



GOVERNMENT OF PUERTO RICO
PUERTO RICO PUBLIC-PRIVATE PARTNERSHIPS AUTHORITY

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DATE: December 21, 2023

SENATE OF PUERTO RICO
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TO: Hon. Pedro Pierluisi Urrutia
Governor
La Fortaleza
San Juan, Puerto Rico

FROM: Public-Private Partnerships Authority

SUBJECT: Compliance Report for the year 2020, in relation to the Concession Agreement for Toll Roads PR-22 & PR-5, by and between the Puerto Rico Highways and Transportation Authority ("HTA") and Autopistas Metropolitanas de Puerto Rico, LLC ("Metropistas").

Please acknowledge receipt of the Compliance Report.



[Stamp: OFFICE OF THE CHIEF OF STAFF, THE FORTALEZA

Time: [hw: 2:26 pm]

DEC 21 2023

Name:

Signature:

CC: Hon. José L. Dalmau Santiago, President - Senate of Puerto Rico
Hon. Rafael Hernández Montañez, Speaker - House of Representatives; and Joint Committee on Public-Private Partnerships of the Legislative Assembly of Puerto Rico.



2020

ANNUAL REPORT

COMPLIANCE MONITORING

CONCESSION AGREEMENT FOR THE PR-22 & PR-5 TOLL ROADS

Prepared by: Yardely Knox LLC

To: Public-Private Partnerships Authority
Roberto Sánchez Vilella Government Center
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INTRODUCTION

On June 27, 2011, the Puerto Rico Highways and Transportation Authority ("HTA") and Autopistas Metropolitanas de Puerto Rico, LLC ("Metropistas" or the "Concessionaire") entered into a Partnership Agreement ("Concession Agreement" or "Agreement") following a competitive bidding process under Act No. 29-2009, Public-Private Partnerships Act, as amended ("Act 29").

Under the Concession Agreement, Metropistas became responsible for operating, rehabilitating, preserving and improving the PR-5 and PR-22 Toll Roads ("Toll Roads") for a period of forty (40) years. Subsequently, on April 19, 2016, HTA and Metropistas executed an amendment to the Concession Agreement to extend its term for an additional ten (10) years, for a total term of fifty (50) years. This amendment included an additional payment to HTA of \$115 million.

The majority shareholder of Metropistas is Abertis Infraestructuras, SA, a Spanish corporation founded in 2003, with headquarters in Madrid and operating headquarters in Barcelona, dedicated to the management of toll roads. It is the leading toll road concessionaire in Spain and the world's leading operator in terms of the number of kilometers managed, spread over fourteen countries in Europe and Latin America.

This monitoring report is submitted pursuant to Article 10(d) of Act 29, which requires the Public-Private Partnerships Authority (hereinafter "PPPA") to submit annual reports on the Concessionaire's performance and compliance under the Agreement. This report covers the period from January 1, 2020 to December 31, 2020.

AMENDMENTS TO THE CONCESSION AGREEMENT

As mentioned above, since its execution, the Concession Agreement has been amended six (6) times, thus affecting the terms and conditions of the original agreement. The following is a brief summary of the amendments to the Concession Agreement.

- **First Amendment:** Executed on September 19, 2011. This amendment established that certain representations made by HTA in the Concession Agreement were inconsistent with the actual conditions of the Toll Roads. Specifically, it was established that (1) certain network contracts, which would be transferred to the Concessionaire at the time of the Financial Closing, were not in force; (2) that HTA did not have all the necessary permits for the operations of the Toll Roads; and that (3) certain assets of the Toll Roads were not in operational condition, as established in the Concession Agreement. For this reason, HTA and the Concessionaire agreed to amend the Agreement so that HTA would transfer other network contracts to the Concessionaire, relieve the Concessionaire of any default in relation to those permits not available at the time of the Financial Closing, and HTA would assign to the Concessionaire other assets in substitution of those that were not in operating condition at the time of the Financial Closing.
- **Second Amendment:** Executed on March 23, 2012. This amendment arose as a consequence of HTA's commencement of the work of the conversion to

electronic tolls of the lanes at the highway toll plazas. This, according to the scope of work contracted by HTA with TransCore Atlantic, Inc. ("TransCore"), prior to the signing of the Concession Agreement. Through this amendment, the parties established the schedule for the work to be performed by TransCore on the Toll Roads and, in addition, agreed to changes to the ASU ("Accelerated Safety Upgrades") and to the payment terms of the portion corresponding to HTA of the electronic tolls for services provided by TransCore.

- **Third Amendment:** Executed on November 14, 2012. This amendment arose as a consequence of the construction works of the Bus Rapid Transit / Dynamic Toll Lane ("BRT/DTL") on PR-22 by HTA. HTA requested that the Concessionaire implement certain works to accelerate the completion of the BRT/DTL project and, in exchange for these works, HTA agreed to compensate the Concessionaire for the capital improvement expenses it incurred. The compensation was made through certain adjustments to the Concessionaire's payments to HTA for TransCore's electronic toll collection services.
- **Fourth Amendment:** Executed on February 4, 2015. This amendment reflected the intention of the parties to share certain revenues and, in addition, to execute a new contract for the administration of electronic toll collection on Puerto Rico's highways. This amendment established a new Schedule 11: Terms of Electronic Toll Collection Services for the Concession Agreement.
- **Fifth Amendment:** Executed on April 19, 2016. Said amendment was executed to address a series of modifications proposed by the Concessionaire related to the implementation of bi-directional tolls. In this amendment, the Concessionaire agreed to share certain toll revenues with HTA, while HTA agreed to extend the term of the concession for an additional ten (10) years and adjust the distribution of tolls collected in relation to the PR-22 BRT/DTL project. This amendment also added a new Schedule 23 to the Concession Agreement regarding the excess toll revenues that the Concessionaire agreed to share with HTA on an annual basis.
- **Sixth Amendment:** Executed on December 6, 2022. This amendment is based on an Adjustment Plan under Title III of PROMESA and requires the implementation of changes to the Toll Road Concession Agreement. Such changes involve the submission of weekly reports on traffic and overdue toll amounts and fines. These reports must be prepared by the Electronic Toll Collection ("ETC") Service Provider and submitted to the Trust Agent. In addition, an affidavit confirming the absence of convictions for specific offenses is requested. The notice requires acknowledgement of receipt and sets forth the effective date of the proposed changes. The document also includes attached forms detailing the format of traffic reports and overdue toll and fine amounts, as well as an affidavit form.

