

# DESIGN AND CONSTRUCTION OF THE THIRD SET OF LOCKS CONTRACT

PANAMA CANAL AUTHORITY	VARIATION	PAGE 1 OF 4
1. REQUEST FOR PROPOSAL No.:	2. CONTRACT No.:	3. DATE:
RFP-76161	CMC-221427	September 6, 2010
		4. VARIATION No.:
		010

5. ISSUED BY:

PANAMA CANAL AUTHORITY  
Employer's Representative  
Locks Project Management Division  
Building 740, Corozal  
Panama, Republic of Panama

6. NAME AND ADDRESS OF CONTRACTOR (INCLUDE PHYSICAL & POSTAL ADDRESS)	7. CONTRACTOR'S TELEPHONE NUMBER:
Grupo Unidos por el Canal S.A. Building 732, Corozal West Panama, Republic of Panama	507-316-9900
	8. CONTRACTOR'S FACSIMILE NUMBER:
	507-317-6736

## 9. VARIATION:

- ☒ The contract referred to in item No. 2 is hereby varied as set forth in item 10, entitled "DESCRIPTION OF VARIATION".  
☒ YES. ☐ NO. The contractor shall send a copy, duly signed, of this Variation to the Employer's Representative/Contracting Officer.

	9 A. THIS VARIATION IS EXECUTED ON THE BASIS OF: (Specify the legal authority). THE VARIATION DESCRIBED IN ITEM 10 IS HEREBY INCORPORATED AND MADE A PART OF THE CONTRACT.
	9 B. THE CONTRACT REFERRED TO IN ITEM NO. 2, IS VARIED TO INCORPORATE ADMINISTRATIVE CHANGES (such as the paying office, account numbers, etc.).
X	9 C. THIS BILATERAL AGREEMENT IS SIGNED AND INCORPORATED INTO THE CONTRACT REFERRED TO IN ITEM NO. 2 OF THIS FORM, ON THE BASIS OF: (Specify the legal authority) <b>Volume III, Conditions of Contract, Sub-Clause 13.1 [Right to Vary], Sub-Clause 13.3 [Variation Procedure] and Sub-Clause 1.16 [Entire Agreement], 4<sup>th</sup> Paragraph</b>
	9 D. OTHER. (Specify manner and the legal authority).
	9 E. ACCOUNT NUMBER (If required):

10. DESCRIPTION OF THE VARIATION (List in accordance with the order of the Contract. If additional space is required, use blank sheets).

(Refer to subsequent page)

Except for the variation(s) herein specified, all other terms and conditions of the Contract remain unchanged.

11. NAME AND TITLE OF THE PERSON AUTHORIZED TO SIGN (Type or print)	12. NAME AND TITLE OF THE EMPLOYER'S REPRESENTATIVE/CONTRACTING OFFICER (Type or print)
Antonio Maria Zaffaroni Contractor's Representative	Jorge de la Guardia, Employer's Representative
13. CONTRACTOR	14. DATE:
 (Authorized signature)	15. PANAMA CANAL AUTHORITY
	16. DATE:
	 (Employer's Representative/Contracting Officer's signature)
	7/11/2010

## **BACKGROUND**

The Contractor indicated in its Technical Proposal that concrete aggregates for the Atlantic Site would be obtained from basalt excavated at the Pacific Site, and transport in barges across Lake Gatun. The material would be loaded at the Pacific Site and unloaded at the Atlantic Site, using docks that the Contractor would build and where the required material handling facilities would be installed.

The Employer offered the Contractor the use of the existing North Cartagena Tie-up Station to obviate the need to build a loading dock at the Pacific 1 area which the Employer had assigned for such purpose.

A list of the correspondence exchanged between the Employer and the Contractor in connection with Variation Order No. 010 follows.

IAE-UPC-0242 of June 18, 2010

GUPC-IAE-0321 of July 6, 2010

IAE-UPC-0280 of July 12, 2010

GUPC-IAE-0333 of July 12, 2010

The substance of the understandings established through the above exchange of correspondence, which together constitute the basis for Variation No. 010, is summarized in the paragraphs that follow.

## **A. SCOPE**

Pursuant to the provisions of Sub-Clause 4.23 [Contractor's Operations on Site] of the Conditions of Contract, the Employer will grant the Contractor the use of the area at the North Cartagena Tie-up Station shown in Drawing P-A-F-0521, which forms part of Variation No. 010, subject to the following conditions:

1. GUPCSA will have access to the North Cartagena Tie-up Station 24 hours a day, 7 days a week, including public holidays.
2. There will be no rental fees or other charges associated with the access to and use of the North Cartagena Tie-up Station.
3. GUPCSA will observe all the operational requirements that the ACP's Operations Department would normally impose on the use and operation of the North Cartagena Tie-up Station.
4. GUPCSA will share the use of Capstan 1 with the ACP's Operations Department, and will allow access to the immediate area of the Capstan when needed by the ACP's Operations Department.
5. All loading/unloading operations by GUPCSA must be performed outside of the navigation channel prism



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6. The conveyor belt that the Contractor installs protruding out of the Station, so as to discharge material directly into the barge must be retractile to permit the ACP's Operations Department use the Station in case of emergency.
7. The Contractor will be responsible for the supply of all utilities, such as potable water, compressed air and power, to the assigned area.
8. The Contractor assumes full responsibility for any damage caused by the use and operation of the North Cartagena Tie-up Station, and will return the Station to the Employer not later than the Project's expected Completion Date (October 21, 2014), in the same or better condition than when it was received.
9. The Contractor will provide all security in the area.
10. Access to the area will be as shown in Drawing P-A-F-0523, which forms part of Variation No. 010.
11. The Contractor will coordinate access to the area with the PAC-4 Contractor and with any other third party, as and when required.

**B. COST AND TIME IMPLICATIONS**

1. The Contractor and the Employer have agreed that the savings to GUPCSA for using the North Cartagena Tie-up Station is \$1,193,024; this amount will be paid by the Contractor to the Employer and will be included as a credit to the Employer in the Interim Payment Certificate Application that is submitted immediately after Variation No. 010 is signed by the Parties.
2. Variation No. 010 will not have any time impact to the Locks Contract.

**C. ADDITIONAL CONDITIONS**

1. The Contractor will comply with all relevant provisions of the Conditions of Contract and of the Employer's Requirements applicable to the operation and assigned area.
2. The Contractor undertakes to hold harmless the Employer, the Employer's personnel and their respective agents, advisors and consultants against and from all claims, proceedings, suits, penalties, fines, debts, costs, damages, losses, expenses (including legal fees and expenses), awards and judgments in respect of the use and operation of the North Cartagena Tie-up Station and any arrangements that the Contractor enters into with third parties for such purposes.
3. The Contractor agrees to retract all Notices of Claim issued with respect to the barge loading facility at the Pacific Centennial Bridge Site, and undertakes not to pursue any future claims related to the change in location of the barge loading facility.

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4. In the event of an emergency, the Contractor will immediately grant the ACP unrestricted access to the assigned area.

In Witness whereof the Parties have caused Variation Order No. 010 to be executed by their duly authorized Representatives on the dates written immediately below the Representatives' signatures.

**FOR: The Employer**



Jorge de la Guardia  
Employer's Representative

Date: 7/12/2010

**FOR: The Contractor**

Antonio Zaffaroni  
Contractor's Representative

Date: \_\_\_\_\_







