle was put to rest in the January 24, 2024 Opinion 24-01 issued by the Puerto Rico Secretary of Justice. See Addendum 28.
19	ADD10-B.21	<p>1. Contract provided as part addendum indicates:</p> <p>12.3 Certificate of Substantial Completion: If the Authority's representative considers that the work is substantially complete, a tentative Certificate of Substantial Completion will be issued, with a list of items to be completed or corrected. This certificate may be objected to within the next ten (10) working days. After considering the objections, if the work is considered substantially completed, a final Certificate will be issued to the JVD/B. At that time the Authority will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, utilities, and the contractor's warranties and guarantee periods will begin to run.</p> <p>12.5 Determination Of Final Completion: When the JVD/B believes it has achieved Final Completion, and the JVD/B is ready for a final inspection, the JVD/B shall so notify the Authority in writing. The</p>	<p>12.5 Determination of Final Completion: When the JVD/B believes it has achieved Final Completion, and the JVD/B is ready for a final inspection, the JVD/B shall so notify the Authority in writing. The Authority will then make final inspection of the Work and, if the Work is complete in strict accordance with the Contract Documents, including state and federal regulations, then the Authority will issue a Certificate for Final Payment, providing for payment of the remainder of the Contract Price, less any amount withheld pursuant to this Agreement. <del>At that time the Authority will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, utilities, and the contractor's warranties and guarantee periods will begin to run.</del></p>	<p>12.3 Certificate of Substantial Completion: If the Authority's representative considers that the work is substantially complete, a tentative Certificate of Substantial Completion will be issued, with a list of items to be completed or corrected. This certificate may be objected to within the next ten (10) working days. After considering the objections, if the work is considered substantially completed, a final Certificate will be issued to the JVD/B. At that time the Authority will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, and utilities. <del>and the contractor's warranties and guarantee periods will begin to run.</del></p> <p>12.5 Determination of Final Completion: When the JVD/B believes it has achieved Final Completion, and the JVD/B is ready for a final inspection, the JVD/B shall so notify the Authority in writing. The Authority will then make final inspection of the Work</p>

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		<p>Authority will then make final inspection of the Work and, if the Work is complete in strict accordance with the Contract Documents, including state and federal regulations, then the Authority will issue a Certificate for Final Payment, providing for payment of the remainder of the Contract Price, less any amount withheld pursuant to this Agreement. At that time the Authority will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, utilities, and the contractor's warranties and guarantee periods will begin to run.</p> <p>Article 12.3 and 12.5 of the SC establishes two different times when contractor's warranties and guarantee periods will begin to run. Please specify.</p>		<p>and, if the Work is complete in strict accordance with the Contract Documents, including state and federal regulations, and as required by Article 12.7, then the Authority will issue a Certificate for Final Payment, providing for payment of the remainder of the Contract Price, less any amount withheld pursuant to this Agreement. At that time the Authority will assume all responsibilities with respect to the safety, operation, security and protection of the Work, maintenance, utilities, and the contractor's warranties and guarantee periods will begin to run as provided in Articles 18.4 and 18.5 of this Contract.</p>
20	ADD17-C.4	5. We reiterate our suggestion to include a price adjustment clause in this project considering time that will elapse between the submission of bids, the beginning of the project and the completion of the project.	Price escalation clauses are included as part of this addendum for Asphalt Binder, Cement, Fueling and Steel.	<p>Price escalation clauses are included as part of this addendum for Asphalt Binder, Cement, Fueling and Steel.</p> <p>The revised Adjustments for Price Fluctuations, is hereby included on this Addendum and replaces the previous version.</p>
21	ADD17-C.36	<p>RFI's on Meetings with the Proposers:</p> <ol style="list-style-type: none"> <li>1. Guarantee of available funding to complete the project.</li> <li>2. Price Escalation Clause</li> <li>3. Positive Cash Flow measures.</li> <li>4. RFP Stipend</li> <li>5. Other concern subjects</li> </ol>	<ol style="list-style-type: none"> <li>1. Guarantee of available funding to complete the project: <ol style="list-style-type: none"> <li>a. A mandatory certification of funds availability is a requirement for the formalization of contracts of the Government of PR. The Government of PR is committed to this project and will provide the necessary funding.</li> <li>b. The money for the project should be available by November 2023. Reference to available funding included in the RFP shall be ignored.</li> </ol> </li> <li>2. Price escalation clauses have been included for cement, asphalt binder, steel and fuel. See attached Adjustment to Price Fluctuations document.</li> <li>3. Positive Cash Flow measures: <ol style="list-style-type: none"> <li>a. PRPA informed that Responder would be paid the amount for Municipal Taxes on the first certification of payment and must submit the Municipality payment receipt evidence by the second certification of payment.</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>1. Guarantee of available funding to complete the project: <ol style="list-style-type: none"> <li>a. A mandatory certification of funds availability is a requirement for the formalization of contracts of the Government of PR. The Government of PR is committed to this project and will provide the necessary funding.</li> <li>b. The money for the project should be available. Reference to available funding included in the RFP shall be ignored.</li> </ol> </li> <li>2. Price escalation clauses have been included for cement, asphalt binder, steel and fuel. See attached Adjustment to Price Fluctuations document.</li> <li>3. Positive Cash Flow measures: <ol style="list-style-type: none"> <li>a. PRPA informed that Responder would be paid the amount for Municipal Taxes on the first certification of payment and must submit the Municipality payment receipt evidence by the second certification of payment.</li> <li>b. The amount of retainage with respect to progress payments shall</li> </ol> </li> </ol>