CONCESSION AGREEMENT AT PRESENT

Accordingly, the Concession Agreement currently consists of a master agreement and twenty-three (23) appendices that establish the terms and conditions agreed between HTA and Metropistas for the administrative concession of the Toll Roads.

On the other hand, the Term of the Concession, pursuant to the Fifth Amendment, was increased from forty (40) to fifty (50) years, which means that the Concessionaire will operate the Toll Roads until the year 2061. Both the Concessionaire and HTA have obligations to fulfill under the Concession Agreement. Most of the obligations fall on the Concessionaire and its management of the Toll Roads. However, HTA also has the obligation to monitor and supervise that the operations of the Toll Roads are being carried out in accordance with the agreements reached.

SCOPE AND METHODOLOGY OF MONITORING

On July 14, 2021, a proposal was submitted to the PPPA for external services to monitor Toll Roads concession compliance with the terms and conditions of the Concession Agreement, including the preparation of annual reports for the years 2020 and 2021 of the Concession Agreement, as well as an Audit of the five (5) years of the Agreement, which covers the period 2017, 2018, 2019, 2020 and 2021. On March 11, 2022, the contract with Yardley Knox for the services was executed.

As part of the compliance monitoring services, Yardley Knox identified the areas and documents to be reviewed and drafted a Document Request Table, which outlines the terms of the Concession Agreement to be reviewed to determine compliance during the evaluation period. The Document Request Table includes a compliance monitor for the following concession topics:

- Compliance with Toll Road maintenance in accordance with the provisions of Volume I of the Operating Standards (Maintenance Manual) Compliance with Annual Plans: Operating Standards Volumes II and III 'Operations and Procedures Manual' and 'Environmental Management Manual'.
- Annual Toll Road Condition Report and Capital Improvement Program by Operating Standards Volume II
- Concessionaire's compliance with the submission of Monthly Reports on Electronic Toll Collections, Incident Notifications, Environmental Incident Reports and Financial Statements, among others.
- Compliance with Toll Collection implementation
- Concessionaire's compliance with the Maintenance of Insurance Policies required by the Concession Agreement during the evaluation period.
- Concessionaire's compliance with Tax Obligations (Income Tax, Municipal Taxes, Municipal Patents, Property Tax and Sales and Use Tax) during the evaluation period.
- The Toll Road Concessionaire's compliance with the Authorizations (Permits, Endorsements, among others) required for operations.
- Concessionaire's compliance with Toll Road Utility Payments during the evaluation period.

- Concessionaire's compliance with Payments to HTA for the Benefit of Members of the Puerto Rico Police Bureau
- Concessionaire's compliance with the requirements of the Concession Agreement and applicable laws regarding the execution of Capital Improvement Projects.

According to the different topics evaluated as part of this monitoring, the evaluation methodology varies for each evaluated topic. The following sections set forth the terms of the Concession Agreement, as amended, the implementation of such terms and conditions by the Concessionaire and HTA, and the evaluation for each of these sections.

The author of this report reserves the right to submit a revised report in the future with additional information to that contained herein, such as tables, graphs, results, opinions, and conclusions, resulting from additional information that was not available at the time the report was written.

MONITORING REPORT

The following sections discuss each of the topics that are the subject of this report, in accordance with the provisions of the Concession Agreement, its amendments, and appendices. The issues were determined from a thorough review of the terms and conditions of the Concession Agreement.

ANNUAL PLAN: OPERATING STANDARDS VOLUME I: MAINTENANCE MANUAL

Article 6 of the Concession Agreement establishes that the Concessionaire must cause its operations of the Toll Roads to be in compliance with the requirements of the Operating Standards included as Schedule 9 of the Concession Agreement. These Operating Standards require operation in accordance with the highest quality standards and practices, as well as compliance with the provisions of the Concession Agreement.

Volume I of the Operating Standards (Schedule 9A of the Concession Agreement), entitled Maintenance Manual, requires the Concessionaire to effectively and constantly maintain all the infrastructure that make up the Toll Roads. This manual divide maintenance activities into preventive maintenance and corrective maintenance. Toll Road infrastructure is divided in Volume I of the Operating Standards into the following categories: Toll Road Maintenance (Chapter B), Toll Road Delineator Maintenance (Chapter C), Drainage Maintenance and Erosion Control (Chapter D), Landscaping Maintenance (Chapter E), Slope, Landslide, and Sinkhole Maintenance (Chapter F), Bridge and Structure Maintenance (Chapter G), Noise Wall and Retaining Wall Maintenance (Chapter H), Third Party Damages and Emergency Maintenance (Chapter I), Roadway Safety Features and Systems Maintenance (Chapter J), Signs and Signage Maintenance (Chapter K), Lighting and Electrical

Systems Maintenance (Chapter L), Toll Plaza Maintenance (Chapter M), and Facilities Maintenance (Chapter N). For each of the aforementioned categories, Volume I of the Operating Standards imposes certain frequencies of maintenance activities and response times for corrective activities, which must be complied with.



IMPLEMENTATION

In accordance with the requirements of Volume I of the Operating Standards, the Concessionaire has established an organizational structure to manage all maintenance activities on the Toll Roads. It consists of the allocation of internal and external resources to execute and supervise the maintenance activities implemented. In addition, the Concessionaire implemented an information technology system called JAMMS to record its maintenance performance on the Toll Roads.



EVALUATION METHODOLOGY

The evaluation of maintenance on the Toll Roads and their facilities was performed based on the information obtained by the Concessionaire. It groups the corrective maintenance activities, from 2017 to 2021, according to the information recorded in the JAMMS program. The Concessionaire has also incorporated the response times in the JAMMS system.



EVALUATION

The table below shows the Concessionaire's compliance with the response times for maintenance activities. It is worth mentioning that the corrective activities reported here are those registered by the Concessionaire in its JAMMS system.

