

December 2, 2014

DCN: IAE-UPC-2342

Mr. Giuseppe Quarta
Grupo Unidos por el Canal, S.A.
Building 22B, Brujas Road
Cocoli, Republic of Panama

Reference: Contract No. CMC-221427, Design and Construction of the Third Set of Locks,
Panama Canal

Subject: Numbering of Variations

Dear Mr. Quarta:

The Employer refers to a number of determinations, as listed below, which have resulted in changes to the Contract Price. For administrative purposes, the Employer has assigned variation numbers to each determination as shown in the table below. This is not intended to have any defining, modifying or other effect on the contents of the letters referred to.

ITEM	REFERENCE	DATE	VO NUMBER
Range Tower No. 2	IAE-UPC-1201	13-Aug-2012	122
Claim No. 10 Fiscal Law 8	IAE-UPC-1202	13-Aug-2012	123
On-Site Testing	IAE-UPC-1203	13-Aug-2012	124
Transition Walls	IAE-UPC-2119	25-Jun-2014	125
Gate Drive Mechanism	IAE-UPC-2122	25-Jun-2014	126
Claim No. 66 Increase in Wages	IAE-UPC-2127	2-Jul-2014	127
VDS Semaphores	IAE-UPC-2156	24-Jul-2014	128
Claim No. 96 - Labor Strike	IAE-UPC-2192	6-Aug-2014	129
Maintenance Closure System	IAE-UPC-2199	8-Aug-2014	130
Fingerprint Readers	IAE-UPC-2217	26-Aug-2014	131

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The Employer attaches a variation form in respect of each of the items above. The Contractor's Representative's signature is not required.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Jorge de la Guardia', with a stylized flourish at the end.

Jorge de la Guardia

Employer's Representative

Locks Project Management Division

PANAMA CANAL AUTHORITY	VARIATION	PAGE 1 OF 1
1. REQUEST FOR PROPOSAL No.: RFP-76161	2. CONTRACT No.: CMC-221427	3. DATE: December 2, 2014
		4. VARIATION No.: 125

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) Grupo Unidos por el Canal, S.A. Building 22B, Brujas Road Cocoli, Republic of Panama	7. CONTRACTOR'S TELEPHONE NUMBER: 507-316-9900
	8. CONTRACTOR'S FACSIMILE NUMBER:

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.).
	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)
X	9 D. OTHER. (Specify manner and the legal authority). Refer to the Employer's Representative's Determination in letter IAE-UPC-2119 dated June 25, 2014
	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).

See attached

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) Jorge de la Guardia, Employer's Representative		
13. CONTRACTOR	14. DATE:	15. PANAMA CANAL AUTHORITY	16. DATE:
 (Authorized signature)		 (Employer's Representative/Contracting Officer's signature)	2/11/2014

June 25, 2014

DCN: IAE-UPC-2119

Mr. Giuseppe Quarta
Grupo Unidos por el Canal, S.A.
Building 22B, Brujas Road
Cocoli, Republic of Panama

Reference: Contract No. CMC-221427, Design and Construction of the Third Set of Locks,
Panama Canal

Subject: Transition Walls

Dear Mr. Quarta:

The Contractor, by letter GUPC-IAE-1555 dated November 16, 2012 submitted a proposal to design and construct transition walls between each of the lock chambers for the Employer's consideration. The Contractor proposed an increase to the Contract Price of \$1,495,680.11 plus 34.5% for overheads and profit. No explanation was provided as to how the figure of 34.5% had been arrived at.

The Contractor does not seek any other adjustment to the Contract Price, any extension of time to the Time for Completion and/or any extension of time to any Milestone Dates.

The Employer accepted the proposal in principle with some modifications but stated in letter IAE-UPC-1335, dated December 5, 2012, that the Employer would only be prepared to pay

“the overhead which [the Contractor] demonstrates to have actually been reasonably incurred in designing and constructing the transition walls”.

In its letter GUPC-IAE-1910 dated May 9, 2013 the Contractor again proposed an overhead figure of 29.5% plus 5% profit. Again, no explanation was provided as to how the figure had been arrived at but the Contractor said that it

“may be adjusted once resolved”.