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			<p>b.The amount of retainage with respect to progress payments shall be 5% following the section 13.2.2 of the Uniform General Conditions For Public Works Contracts (UGCPWC). Other references on the RFP document is amended with this determination.</p> <p>c. PRPA shall pay in forty (40) days maximum period as per section 13.2.4 of the UGCPWC.</p> <p>d.Insurances and bonds costs shall be paid on the first certification upon receipt submitted.</p> <p>e. Payment for material on site or in storage shall be considered by PRPA in accordance with UGCPWC.</p> <p>f. PRPA shall consider the proposed design itinerary for the partial payments.</p> <p>4.PRPA has determined that a stipend will not be provided. FAA does not support a stipend.</p> <p>5.Other concern subjects:</p> <p>a.Additional areas for stockpiling materials shall be coordinated with PRPA presentative and granted to the selected Proposer during construction.</p>	<p>be 5% following the section 13.2.2 of the Uniform General Conditions For Public Works Contracts (UGCPWC). Other references on the RFP document are amended with this determination.</p> <p>c. PRPA shall pay in forty (40) days maximum period as per section 13.2.4 of the UGCPWC.</p> <p>d.Insurances and bonds costs shall be paid on the first certification upon receipt submitted.</p> <p>e. Payment for material on site or in storage shall be considered by PRPA in accordance with UGCPWC.</p> <p>f. PRPA shall consider the proposed design itinerary for the partial payments.</p> <p>4.Stipend allowed on Addendum 32. Section 8.5 of the RFP is ammended.</p> <p>5.Other concern subjects:</p> <p>a.Additional areas for stockpiling materials shall be coordinated with PRPA Authorized Representatives and granted to the selected Proposer during construction.</p>
22	ADD18-A.1	<p>1. Sample contract §10.17 states that “Design/builder and/or its contractor member will be responsible for hazardous environmental conditions created due to any materials brought to or disturbed on the site by design/builder subcontractors, suppliers, or anyone else for whom design/builder is responsible. The site has been an active air force base and airport for over eighty (80) years. Design/builder acknowledges that he took the appropriate mitigation of hazardous substances plans as part of his proposal and holds harmless PRPA and its representative, employees and contractors from any responsibility due to contamination of any kind”. This is inconsistent with Uniform General Condition Art. 4.7.4 that states “Contractor shall not be responsible for any hazardous environmental condition uncovered or revealed at the site that was not shown or indicated in drawings or specifications or identified in the contract documents to be within the</p>	<p>The Sample Contract will be modified to incorporate the provisions of Section 4.7.4 of the Uniform General Conditions for Public Works In Puerto Rico.</p>	<p>See Article 10. 17 as modified.</p>