TABLE 1: DISTRIBUTION OF CORRECTIVE MAINTENANCE ACTIVITIES PER CHAPTER

	Total	Compliant		Noncompliant	
		Instances	%	Instances	%
Bridges and Structures	99	95	95.96%	4	4.04%
Drainage / Erosion Control	45	45	100.00%	0	0.00%
Facilities Maintenance	2153	2145	99.63%	8	0.37%
Landscaping	437	433	99.08%	4	0.92%
Retaining Wall Maintenance	3	3	100.00%	0	0.00%
Maintenance of Lighting Fixtures on Roadways	454	433	95.37%	21	4.63%
Pavement Maintenance	440	434	98.64%	6	1.36%
Roadway Cleaning	307	304	99.02%	3	0.98%
Maintenance of Road Safety Systems	945	934	98.84%	11	1.16%
Slope stabilization, Rock Sld, SNKH	5	4	80.00%	1	20.00%
Maintenance of Plazas	91	91	100.00%	0	0.00%
TOTAL	4979	4921	98.84%	58	1.16%

As can be seen, the Concessionaire has consistently complied with its response times for maintenance activities according to the information provided. During the years 2017 to 2021, a total of 4,979 maintenance activities were recorded, for which the Concessionaire complied with its response times/frequency in 4,921 or 98.84% of the activities. The Concessionaire evidenced that Metropistas changed its platform at the beginning of 2022 and it does not allow it to extract individual reports from 2021 backwards.

EVALUATION SUMMARY

The table below presents a summary of the evaluation.

TABLE 2: EVALUATION SUMMARY OF PROCEDURES REQUIRED BY VOLUME I OF OPERATING STANDARDS

Criteria	Result
Response to Maintenance Activities	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

ANNUAL PLAN: OPERATING STANDARDS VOLUME II: OPERATIONS AND PROCEDURES MANUAL

Article 6 of the Concession Agreement establishes that the Concessionaire must ensure that its operation of the Toll Roads is compliant with the requirements of the Operating Standards included in Schedule 9 to the Concession Agreement. These Operating Standards require operation in accordance with the highest

quality standards and practices, as well as compliance with the clauses of the Concession Agreement.

Volume II of the Operating Standards (Schedule 9B of the Concession Agreement), titled Operations and Procedures Manual, requires the Concessionaire to prepare and submit certain annual plans and reports to HTA for evaluation and approval. The purpose of the required plans is to establish the manner in which the Concessionaire will achieve the quality and service standards required by the Concession Agreement. On the other hand, the reports have the purpose of establishing the results obtained by the Concessionaire, to establish compliance with the Operating Standards.

Required Plans: The Operations and Procedures Manual requires the Concessionaire to submit the following annual plans to HTA:

- Program Management System Plan (Chapter B)
- Quality Management System Plan (Chapter C)
- Security Plan (Chapter D)
- Equipment Plan (Chapter E)
- Toll Collection and Operation Plan (Chapter F)
- Facilities Operations Plan (Chapter G)
- Traffic Management Plan (Chapter H)
- Customer Service Plan (Chapter I)
- Emergency Operations and Management Plan (Chapter J)

The following are the results of the monitoring of the requirements of Volume II of the Operating Standard of the Concession Agreement.

• Concessionaire Submission of Plans	Compliant
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For 2020 the plans required by Volume II of the Operating Standard were to be submitted by the Concessionaire to HTA on or before January 29, 2021. The following are the dates for submission of the various plans by the Concessionaire.

	<u>V10.0 (2020)</u>
– Program Management System Plan	28-Jan-2021
– Quality Management System Plan	28-Jan-2021
– Security Plan	28-Jan-2021
– Equipment Plan	28-Jan-2021
– Toll Collection and Operation Plan	28-Jan-2021
– Facilities Operation Plan	28-Jan-2021
– Traffic Management Plan	28-Jan-2021
– Customer Service Plan	28-Jan-2021
– Emergency Operations and Management Plan	28-Jan-2021

According to the evidence provided by the Concessionaire, all plans for the year 2020 (V10.0) were submitted to HTA within the stipulated period, therefore, it is

considered that the Concessionaire is in compliance with the times established in the Operating Standard.

- **HTA Approval of Plans**

Noncompliant

For 2020 the plans submitted by the Concessionaire were due to be approved by HTA on or before May 28, 2021 (120 calendar days after submission of the plans). No evidence has been provided that the plans have been approved as of the date of this monitoring. Accordingly, it is considered that HTA is in non-compliance with this requirement of the Concession Agreement.

ANNUAL HIGHWAY CONDITION REPORT AND CAPITAL IMPROVEMENT PROGRAM BY OPERATING STANDARDS VOLUME II: OPERATIONS AND PROCEDURES MANUAL

Required Reports: The Operations and Procedures Manual, in Section A.5 of Chapter L, requires the Concessionaire to prepare and submit to HTA the Annual Toll Road Condition Report and Capital Improvement Program. This report, in turn, is divided into the following topics:

- Bridge and Structures Condition Report (Section L.3.6.1)
- Underwater Conditions Report (Section L.3.7)
- Fracture Critical Condition Structures Report (Section L.3.8)
- Road and Civil Conditions Report (Section L.3.6.2)
- Facility Condition Report (Section L.3.6.3)
- Capital Improvement Program Report (Section L.3.10.3)
- Current Traffic Condition Report and 10-Year Growth Projection (Section L.2.2)
- Concessionaire Certification (Section L.2.3)

Timing for Submission of Reports: Pursuant to the stipulations of the Operating Standards, all plans required by Volume II of the Operating Standards and all reports comprising the Annual Toll Road Condition Report, with the exception of the Capital Improvement Program, must be submitted to HTA within one hundred twenty (120) calendar days after each concession year. The Underwater Conditions Report must be submitted to HTA on a biannual basis.

Finally, the Capital Improvement Program Report must be submitted to HTA annually, within two (2) months after HTA has approved the annual reports on the condition of the Toll Roads.