The Employer's letter IAE-UPC-1570, dated June 12, 2013 stated that it would not pay the Contractor anything in respect of its overheads, none having been demonstrated.

The Contractor has not provided any substantiation for the proposed percentage overhead figures nor has it submitted any evidence of additional overheads actually incurred.

The Employer accepts the proposal on the basis that the Contractor's entitlement to overheads is resolved by way of a determination by the Employer's Representative, all other matters having been agreed.

The Contractor will note that the determination states that the Contractor is entitled to be paid a

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total sum of \$1,761,583.48 which includes the direct costs, overhead, and profit. The Employer will make payment that is consistent with the documented progress of this work and with the Employer's Representative determination.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Jorge de la Guardia", with a stylized flourish at the end.

Jorge de la Guardia

Employer's Representative

Locks Project Management Division

TRANSITION WALLS
EMPLOYER'S REPRESENTATIVE DETERMINATION
JUNE 25, 2014

BACKGROUND

1. The Contractor submitted a proposal to the Employer relating to the design and construction of transition walls between each of the lock chambers as more particularly set out in the documents referred to in IAE-UPC-2119 dated June 25, 2014.
2. That proposal has been accepted by the Employer on the basis that the Contractor's entitlement to overheads will be determined by the Employer's Representative, all other matters relating to the effect of the acceptance on the Contract Price and/or Time for Completion and/or any Milestone Dates having been agreed.

THE CONTRACTOR'S REQUEST FOR OVERHEADS

3. The Contractor, by letter GUPC-IAE-1555 proposed an increase to the Contract Price of \$1,495,680.11 plus 34.5% for overheads and profit. No explanation was provided as to how the figure of 34.5% had been arrived at.
4. In its letter IAE-UPC-1335, dated December 5, 2012, the Employer stated that it would only be prepared to pay
"the overhead which [the Contractor] demonstrates to have actually been reasonably incurred in designing and constructing the transition walls".
5. In its letter GUPC-IAE- 1910 dated May 9, 2013 the Contractor proposed an overhead figure of 29.5%. No explanation was provided as to how the figure had been arrived at but the Contractor said that it
"may be adjusted once resolved".

DETERMINATION PROCESS

6. The Contractor has declined to offer any explanation whatsoever as to the basis upon which it has calculated its proposed entitlement to overheads and has also declined to demonstrate any incurred additional overhead costs which are specifically related to its proposal. The Employer's Representative has therefore been placed in the position of having to assess what overheads are likely to have been incurred (and what overheads are likely to be incurred) by the Contractor but with no information from the Contractor.
7. It would be possible to infer that the Contractor's failure to provide information is due to there being nothing to offer. However, the Employer's Representative considers that, in relation to the transition walls, there was probably some additional resource

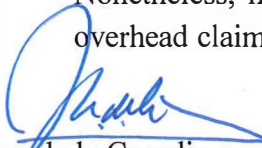
deployment and has made a reasonable estimate as to what was the incurred overhead , based on the assumptions below.

ASSUMPTIONS

8. The following assumptions have been made:
- (a) The change involves final design and RFC documentation for the transition walls. The work involved is to construct 6 transition walls between the chambers per side for a total of 12 including mainly activities for excavation, concrete, rebar, backfill, handrail, and fenders.
 - (b) Possible additional overhead costs incurred by GUPC may involve:
 - (i) design coordination between GUPC and CICP design teams;
 - (ii) indirect management for the construction of the transition walls including upper management, field supervision and health & safety and procurement;
 - (iii) administrative support by administrative assistant, human resources, logistic & procurement, design coordination and payroll.
 - (c) A three month period at each site to construct the transition walls is required. This involves the following:
 - (i) an average crew and historical production rates for the activities in the project;
 - (ii) indirect management and administrative support for the total period mentioned above at each site;
 - (iii) contract management, human resources, procurement, payroll and an indirect field supervisor;
 - (iv) additional water supply and survey services.

DETERMINATION

9. The Determination of the Employer's Representative appears in the attached table.
10. This Determination has had to be carried out without the benefit of any supporting information from the Contractor; this was the Contractor's deliberate choice. Nonetheless, if the Contractor decides to contribute any information in support of its overhead claim, this will be considered.