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		<p>scope of the work”.</p> <p>It's not common that the contractor be liable for unknown hazardous environmental condition not shown on the contract documents. Even more so when this project site was an old military base. We suggest adopting the language of the UGC in the example contract and not impose liability on the contractor for unknown hazardous conditions not shown on contract documents.</p>		
23	ADD18-A.8	<p>Since the PRPA is seeking a single entity to enter into a contract with the PRPA as required by the FAA, we hereby request further enhancement to the proposed agreement and its legal structure to provide such services that will reduce the risk of a bid protest or legal challenges regarding legal compliance, please see points below:</p> <ul style="list-style-type: none"> <li>• In further conformance with the stated RFP as amended terms and subsequent Q&amp;A responses, the Puerto Rico Ports Authority (PRPA) should consider clarifying the RFP objectives and services agreement to request from proponents, and proponents be allowed to present, the required services as a “turn-key project” for the reconstruction of runway 8-26, to be performed by the selected single entity joint venture development company with the corresponding qualifications. <ul style="list-style-type: none"> <li>o We request to reformulate the RFP and proposed corresponding services agreement as a turn-key project via Addendum, wherein the design and construction work specifications and services are included, allows the selected proponent to act as a developer of the turn-key project with the power to subcontract the design services to a qualified and licensed engineering firm, and the constructions works to a qualified construction company.</li> <li>o The proponent, acting as a developer company, may have among its members, the consortium formed by the design firm and construction company which will be engaged to perform the project services, as required by Article 4.1 of the RFP.</li> <li>o As the services contract will be entered into by the single entity joint venture</li> </ul> </li> </ul>	<p>A ‘joint venture development company’, as proposed, is not the actual contractual vehicle required by the RFP and neither has it been approved by the PRPA as proposed. Consequently, it is premature to addressed Proposer’s legal understanding of a non-existent legal entity’s responsibilities. Therefore, it should be understood that such understanding is not accepted as correct.</p> <p>Only two parties will be signing the Contract. It does not need a documented witness in order to be valid and binding upon the parties. Addendum 6 established the legal basis the PRPA has to entered into a JVD/B Contract. At the appropriate time a meeting will be scheduled.</p>	<p>A ‘joint venture development company’, as proposed, is not the actual contractual vehicle required by the RFP and neither has it been approved by the PRPA as proposed.</p> <p>The contract will be signed before a Notary Public.</p> <p>Consequently, it is premature to addressed Proposer’s legal understanding of a non-existent legal entity’s responsibilities. Therefore, it should be understood that such understanding is not accepted as correct.</p> <p>Only two parties will be signing the Contract. It does not need a documented witness in order to be valid and binding upon the parties. Addendum 6 established the legal basis the PRPA has to enter into a JVD/B Contract. At the appropriate time a meeting will be scheduled.</p>



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		<p>development company, such legal entity shall be solely responsible to perform the work, including supervising and demanding performance from the subcontractors such as the designer and construction company. This is the case since, as a general and established rule, the shareholders, members, or owners of properly organized legal entities are not personally or individually liable for the obligations of the legal entities. Consequently, neither the designer nor the construction company shall be directly liable for the obligations assumed by the entity joint venture development company except for their respective willful acts or omissions.</p> <ul style="list-style-type: none"> <li>• We also request that the Designer be a documented witness to the contract and/or adopt as part of the contract an affidavit similar to the one being used by PRASA on its design build contracts (copy attached).</li> <li>• It should be in our mutual interest that the RFP and corresponding contract reflect the foregoing clarifications to minimize potential bid protests, third party challenges and the risk of being perceived or in violation of the practice of engineering law in Puerto Rico, Act 173-1988, as amended.</li> <li>• Lastly, we request a meeting between BQN Airport Partners legal counsel and the PRPA legal counsel to discuss this matter. We have been invested in this process for over 3 years and are still very much interested in joining the PRPA to deliver this most important project for Puerto Rico. Nonetheless, the resolution of this issue is critical on whether our team can proceed with an offer.</li> </ul>		
24	ADD20-C.4	4. We request the PRPA to confirm that payment for Design Services is not subject to retainage.	Confirmed.	PRPA shall retain a 5% to JVD/B Applications for Payment. It shall be matter of the JVD/B agreement to deal with payments for Design Services in accordance with the Law.
25	ADD20-C.5	5. We request that the PRPA confirms that the retainage can be replaced by a bond guaranteeing it.	The retainage shall be five percent (5%) of each partial payment made to the Contractor in accordance with section 13.2.2 of the UNIFORM GENERAL CONDITIONS FOR PUBLIC WORKS CONTRACTS.	The retainage CAN NOT be replaced by a bond guaranteeing it. The retainage shall be five percent (5%) of each partial payment made to the Contractor in accordance with section 13.2.2 of the UNIFORM GENERAL CONDITIONS FOR PUBLIC WORKS CONTRACTS.