 IMPLEMENTATION

In accordance with the requirements of Volume II of Operating Standards, the Concessionaire has submitted the required plans and reports to HTA. However, it is important to clarify that not all of the required reports apply to the Toll Roads under the concession and that, as required by HTA, the frequency of one of the reports differs from that required by the Operating Standards. The explanation follows:

- The Fracture Critical Condition Structures Report required by Chapter L does not apply to the concession. This is because no structure, within the concession limits, meets the requirements to be so classified according to the "*National Bridge Inventory System*" (hereinafter "NBIS") of the Federal Highway Administration ("FHWA"). This was indicated by the Concessionaire. A check of the FHWA bridge database for Puerto Rico confirmed the information provided by the Concessionaire.
- The Underwater Conditions Report, required by Chapter L, has been prepared biannually since 2016. Chapter L, in its Table L.3.12.2 establishes that the bridges requiring aquatic inspections are No. 1021, No. 888, No. 889, No. 894, No. 2774 (the Concessionaire has provided evidence that this bridge is outside the concession limits) and No. 1180. The company Desarrolladora JA is responsible for conducting bridge inspections.

 EVALUATION METHODOLOGY

The evaluation focused on the submission of the documents by the Concessionaire and timely approval of the documents by HTA. For this item, the dates of presentation and approval of the different documents submitted by the Concessionaire to HTA and subsequent approval by HTA are taken into consideration, according to the following:

- **Concessionaire Submission of Toll Road Condition Report**
- **HTA Approval of Annual Toll Road Condition Report**
- **Concessionaire Submission of Capital Improvement Program**
- **HTA Approval of Capital Improvement Program**
- **Concessionaire Submission of Toll Road Conditions Report**

Compliant

The 2020 Report documents were due to be filed by the Concessionaire on or before January 29, 2021. The following are the dates of the Concessionaire's submission of the various documents.

Bridge and Structure Conditions Report	29-Jan-2021
Underwater Conditions Report.....	29-Jan-2021

Fracture Critical Condition Structures Report.....Not Applicable
 Civil and Road Conditions Report29-Jan-2021
 Facility Condition Report29-Jan-2021
 Current Traffic Conditions Report and 10-Year Projection.....Not Applicable*
 Concessionaire Certification29-Jan-2021

*See 'Delay Notice - COVID19 Pandemic Communication' of July 23, 2020.

Section L.2.4 of the Operating Standards states that, "[t]o receive PRHTA and Commonwealth approval, the following criteria must be met or exceeded: all inspections have been performed in accordance with the requirements of this Chapter, all reports have been signed and sealed by a professional engineer licensed in the Commonwealth of Puerto Rico, and all required documentation and reports have been filed with the appropriate agency". Based on the foregoing, it was identified that the reports required by Chapter L are signed and stamped by a licensed engineer. In addition, they complied with stamp payments of the Colegio de Ingenieros y Agrimensores de Puerto Rico [Puerto Rico Association of Engineers & Surveyors] ("CIAPR", the Spanish acronym), as stated in the CIAPR Stamp Payment Guidelines Manual, approved on March 18, 2017, Chapter III, Article 2.

The Operating Standards require that the Concessionaire comply with the acceptance criteria presented in Section L.2.4, in order for HTA to subsequently evaluate and approve the information submitted. To this effect, Metropistas reports that HTA has not provided answers on this matter and/or the approval of the report.

- **HTA Approval of Annual Toll Road Conditions Report**

Noncompliant

For 2020 the reports submitted by the Concessionaire were due to be approved by HTA on or before May 28, 2020 (120 calendar days after submission of the reports). No evidence has been provided that the plans have been approved as of the date of this report. Accordingly, it is considered that HTA is Noncompliant with this requirement.

- **Concessionaire Submission of Capital Improvement Program Compliant**

Since there is no documentation evidencing the approval of the reports that make up the Annual Toll Road Conditions Report, there is no certain date for submission of the report.

In addition, CIAPR stamp payment was complied with, as stated in the CIAPR Stamp Payment Guidelines Manual, approved on March 18, 2017, Chapter III, Article 2.

The Operating Standards require the Concessionaire to comply with the acceptance criteria presented in Section L.2.4, in order for HTA to subsequently evaluate and approve the information submitted. According to Metropistas, HTA has not provided answers on this matter and/or the approval of the report.

HTA Approval of Capital Improvement Program Noncompliant

In the absence of evidence that the Annual Toll Road Conditions Report has been approved by HTA, and in light of the Concessionaire's submission of the Capital Improvements Program Report, it is not possible to establish a chain of documents that would demonstrate HTA's compliance with this requirement of the Concession Agreement.

 **EVALUATION SUMMARY**

The table below presents a summary of the Concessionaire's and HTA's compliance with the submission and approval of documentation required by Volume II of Operating Standards.

TABLE 3: EVALUATION SUMMARY OF THE PROCEDURES REQUIRED BY VOLUME II OF THE OPERATING STANDARDS

Criteria	Result
Submission of the Annual Toll Road Conditions Report	C
HTA approval of Annual Toll Road Conditions Report	NC
Concessionaire submission of Capital Improvement Program Report	C
HTA approval of the Capital Improvement Program Report	NC
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

ANNUAL PLAN: OPERATING STANDARDS VOLUME III: ENVIRONMENTAL MANAGEMENT MANUAL

Article 6 of the Concession Agreement establishes that the Concessionaire must cause its operations of the Toll Roads to be in compliance with the requirements of the Operating Standards included as Schedule 9 of the Concession Agreement. These Operating Standards require operation in accordance with the highest quality standards and practices, as well as compliance with the provisions of the Concession Agreement.

Volume III of the Operating Standards (Schedule 9C of the Concession Agreement), entitled Environmental Management Manual, requires the Concessionaire to protect natural resources and the environment, while complying with contractual clauses. This volume establishes the minimum requirements for the Concessionaire to generate a detailed environmental plan to address the fundamental issues necessary to protect natural resources and the environment.

The Environmental Management Plan required by Volume III of the Operating Standards must be submitted by the Concessionaire to HTA, within one hundred and twenty (120) calendar days after each concession year (according to Section A.6, taking into consideration the Closing Date). On the other hand, HTA is also required to approve the Environmental Management Plan submitted by the Concessionaire. There is no specified time period for the approval by HTA of such plan.