Jorge de la Guardia
Employer's Representative
Locks Project Management Division

APPENDIX 1

QUANTUM CALCULATIONS DETAIL FOR INDIRECT AND OVERHEAD COSTS

VARIATION TITLE: Transition Wall

A. COSTS RELATED DIRECTLY TO ADDITIONAL WORK

INDEX	DIRECT COSTS	QTY	UNIT COST	% ALLOCATED AMOUNT	TOTAL UNIT COST	DURATION	TOTAL DIRECT COST
I.	TOTAL DIRECT COSTS						\$ 1,495,680.11

B. COSTS TO SUPPORT THE VARIATION

II.	INDIRECT MANAGEMENT	QTY	MONTHLY SALARY + BENEFITS	% ALLOCATED AMOUNT	TOTAL UNIT COST	DURATION (MO)	TOTAL INDIRECT COST
	Construction Quality Manager - (Expat)	2	\$ 22,639	25%	\$ 11,319	3	\$ 33,958
	Field Engineer (Local)	2	\$ 6,000	100%	\$ 12,000	3	\$ 36,000
	Locks Project manager (Expat)	2	\$ 30,000	5%	\$ 3,000	3	\$ 9,000
	Contractor's Representative (Expat)	1	\$ 30,000	1%	\$ 300	3	\$ 900
	Logistic / Procurement Manager (Expat)	1	\$ 22,639	25%	\$ 5,660	3	\$ 16,979
	Health and Safety Manager (Expat)	2	\$ 14,947	25%	\$ 7,474	3	\$ 22,421
	SUBTOTAL	10					\$ 119,258

III.	EXPAT BENEFITS	Qty	MONTHLY UNIT COST	% ALLOCATED AMOUNT	TOTAL	DURATION (MO)	TOTAL INDIRECT COST
	HOUSING	5	\$ 4,000	25%	\$ 5,000	3	\$ 15,000
	HOUSING (upper management personnel)	3	\$ 4,000	5%	\$ 600	3	\$ 1,800
	MEALS	8	\$ 300	25%	\$ 600	3	\$ 1,800
	TRAVEL	8	\$ 333	15%	\$ 400	3	\$ 1,200
	CELL PHONE	8	\$ 100	25%	\$ 200	3	\$ 600
	VEHICLES	8	\$ 1,863	15%	\$ 2,235	3	\$ 6,706
	SUBTOTAL		\$ 10,596		\$ 9,035		\$ 27,106

IV.	ADMINISTRATIVE SUPPORT		MONTHLY UNIT COST	% ALLOCATED AMOUNT	TOTAL	DURATION (MO)	TOTAL INDIRECT COST
	Administrative Assistant	2	\$ 2,000	50%	\$ 2,000	3	\$ 6,000
	Human Resources	2	\$ 2,250	50%	\$ 2,250	3	\$ 6,750
	Logistic / Procurement Coordinator	1	\$ 2,800	25%	\$ 700	3	\$ 2,100
	Design Coordinator	1	\$ 3,500	25%	\$ 875	2	\$ 1,750
	Asbult Coordinator	1	\$ 7,000	25%	\$ 1,750	2	\$ 3,500
	Payroll Personnel	2	\$ 2,000	50%	\$ 2,000	3	\$ 6,000
	SUBTOTAL	9					\$ 26,100

V.	OTHERS		MONTHLY UNIT COST	% ALLOCATEDAMOUNT	TOTAL	DURATION (MO)	TOTAL INDIRECT COST
	Water supply	2	\$ 28,000	1%	\$ 560	3	\$ 1,680
	Survey services	2	\$ 8,750	15%	\$ 2,625	3	\$ 7,875
	SUBTOTAL						\$ 9,555

VI.	TOTAL INDIRECT COSTS						\$ 182,018
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VII.	TOTAL COST (DIRECT COST + INDIRECT COST)						\$ 1,677,699
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VIII.	PROFIT MARGIN	5%					\$ 83,885
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IX.	ESTIMATED REASONABLE COST						\$ 1,761,583.48
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