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26	ADD22-A.20	<p>Questions and Clarifications to the DESIGN AND CONSTRUCTION SERVICES AGREEMENT BETWEEN THE PUERTO RICO PORTS AUTHORITY AND THE JVD/B RECITALS</p> <p>WHEREAS, The AUTHORITY aware of the importance of the Reconstruction of Runway 8-26 at Rafael Hernández Airport (BQN), Aguadilla, Puerto Rico, and in accordance with Regulation 8981 of 7 July 2017, engaged in a selection process consisting of a Request for Qualifications and after a shortlisting of the most qualified Respondents, a Request for Proposals for which only the shortlisted Respondents were invited. After careful consideration of the proposals submitted the PRPA determined, to be in its best interest, to select a JVD/B to execute this contract. It is agreed to by the Parties that the JVD/B, as a party with its own legal personality, will be the single point of contact with the PRPA to accomplish the construction of the BQN Runway 8-26 Reconstruction project (the Project), as Design Build contractor pursuant to Section 1.1.1.26 of the Uniform General Conditions for Public Works Contracts in Puerto Rico (Regulation #7998) herein after UGCPW and assuming the responsibilities determined by Section 1.1.1.25 of the UGCPW. The selection of a Joint Venture as a juridical person is considered to be the most agile and efficient vehicle to execute a Design Build Contract as contemplated under Articles 1.1.1.25 and 1.1.1.26 of the UGCPW. The provisions of the UGCPW are to be considered to have the force of law under Article 4 of Law 218-2010. Under said Article 4 of Law 218 any provision of any Law that is incompatible with the UGCPW is to be considered modified to incorporate the provisions of Law 218-2010.</p> <p>Question/Clarification: Under this Recital of the Authority, Law 173 of August 12, 1988, is incompatible with the UGCPW and therefore shall be considered modified to incorporate the provisions of Law 218-2010?</p>	Yes.	<p>Yes.</p> <p>Law 2018-2010 provides that the UGCPW has the force of law. But, they permit exceptions as otherwise provided in the Contract.</p>
27	ADD22-A.39	5.6.1 In any case of negligence, abandonment of duties or breach of this Agreement, the Authority shall have the power to terminate the contract immediately, without prior notice, and the	The terms negligence, abandonment of duties and breach of the Agreement are self-explanatory. A cure period could be contemplated during negotiations of the Contract. But we	The terms negligence, abandonment of duties and breach of the Agreement are self-explanatory and/or are defined by case law. Suggest consultation with local counsel. A cure period could be contemplated during negotiations of