IMPLEMENTATION

In accordance with the requirements of Volume III of the Operating Standards, the Concessionaire has submitted Environmental Management Plans annually to HTA.



EVALUATION METHODOLOGY

For this item, the Timely Presentation and Approval of the Plans was evaluated. This takes into consideration the dates of presentation by the Concessionaire and the approval of the plans by HTA.



EVALUATION

The following are the results of the evaluation of the requirements of Volume III of the Operating Standards of the Concession Agreement.

• Concessionaire Submission of the Plan	Compliant
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For the year 2020 the Environmental Management Plan was to be submitted by the Concessionaire on or before January 29, 2021. The Concessionaire submitted the plan to HTA on January 28, 2021, thus complying with the timeframe required by Volume III of the Operating Standards.

Result: The Concessionaire complied with the presentation of the Environmental Management Plan.

• Timely Approval of the Plan by HTA	Noncompliant
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For the year 2020 the plan submitted by the Concessionaire had to be approved by HTA on or before May 28, 2021 (120 calendar days after submission of the plans).

No evidence has been provided that the plan has been approved as of the date of this report. Accordingly, it is considered that HTA is in noncompliance with this requirement of the Concession Agreement.


EVALUATION SUMMARY

The table below presents a summary of the Concessionaire's and HTA's compliance with the submission and approval of documentation required by Volume II and III of the Operating Standards.

TABLE 4: EVALUATION SUMMARY OF PROCEDURES REQUIRED BY VOLUME II AND III OF OPERATING STANDARDS

Criteria- Volume II	Result
Concessionaire Submission of Plans	C
HTA Approval of Plans	NC
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

Criteria- Volume III	Result
Concessionaire Submission of Environmental Management Plan	C
HTA Approval of the Environmental Management Plan	NC
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

MONTHLY ELECTRONIC TOLL COLLECTION REPORTS AND NOTIFICATIONS

Section 8.1(a) of the Concession Agreement establishes that within fifteen (15) days after the end of each month, the Concessionaire must submit to HTA a report substantially similar to Schedule 19 of the Concession Agreement. These reports must be prepared with data from the electronic toll collection service provider on the Toll Roads and must include a detailed estimate of the *Delinquent Non-Cash Tolls* (DNCT) for the period covered by the report. Schedule 19 of the Concession Agreement, entitled *Form of Monthly ETC Traffic Report*, consists of a reporting template of electronic toll transactions and corresponding revenues based on the applicable rates for the period.


IMPLEMENTATION

As required by Section 8.1(a) of the Concession Agreement, the Concessionaire generated its own template for the requested reports. The Concessionaire's template is substantially similar to Schedule 19 of the Agreement. The main differences between the aforementioned Schedule 19 and the Concessionaire's template are:

- Schedule 19 presents a section for the tabulation of applicable toll rates at each plaza by vehicle class, while the Concessionaire's template does not.
- Schedule 19 does not distinguish between normal electronic transactions and *v-tolls* transactions, while the Concessionaire template does.

 **EVALUATION METHODOLOGY**

This item takes into consideration the fifteen (15) calendar days imposed by the Concession Agreement for submission of the report.

 **EVALUATION**

▪ **Submission of Reports**

The Concessionaire provided evidence of submission of the Monthly Electronic Toll Collection Report for the following periods, on the dates indicated:

Month	Submission Date
- January 2020	14-Feb-2020
- February 2020.....	12-Mar-2020
- March 2020.....	10-Aug-2020
- April 2020.....	10-Aug-2020
- May 2020.....	10-Aug-2020
- June 2020.....	10-Aug-2020
- July 2020.....	10-Aug-2020
- August 2020.....	15-Sep-2020
- September 2020.....	15-Oct-2020
- October 2020.....	16-Nov-2020
- November 2020.....	15-Dec-2020
- December 2020.....	15-Jan-2021

Result: All reports for calendar year 2020 were submitted by the Concessionaire within the fifteen (15) calendar days established in the Concession Agreement, with the exception of March, April, May, June and July, due to the COVID-19 pandemic.

 **EVALUATION SUMMARY**

The Concessionaire complied with the submission of the Monthly Electronic Toll Collection Reports. The table below presents a summary of the evaluation.

TABLE 5: EVALUATION SUMMARY OF MONTHLY ELECTRONIC TOLL COLLECTION REPORTS

Criteria	Result
Submission of Reports	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

TRAFFIC CHARACTERISTICS REPORTS

Section 8.1(b) of the Concession Agreement establishes that the Concessionaire must submit to HTA a Quarterly Traffic Characteristics Report. These reports must be submitted within a term of twenty (20) working days from the end of each quarter.

 **IMPLEMENTATION**

As required by Section 8.1(b) of the Concession Agreement, the Concessionaire generated a template for the Traffic Characteristics Reports. In this template the Concessionaire includes the monthly traffic counts for each of the Toll plazas on the Toll Roads (counts are provided by vehicle class), the summary total by lane (i.e. PR-5 and PR-22) of the traffic counts for the quarter. The Concessionaire submits the Traffic Characteristics Reports on a monthly basis to HTA.

 **EVALUATION METHODOLOGY**

This item takes into consideration the twenty (20) working days established in the Concession Agreement for the delivery of the report.

 **EVALUATION**

The following are the results of the monitoring of the Traffic Characteristics Reports. Calendar year 2020 was to include four (4) Quarterly Traffic Characteristics Reports. However, since the concessionaire submits them monthly, twelve (12) reports were provided in total.

▪ **Presentation of Reports**

The Concessionaire provided evidence of the submission of the following Traffic Characteristics Reports on the dates indicated:

Month	Submission Date
- January 2020.....	14-Feb-2020
- February 2020.....	12-Mar-2020
- March 2020 (1st quarter)	10-Aug-2020
- April 2020.....	10-Aug-2020
- May 2020.....	10-Aug-2020
- June 2020 (2nd Quarter)	10-Aug-2020
- July 2020.....	10-Aug-2020
- August 2020.....	15-Sep-2020
- September 2020 (3rd Quarter)	15-Oct-2020
- October 2020.....	16-Nov-2020
- November 2020.....	15-Dec-2020
- December 2020 (4th Quarter)	15-Jan-2021

Result: All quarterly reports for the year 2020 were submitted within the twenty (20) working days established in the Concession Agreement, with the exception of March, April, May, June and July, due to the pandemic.

