



Edificio de Comercio & Exportación
159 Ave. Carlos Chardón, Piso 3
Hato Rey, Puerto Rico 00918

rooseveltroads.pr.gov
787.705.7188

MEMORANDUM OF UNDERSTANDING

FIRST PARTY: ROOSEVELT ROADS NAVAL BASE LANDS FACILITIES REDEVELOPMENT AUTHORITY (LRA) is a public corporation of the Commonwealth of Puerto Rico created by Law No.508 of September 2004, as amended, represented herein by its Acting Executive Director, Arq. Nilda Marchán, and,

SECOND PARTY: The Municipality of Ceiba (TMC), represented herein by Samuel Rivera Báez, in his capacity as Mayor of Ceiba Municipality (hereinafter referred to as the "Municipality/Lessee").

WITNESSETH

WHEREAS, Act No. 508 of 29 September 2004, as amended, authorizes the Authority to contract the services necessary to perform its programmatic functions;

WHEREAS, The LRA, in compliance with its Roosevelt Roads redevelopment obligation, is in the process of doing several projects;

WHEREAS, Paving and rehabilitating the roads of the Roosevelt Roads site, including Roads Tarawua, Bennington, Valley Forge, Langley Dr., FDR Dr. is one of those projects which represent an important aspect in the success of the redevelopment projects in general;

WHEREAS, TMC and LRA have agreed to enter into this Memorandum of Understanding (MOU) for the ROAD PAVEMENT AND REHABILITATION PROJECT Roosevelt Roads (The Work). The term "Work" means the construction and services required by the Contract Documents (cited below), and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor selected by TMC to fulfill the Contractor's obligations.

NOW, THEREFORE, the parties hereto agree as follows:





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TERMS AND CONDITIONS

ONE: The parties agree that the purpose of this MOU is for TMC to procure a Construction Contract for The Work for which the LRA will provide assigned funds for from CAPPEX. In procuring and executing the Construction Contract TMC will comply with all state and federal laws and will so certify it to the LRA.

TWO: TMC agrees that it will include in the terms of the Construction Contract for the Work the following language (items 1-32) below. TMC also agrees that during the actual construction, it will assign the appropriate personnel to assure and guarantee the LRA as to the following:

MM

1. The Contractor selected by TMC shall complete the Work described in the Contract Documents for the Work. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. The Contract Documents consist of:

- a. the Construction Agreement signed by TMC and Contractor;
- b. the drawings and specifications prepared by the Architect (Integra Group, PSC) dated and enumerated as submitted to TMC by the LRA
- c. the bid proposal dated May 27 2022;
- d. bid documents

2. The Contract Time will be the number of calendar days available to the Contractor to substantially complete the Work.
3. The date of commencement shall be no later than July 29, 2022.
4. The Contract shall include all mandatory clauses required by the Office of the Comptroller of Puerto Rico.



5. The Contractor shall achieve Substantial Completion of the entire Work no later than September 30, 2022. This time limit is of the essence of the Contract. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so TMC can utilize the Work for its intended use. When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify TMC and TMC will make an inspection to determine whether the Work is substantially complete. When TMC determines that the Work is substantially complete, TMC shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and start of Warranties required by the Contract Documents.

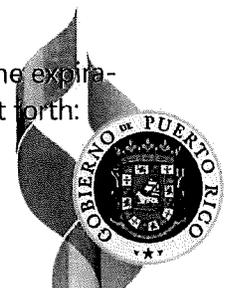
6. The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. The Contract Sum is limited to a lump sum of one million five hundreds twenty thousand three hundreds twenty-five dollars (\$1,520,325.00). This is the total amount payable by TMC to the Contractor for performance of the Work under the Contract Documents. No change orders will be accepted. However, TMC, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents the Contract Sum and Contract Time could be subject to equitable adjustment. If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or causes beyond the Contractor's control, the Contract Time could also be subject to equitable adjustment.

7. For purposes of payment, the Contract Sum includes the following values related to portions of the Work: REFER TO ADDENDUM I (Bid Proposal Dated May 27th, 2022).

8. Unit prices, if any, are as follows: REFER TO ADDENDUM I (Bid Proposal Dated May 27th, 2022).

9. Based on Contractor's Applications for Payment certified by TMC, the LRA shall pay TMC, in accordance with the terms establish in this MOU.