No.	Addenda Reference	Questions	Previous Answers	Revised Answer, Delete the previous answer provided and replace with;
		<p>JVD/B shall have the duty to indemnify the Authority for the damages caused.            Question/Clarification: Please define case of negligence, abandonment of duties or breach of this Agreement? Why a period to cure is not contemplated?</p>	<p>are not assuming any responsibility to do so.</p>	<p>the Contract. But we are not assuming any responsibility to do so.</p>
28	ADD22-A.53	<p>11.5 Design/Builder's Use Of Progress Payments: Upon receipt of any payment from the Authority, the JVD/B shall, within fifteen (15) days of receipt of such payment, pay to all subcontractors, materials, workers, and suppliers the amounts due to them for work covered by such payment. The parties to this Agreement acknowledge the provisions of Article 1374 of the Puerto Rico Civil Code of 2020. Any irregularities noted in the Project's payrolls will be brought to the attention of the JVD/B by the Authority's Representative for appropriate corrective action and payment of any pending wages, payroll taxes or any labor related obligation, including but not limited to State Insurance Fund, Drivers Insurance (Seguro Choferil). Should the JVD/B fail to take the necessary action, it will be subject to such civil and criminal proceedings as provided by law and regulations. Payment of wages to laborers and employees of the JVD/B for their work shall have preference over the payment of other debts of the JVD/B, except as otherwise established by law. Noncompliance with this clause constitute an event of default if the amount in controversy exceeds half a percent (.5%) of the contract price.</p> <p>Question/Clarification: Please clarify if the term applicable is fifteen (15) calendar days or fifteen (15) working days.</p>	<p>Calendar days.</p>	<p>Calendar days.            The question submitted is referred to 11.15 and not 11.5 of the sample contract.</p>
29	ADD22-A.60	<p>ARTICLE 15 SUBCONTRACTORS, SUPPLIERS AND OTHERS            15.1 Subcontractors: Upon execution of this Agreement, and at such later times as may be applicable, the JVD/B shall deliver to the Authority's Representative, in writing, the names of persons or entities proposed by the JVD/B to act as Subcontractors on the Project. The JVD/B shall provide the Authority's Representative with such written information, including proof of license. If no objection is interposed by the Authority within fifteen (15) days of its receipt of such information, the JVD/B shall request the approval of the list to the Authority,</p>	<p>Calendar days, both.</p>	<p>Calendar days, both. This answers is referred to Article 15.2 not 15.1 of the Sample Contract.</p>

No.	Addenda Reference	Questions	Previous Answers	Revised Answer, Delete the previous answer provided and replace with;																					
		<p>who will have 10 days to make the decision. If there is no response from the Authority, it will be considered approved. Question/Clarification: Please clarify if the terms applicable are fifteen (15) days, calendar or working; and ten (10) days, calendar or working.</p>																							
30	ADD24-B.1	<p>1. Could you please provide the Sample Contract for the Project with the changes recognized by PRPA up to addendum 21, for bidders to be able to submit further questions on the revised version ahead of the October 15, 2023, deadline for RFC?</p>	<p>The updated Sample Contract for the Project with the changes recognized by PRPA up to addendums shall be provided on the contract formalization phase.</p>	<p>Revised Sample Contract included herewith.</p>																					
31	ADD24-B.5	<p>2. In relation to the price adjustment clause, we request that the following changes marked in red be included in the items to be reviewed:</p> <table border="1" data-bbox="321 785 734 1024"> <thead> <tr> <th>Item Description</th> <th>Specification Number</th> <th>Product</th> </tr> </thead> <tbody> <tr> <td>Asphalt Surface and Base Courses</td> <td>P-401 Plant Mix Bituminous Pavements</td> <td>Asphalt Binder Fuel</td> </tr> <tr> <td>Portland Cement Concrete Pavement</td> <td>P-501 Portland Cement Concrete Pavement</td> <td>Cement Fuel Steel</td> </tr> <tr> <td>Earthwork</td> <td>P-152 Excavation and Embankment</td> <td>Fuel</td> </tr> <tr> <td>Base Courses And <i>Aggregates for concrete</i></td> <td>P-208 Aggregate Base Course, P-209 Crushed Aggregate Base Course</td> <td>Fuel</td> </tr> <tr> <td>Stabilized Base Courses <i>Lean Concrete Base</i></td> <td>P-304 Cement Treated Aggregate Base P-306 Lean Concrete Base</td> <td>Cement Fuel</td> </tr> <tr> <td>Concrete Structures</td> <td>P-610, P-751, P-752</td> <td>Steel <i>Cement</i></td> </tr> </tbody> </table> <p>We understand the Authority's refusal to eliminate the 50% limit in the fuel review and include more variables in the price review transfers a significant of risk to the Contractor, which translates into an increase in the proposers bid price which is not favorable for the process. Therefore, we insist on requesting that your position be reconsidered. We also request that the requirement of a minimum quantity of the item to be revised be eliminated.</p>	Item Description	Specification Number	Product	Asphalt Surface and Base Courses	P-401 Plant Mix Bituminous Pavements	Asphalt Binder Fuel	Portland Cement Concrete Pavement	P-501 Portland Cement Concrete Pavement	Cement Fuel Steel	Earthwork	P-152 Excavation and Embankment	Fuel	Base Courses And <i>Aggregates for concrete</i>	P-208 Aggregate Base Course, P-209 Crushed Aggregate Base Course	Fuel	Stabilized Base Courses <i>Lean Concrete Base</i>	P-304 Cement Treated Aggregate Base P-306 Lean Concrete Base	Cement Fuel	Concrete Structures	P-610, P-751, P-752	Steel <i>Cement</i>	<p>The addition of the items in red is accepted. All other conditions related to price adjustment remain unchanged.</p>	<p>The addition of the items in red is accepted. All other conditions related to price adjustment remain unchanged.</p> <p>Find the Adjustments for Price Fluctuations document, with this revision, included in this Addendum.</p>
Item Description	Specification Number	Product																							
Asphalt Surface and Base Courses	P-401 Plant Mix Bituminous Pavements	Asphalt Binder Fuel																							
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32	ADD24-B.6	<p>3. Follow up on RFI#4 on Addendum 22: Please confirm that Article 17.11 of the Sample Contract (Claims For Increase In Contract Time/No Damages For Delay) in limited ONLY to circumstances attributable to the Contractor, or someone under his control.</p>	<p>Yes</p>	<p>No. Article 17.11 contemplates, "in addition to the negligent acts of the JVD/B or someone acting on their behalf, or because of changes to the design services or the work..."</p>																					
33	ADD26-B.6	<p>1. Through the RFP documentation available, the Joint Venture Design Builder (JVD/B) is required to be responsible for obtaining all permits for the Project. However Section 9 of the Design Criteria Package says:</p> <p><i>"The Design-Builder shall be responsible for submitting all applications and paying for all associated fees for environmental permits for the project. The Sponsor will</i></p>	<p>c. Confirmed. d. The "Sponsor" is the Puerto Rico Ports Authority.</p>	<p>a. Confirmed. b. The "Sponsor" is the Puerto Rico Ports Authority.</p>																					