Below is the monthly vehicular traffic reported by the Concessionaire for PR-5, PR- 22 and DTL for the year 2019 and year 2020 successively.

TABLE 6: MONTHLY TRAFFIC COUNTS FOR 2019.

Month	PR-5	PR-22	DTL	Total
January	1,484,560	14,023,000	200,429	15,707,989
February	1,408,929	12,982,509	223,369	14,614,807
March	1,681,568	14,688,262	251,441	16,621,271
April	1,495,119	13,866,061	235,338	15,596,518
May	1,581,185	14,638,185	243,768	16,463,138
June	1,477,558	14,049,073	215,243	15,741,874
July	1,426,805	13,849,293	192,157	15,468,255
August	1,509,395	14,206,889	224,866	15,941,150
September	1,467,854	13,395,214	232,594	15,095,662
October	1,566,729	14,507,823	279,318	16,353,870
November	1,503,690	13,958,861	220,185	15,682,736
December	1,595,668	14,787,097	229,840	16,612,605
				<u>189,899,875</u>

TABLE 7: MONTHLY TRAFFIC COUNTS FOR YEAR 2020

Month	PR-5	PR-22	DTL	Total
January	1,441,468	13,276,574	211,235	14,929,277
February	1,471,041	13,594,364	232,726	15,298,131
March	1,030,281	9,259,282	92,556	10,382,119
April	547,123	4,670,204	10,607	5,227,934
May	946,304	8,378,932	41,206	9,366,442
June	1,247,028	11,534,953	108,784	12,890,765
July	1,327,903	12,396,934	133,747	13,858,584
August	1,312,469	11,878,579	140,355	13,331,403
September	1,327,365	12,203,827	151,343	13,682,535
October	1,400,070	12,982,820	167,282	14,550,172
November	1,294,288	11,976,194	138,130	13,408,612
December	1,396,148	12,893,075	184,202	14,473,425
				<u>151,399,399</u>



EVALUATION SUMMARY

The Concessionaire complied with the submission of the Traffic Characteristics Reports. The table below presents a summary of the evaluation.

TABLE 8: EVALUATION SUMMARY OF TRAFFIC CHARACTERISTICS REPORTS

Criteria	Result
Presentation of Reports	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	


TRAFFIC INCIDENT NOTIFICATION REPORTS

Section 8.1(c) of the Concession Agreement provides that the Concessionaire must timely notify HTA of all traffic incidents, including emergencies and accidents, for which a report is required under Article 4.07 of the Puerto Rico Vehicle and Traffic Act, Act No. 22 of January 7, 2000, as amended. The Concessionaire must also notify HTA of all claims made by or against the Concessionaire, in addition to the claims that the Concessionaire intends to be made by or against the Concessionaire.

 **IMPLEMENTATION**

In accordance with the requirements of the Concession Agreement, the Concessionaire has chosen to report incidents to HTA monthly. For this purpose, the Concessionaire has generated a report format that includes the location, date and time, classification and a brief description of the recorded incidents. On the other hand, the Concessionaire sends to HTA another quarterly report that includes all the data from the monthly reports, and also includes the data on claims made against the Concessionaire and the amount claimed or paid, by type and classification.

EVALUATION METHODOLOGY

 The evaluation was divided into two (2) main items. These two (2) items are the Submission of Notification Reports and the Date of Submission of Quarterly Reports.

 **EVALUATION**

▪ **Monthly Reporting of Incident Notifications**

The Concessionaire provided evidence of the submission of the Monthly Incident Notification Report on the dates indicated:

<i>Month</i>	<i>Delivery Date</i>
- January 2020	14-Feb-2020
- February 2020.....	12-Mar-2020
- March 2020.....	10-Aug-2020
- April 2020.....	10-Aug-2020

- May 2020.....10-Aug-2020
- June 2020.....10-Aug-2020
- July 2020.....6-Oct-2020
- August 2020.....6-Oct-2020
- September 2020.....6-Oct-2020
- October 2020.....13-Jan-2021
- November 2020.....13-Jan-2021
- December 2020.....13-Jan-2021

Result: The Concessionaire provided evidence of the submission of the Monthly Incident Notification Report for all months of the year 2020. The Concession Agreement indicates that these reports must be submitted quarterly. In the past and until 2020 they were submitted monthly.

▪ **Quarterly Incident Report Submission**

The Concessionaire provided evidence of the submission of the following Quarterly Incident Reports:

Quarter	Delivery Date
-First Quarter	10-Aug-2020
-Second Quarter	10-Aug-2020
-Third Quarter	6-Oct-2020
-Fourth Quarter	13-Jan-2021

Result: The Concessionaire did not provide evidence of submission of all Quarterly Incident Reports within the required timeframe of twenty (20) working days of the following quarter. Note that, due to the ongoing pandemic, the Concessionaire was unable to submit the reports for the first two quarters of the year in a timely manner.

 **EVALUATION SUMMARY**

The table below presents a summary of the evaluation.

TABLE 9 EVALUATION SUMMARY OF TRAFFIC INCIDENT NOTIFICATION REPORTS

Criteria	Result
Monthly Incident Notification Report Submission	C
Quarterly Incident Report Submission	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

ENVIRONMENTAL INCIDENT REPORTS

Section 8.1(d) of the Concession Agreement imposes an obligation on the Concessionaire to submit to HTA certain environmental incident reports. Specifically, this section requires reporting to HTA any incident of release, discharge, dumping, spill (accidental or intentional) of any reportable quantity (as defined in the applicable Environmental Law) of Hazardous Substances, the place where the incident occurred, the time, the agencies involved, the damage that has occurred and, if applicable, the corrective measures taken. Said report, made in accordance with the applicable environmental laws, must be submitted to HTA, within a term no longer than seven (7) days from the date said environmental incident occurred.