10. The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work subject to the terms and conditions set forth:



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- a. Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than (\$1,000,000.00) each occurrence, (\$1,000,000.00) general aggregate, and (\$1,000,000.00) aggregate for products- completed operations hazard.
 - b. Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than (\$1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.
 - c. The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under a & b above, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.
 - d. Workers' Compensation at statutory limits.
 - e. The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

- 11. Prior to commencement of the Work, The Contractor shall provide certificates of insurance showing their respective coverages.
- 12. This MOU represents the entire and integrated agreement between the LRA and TMC and supersedes prior negotiations, representations or agreements, either written or oral. The MOU may be amended or modified only by a written and signed modification.
- 13. TMC shall obtain and pay for necessary permits, approvals, easements, assessments, and charges.
- 14. If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

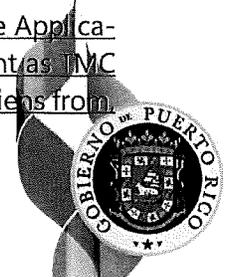


15. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the TMC to commence and continue correction of such default or neglect with diligence and promptness, TMC may, without prejudice to other remedies, correct such deficiencies. In such case, the LRA may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the LRA for the cost of correction, provided the actions of the LRA and amounts charged to the Contractor were approved by the LRA.
16. Execution of the Work by the Contractor selected by TMC is a representation that said Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.
17. The Contractor selected by TMC shall carefully study and compare the Contract Documents with each other and with information furnished by TMC. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to TMC.
18. *MM* The Contractor, promptly after being awarded the Contract, shall prepare and submit for TMC information a Contractor's construction schedule for the Work which will be in accordance with the completion time agreed.
19. The Contractor selected by TMC shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.
20. The Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.
21. The Contractor warrants to TMC that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality



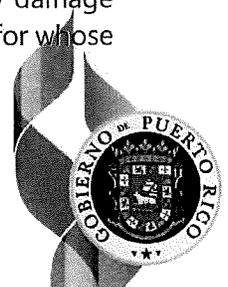
required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.

22. The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.
23. The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify TMC in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.
24. The Contractor selected by TMC shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the LRA.
25. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.
26. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless TMC, the LRA and its consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.
27. The Contractor shall submit to TMC an itemized Application for Payment for Work completed in accordance with the values stated in the Construction Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as TMC may reasonably require, such as evidence of payments made to, and waivers of liens from



subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by TMC, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

28. TMC will, within ten days after receipt of the Contractor's Application for Payment, either (1) issue to the LRA a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the LRA a Certificate for Payment for such amount as TMC determines is properly due, and notify the Contractor and LRA in writing of TMC's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and LRA of TMC's reason for withholding certification in whole.
29. After TMC has received a Certificate for Payment, it shall make payment in the manner provided in the construction contract.
30. The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from TMC, an amount determined. Neither the LRA nor TMC shall have responsibility for payments to a subcontractor or supplier.
31. Upon receipt of a final Application for Payment, TMC will inspect the Work. When TMC finds the Work acceptable and the Contract fully performed, it will promptly issue a final Certificate for Payment for LRA's payment. Final payment shall not become due until the Contractor submits to TMC releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.
32. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.



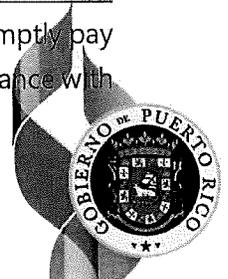
33. The Contractor shall promptly correct Work rejected by TMC as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

FIVE: The parties agree that the Contract Sum stated in this MOU, including authorized adjustments, is the total amount payable by the LRA to TMC for performance of the Work. TMC warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the LRA shall, to the best of TMC's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the LRA's interests.

SIX: TMC shall submit to the LRA an itemized Application for Payment for Work completed in accordance with the values stated in the Construction Agreement. The Application shall be supported by data substantiating TMC's right to payment as the LRA's may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the LRA, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

SEVEN: TMC will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the LRA a Certificate for Payment in the full amount of the Application for Payment; (2) issue to the LRA a Certificate for Payment for such amount as TMC determines is properly due, and notify the Contractor and LRA in writing of the TMC's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and LRA of TMC's reason for withholding certification in whole.

EIGHT: After TMC has issued a Certificate for Payment, the LRA shall make payment in the manner provided in this MOU. LRA will not pay any certificates for payments that, according to the LRA's representative, do not conform to the contract documents and this MOU. TMC shall promptly pay The Contractor upon receipt of payment from the LRA, an amount determined in accordance with





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the terms of the applicable construction contract. Neither the LRA nor TMC shall have responsibility for payments to a subcontractor or supplier.

NINE: When TMC's Contractor believes that the Work or designated portion thereof is substantially complete and has notified TMC, TMC will notify the LRA to make an inspection to determine whether the Work is substantially complete. When the LRA determines that the Work is substantially complete, TMC shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and start of Warranties required by the Contract Documents.