No.	Addenda Reference	Questions	Previous Answers	Revised Answer, Delete the previous answer provided and replace with;
		<p><i>secure construction permits/plans required by federal and local regulations, including but not limited to a Karst Zone Special Planning Area Permit, Multi-Sector General Permit for stormwater associated with industrial activities, Stormwater Pollution Prevention Plans, and National Pollutant Discharge Elimination System Permits.”</i></p> <p>a. Confirm that the Karst Zone Special Planning Area Permit, Multi- Sector General Permit, Stormwater Pollution Prevention Plans, and National Pollutant Discharge Elimination System Permits are NOT the responsibility of JVD/B and are the responsibility of the “Sponsor”.</p> <p>b. Please confirm that the “Sponsor” is the Puerto Rico Ports Authority.</p>		
34	ADD32-C.4	<p><b>Maximum responsibility.</b> No maximum liability.</p> <p>We request that an overall cap of contractor's liability be included in the Contract. In prior opportunities, we have proposed that this cap be the amount equivalent to 30% of the Total Contract Price. We propose that the Ports Authority reconsider its position and if another percentage would be acceptable to the Authority, to submit it. What is essential is to have a reasonable amount determined and quantifiable for the calculation of risks and costs of these risks.</p> <p>This would be a new clause. In Addendum 7, answer 17 4 this question was expressly left unanswered. See also Addendum 4 answer #8.</p>	An overall cap of contractor's liability shall be the amount equivalent to 75% of the Total Contract Price.	In accordance with Attachment H, FAA General Provisions, Section 70-11, the JVD/B responsibility <u>cannot be limited.</u>

**END OF ADDENDUM NO. 34**

Romel Pedraza Claudio  
Assistant Executive Director for  
Planning, Engineering, and Construction

April 4, 2024  
San Juan, Puerto Rico