The Concessionaire provided a copy of the environmental report corresponding to the year under evaluation and also provided a processing sheet of said report, to corroborate whether it was submitted to HTA on time.

Date of Incident:	Date of Notification to EQB:	Date of Notification to HTA:
13-Nov-2020	13-Nov-2020	18-Nov-2020

The Concessionaire submitted the environmental incident report to both the EQB and HTA, according to the dates indicated above. For such purposes, it is determined that the Concessionaire complied with the time established in the contractual obligations.

FINANCIAL REPORTS

Section 8.1(e) of the Concession Agreement provides that, during the term of the contract, the Concessionaire shall deliver to HTA within sixty (60) days from the last day of each six (6) month period, a copy of the unaudited financial statements of the Concessionaire. In addition, the Agreement provides that the Concessionaire shall issue and provide, at year end, an audited financial statement, prepared in accordance with generally accepted accounting principles, including, with each audited financial statement, the additional opinion of an independent Certified Public Accountant (hereinafter "CPA"), hired by the Concessionaire.

EVALUATION METHODOLOGY

According to the above, the Concessionaire's compliance with the Concession Agreement regarding financial reports, is limited to the compliance of informing, reporting and delivering the reports to HTA within the term established in the Agreement. As part of the documents to be evaluated for the monitoring, the Concessionaire was requested to submit copies of all financial reports reported by the Concessionaire to HTA, including the letters of transmittal or evidence of delivery.



EVALUATION

Below, the monitoring of the Concessionaire's compliance with the submission of the Financial Reports to HTA.

▪ Audited Financial Statements

Section 1.1 of the Concession Agreement defines *reporting year* as the period from July 1 of the current year to June 30 of the next year, better known as fiscal year. Accordingly, in order to comply with the Concession Agreement, the Concessionaire was required to issue and report an audited financial statement at the close of the reporting year, i.e., on June 30 of each year.

Note that the closing of the Concessionaire's accounting period is as of December 31 of each year, therefore, the reporting year, according to the Concession Agreement, is different from that of the Concessionaire. Instead of a fiscal year, the Concessionaire's reporting year is from January 1 to December 31 of the same year, which is known as a calendar year. It is for this reason that the Concessionaire issues audited financial statements at its closing, that is, on December 31 of each year.

From the documentation submitted by the Concessionaire and HTA, it was identified that the audited financial statements as of December 31, 2020 were issued and reported to HTA. The audited financial statements that were reviewed also contain the opinion letter of the CPA auditor as required by the Concession Agreement.

Note that the Agreement was not amended to provide for a change in the definition of the reporting year or in the term of the required reports, so that the audited reports must be issued for each reporting year end, i.e., as of June 30 of each year.

In the last Monitoring Report (corresponding to the year 2019), reference is made to a letter dated May 15, 2015 and provided by the Concessionaire, issued by HTA and addressed to Mr. Gonzalo Alcalde, indicating that HTA improved the requirement for issuance of financial reports. Pursuant to said correspondence, as of May 15, 2015, the Concessionaire would be required to issue (1) unaudited financial reports at the close of each calendar quarter, i.e. four (4) unaudited reports corresponding to the close of March, June, September and December of each year and one (1) audited report at the end of the calendar year, i.e. December 31 of each year. However, it is emphasized that this correspondence does not comply with the requirements set forth in Section 20.3 of the Agreement, therefore, the same is not considered in and of itself an amendment to the Agreement regarding the definition of the reporting year and the term of the reports required in Section 8.1(e) of the Agreement.

Result: Pursuant to the above, we consider the Concessionaire to be in compliance with the submission of Audited Financial Statements to HTA. However,

note that the discrepancy between the periods of the reports required by the Concession Agreement and the closing of the Concessionaire's fiscal year is highlighted.

▪ Unaudited Financial Statements

Section 1.1 of the Concession Agreement defines *reporting year* as the period from July 1 of the current year to June 30 of the next year. Accordingly, in order to comply with the Agreement, the Concessionaire was required to issue an unaudited financial statement for each six (6) month period, that is, for each period ending on December 31 and June 30 of each year and submit it to HTA, on or before sixty (60) days after the end of each period.

The Concessionaire provided quarterly reports, instead of semi-annual reports as stipulated in the Concession Agreement. However, HTA agrees with the delivery of these reports, for the periods indicated in the table below.

TABLE 10: CLOSING OF UNAUDITED QUARTERLY FINANCIAL STATEMENTS

Closing of Unaudited Quarterly Financial Statements	
Period ended on:	Date of Delivery to HTA:
31-Mar-2020	11-May-2020
30-Jun-2020	14-Aug-2020
30-Sep-2020	13-Nov-2020
31-Dec-2020	11-Feb-2021

It was further confirmed that the unaudited financial reports stipulated in Section 1.1 of the Concession Agreement, specifically June and December, were reported to HTA within the sixty (60) day period required in the Agreement. This fact was confirmed based on the letters of transmittal inspected, correspondence, courier, or other documentation provided to confirm the submission to HTA or provided by HTA itself.

Result: According to the above, the Concessionaire is considered in compliance with the presentation of the Unaudited Financial Statements to HTA.



EVALUATION SUMMARY

The Concessionaire complied with the submission of the Financial Reports to HTA. The table below presents a summary of the evaluation.