TEN: Upon receipt of a final Application for Payment, TMC will notify the LRA to inspect the Work. When the LRA finds the Work acceptable and the Contract fully performed, TMC will promptly issue a final Certificate for Payment. Final payment shall not become due until the Contractor submits to TMC and TMC to the LRA releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

ELEVEN: With the objective of facilitating the cooperation envisioned in this MOU, the PARTIES will appoint a person to represent them. This Representative will be in charge of providing administration to the terms of this MOU. The Representatives of each Party are:

- a. For TMC: Mr. Samuel Rivera Baez, Acting major of the municipality; Email: alcaldia@ceiba-pr.com, Phone: (787) 885-2180; Address: Po Box 224, Ceiba P.R. 00735-0224
- b. For the LRA: Ing. Ramón Lizardi, LRA Director of Facility Management & Operations; ramon.lizardi@lra.pr.gov; 787-705-7188; Address: 355 FD Roosevelt Ave. Of. 106 Hato Rey, PR 00918

TWELVE: DISPUTE RESOLUTION





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In case any dispute or difference shall arise between the parties hereto involving or relating to any matter arising under this MOU, the PARTIES shall meet and attempt in good faith to resolve any such dispute by means of simple mediation which process will be guided by the purpose of this MOU. If no resolution is possible the parties will be free to litigate the matter in the Court of First Instance of Fajardo.

THIRTEEN: TERM AND TERMINATION

Either party shall have the right to unilaterally terminate this agreement, with or without cause, upon 30 days prior written notice to the other party. However, no such early termination, whether mutual or unilateral, shall affect the obligations of the participants under any agreement or confidentiality clause herein, which obligations shall survive any such termination.

FOURTEEN: AMENDMENT

This MOU may be amended or supplemented only in writing and signed by both parties.

FIFTEEN: NOTICE

Any notice or communication required or permitted under this MOU shall be sufficiently given if delivered in person, by email or by certified mail, return receipt requested, to the address set forth in Paragraph TEN (10) or to such other address as one party may have furnished to the other in writing.

SIXTEEN: FOLLOW-UP MECHANISM

If any provision of this MOU is found to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this MOU is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.





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SEVENTEEN: GOVERNING LAW

The PARTIES agree that this MOU and any disputes arising under or in any way connected with the subject matter or formation of this MOU shall be governed by and construed in accordance with the law of the Commonwealth of Puerto Rico. Each party submits to the exclusive jurisdiction of the courts of the Commonwealth of Puerto Rico in relation to any disputes or other matters arising out of or in connection with this MOU.

EIGHTEEN: TORTS CLAUSE

TMC consents and agrees to exempt and exonerate the LRA and all of its agents, employees, consultants, members of its Board from any responsibility in the case of any judicial or extrajudicial claim when said claims are alleged to have been caused by the negligent, reckless, and/or culpable actions, conduct, or omissions of TMC, its agents or employees, and when any resulting damages shall have occurred totally or partially during the realization of this agreement.

NINETEEN: NON-DISCRIMINATION CLAUSE

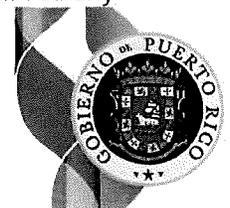
The PARTIES certify that they will not discriminate on account of sex, age, race, color national origin, social condition, physical or mental impairment, political or religious beliefs, or status in any employment contracting or subcontracting practices called for by this agreement.

TWENTY: INDEPENDENT CONTRACTOR CLAUSE

The PARTIES agree that they, their designees, and their assigns are acting as independent contractors and not as an agents, partners, employees, nor joint venture party of the other party to this MOU.

TWENTY ONE: TOTALITY OF COVENANT

This document contains the only covenants and pacts entered by the PARTIES regarding the Work. Any other expression, representation, written or verbal is hereby declared void and null. For any





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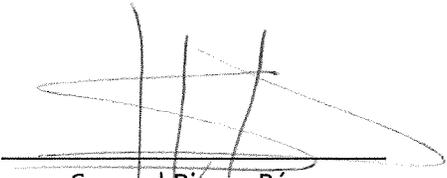
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alteration, modification, or extension of the terms and conditions of this MOU to be valid, the same must be executed in writing and authorized by the signing parties.

Any act done in disregard of the above statement will be void and will not create any kind of obligation between the signing parties or as it may regard any third party that intends to act or benefit of any amendment or modification before it is incorporated in writing into the terms of this MOU.

BY SIGNING BELOW, the PARTIES, acting by their duly authorized officers, have caused this Memorandum of Understanding to be executed, effective as of the day and year first above written.

IN WITNESS WHEREOF, the parties have signed this MOU on the 29th day of June 2022.

<p>MM</p> <p>ROOSEVELT ROADS NAVAL BASE LANDS AND FACILITIES REDEVELOPMENT AUTHORITY</p> <p> Nilda Marchán Executive Director EIN#660-66-1048</p>	<p>MUNICIPALITY OF CEIBA, PUERTO RICO.</p> <p> Samuel Rivera Báez Acting as Major of the Municipality of Ceiba EIN#660-43-3631</p>
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