TABLE 11: SUMMARY OF EVALUATION OF THE CONCESSIONAIRE'S FINANCIAL REPORTING TO HTA

Criteria	Result
Audited Financial Reports	C
Unaudited Financial Reports	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

MONTHLY BUS RAPID TRANSIT ("BRT") AND DYNAMIC TOLL LANE ("DTL") PERFORMANCE REPORTS

Section 2.2(j) of Schedule 10 of the Concession Agreement provides that the Concessionaire must submit to HTA monthly reports on the performance of the BRT/DTL. Such reports must include the following information at ten (10) minute intervals:

- Observed Traffic Volumes;
- Average Velocities; and
- Toll rates applicable in the reported periods



IMPLEMENTATION

Pursuant to the requirement of Section 2.2(j) of Schedule 10 of the Concession Agreement, the Concessionaire generated a template for the BRT/DTL Monthly Performance Reports. However, due to the volume of data required by Section 2.2(j) of Schedule 10 and in consideration that the Concessionaire submits the reports to HTA, the Puerto Rico Financial Advisory Authority and Fiscal Agency, formerly the Government Development Bank, and the Public-Private Partnerships Authority, the Concessionaire's template has a summary type format where the average speed, average toll rates, and average traffic volume during each day of operation of the BRT/DTL are provided. The Concessionaire includes notes in its report template, where it indicates that the detail of traffic volumes and average speeds, as well as the applicable toll rates, for five-day intervals, is provided in a summary format. (5) minutes, are available from HTA upon request.



EVALUATION METHODOLOGY

Since the Concession Agreement does not impose deadlines for the submission of the BRT/DTL Monthly Performance Reports, the evaluation only focused on the submission of the reports to HTA by the Concessionaire.



EVALUATION

The following are the results of the monitoring of the BRT/DTL Monthly Performance Reports. Calendar year 2020 was to include twelve (12) BRT/DTL Monthly Performance Reports. No evidence was provided that the Concessionaire submitted the reports for the months of January through December 2020 to HTA. However, the Concessionaire did submit a worksheet that makes the reports available to HTA at five

(5) minute intervals, if requested by HTA.

EVALUATION SUMMARY

The Concessionaire did not comply with the submission of the information required by Section 2.2(j) of Schedule 10 of the Concession Agreement. Given the documentation evaluated, the Concessionaire is considered to be in non-compliance with the requirements of the Concession Agreement regarding the BRT/DTL Monthly Performance Reports. The table below presents a summary of the evaluation.

TABLE 12: EVALUATION SUMMARY OF MONTHLY BRT/DTL PERFORMANCE REPORTS

Criteria	Result
Report Submission	NC
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

As mentioned in previous monitoring, although the Concessionaire has failed to submit the BRT/DTL performance details, there is the capacity to generate the reports requested by Schedule 10 (even if they are voluminous). However, the Concessionaire reported that HTA has access to the system that generates the reports, so if they wish, they could generate the required reports when they deem necessary.

This non-compliance has been identified in previous monitoring reports. It is recommend that HTA and the Concessionaire consider entering into an agreement, regarding the submission of the BRT/DTL Monthly Reports. This agreement should determine whether the submission of the report should continue to be a requirement of the Concession Agreement and/or the availability the report.

Therefore, it is important to mention that the letters of transmittal of the monthly reports from the Concessionaire to HTA include notes that the information in the report is available for evaluation, if required by HTA.

TOLL PLAZAS

Article 7, Section 3.16(c), and Appendices 10 and 11, of the Concession Agreement establishes the conditions under which tolls and other revenues to which the Concessionaire is entitled will be collected.

The Concessionaire is entitled to Toll Revenues on the Toll Roads. Section 7.2 of the Concession Agreement establishes that the Concessionaire will be entitled, during the term of the concession, to two types of revenues, *Toll Revenues* and *Non-Toll Revenues*. Toll Revenues are established as the tolls paid by users for the use of the Toll Roads. Toll Revenues also include the portion corresponding to the Concessionaire of the Dynamic Toll Lane on PR-22 ("DTL").

Section 3.16(c) defines the conditions for the collection of *Delinquent Non-Cash Tolls* ("DNCTs"). DNCTs include any amount of electronic, video, or other tolls payable on the Toll Roads, but which were not paid by users,

in violation of applicable laws. DNCTs do not include vehicles not subject to toll collection (Section 1(b) of Schedule 10), tolls not paid as a result of a defect in the operation of the toll system, tolls not paid as a result of the Concessionaire's noncompliance with the terms of the Concession Agreement, and that portion corresponding to HTA of the Dynamic Toll Lane revenue on PR-22 not paid by users. Section 3.16(c) establishes that the DNCTs will be payable to the Concessionaire by HTA, regardless of whether or not HTA recovers the DNCTs.

Schedule 10 set forth the terms under which the Concessionaire will be allowed to establish the collection of tolls on the Toll Roads and on the PR-22 Dynamic Toll Lane. This Schedule establishes the computations for the toll rates to be implemented on the Toll Roads and the notifications by the Concessionaire of such rates, both to HTA and to the general public, among other things. Finally, Schedule 11 establishes the terms for toll collection services by third parties during the Concession, as well as the providers' fees for such services.



IMPLEMENTATION

Pursuant to the provisions of the Concession Agreement, the Concessionaire has collected tolls on the Toll Roads since the beginning of the concession. It has also implemented increases in the rates of such tolls, as permitted.

Configuration of Toll Collection Points on the Toll Roads: The structure of toll collection on the Toll Roads has varied since the beginning of the Concession, changing from a configuration where electronic toll collection and cash toll collection were used, to one where only electronic tolls are collected using *Open Road Tolling* ("ORT") systems. The infrastructure of this system consists of gantries installed on the highways that have the necessary equipment to collect toll electronically, without the need for the typical plazas used in the past. With this type of toll collection, the existing toll plazas are only used for the AutoExpreso recharge lanes. The configuration of the toll plazas on PR-5 and PR-22 with the ORT system for the year 2020 is shown in the table below.

TABLE 13: TOLL PLAZA CONFIGURATION ON PR-5 AND PR-22 WITH THE ORT SYSTEM

Road	Plaza	Plaza Location	AutoExpreso Recharge Lanes	Collection Direction	ORT Gantry Location
PR-22	Buchanan	Km. 7.4	3	East	Km. 8.8
				West	Km. 8.8
PR-22	Toa Baja	Km. 21.8	2	East	Km. 20.0
				West	Km. 21.4
PR-22	Vega Alta	Km. 31.5	1	East	Km. 31.8
				West	Km. 31.4
PR-22	Manatí	Km. 45.5	1	East	Km. 45.0
				West	Km. 44.9
PR-22	Arecibo	N/A	0	East	Km. 64.6
				West	Km. 63.8
PR-22	Arecibo Ramp	N/A	0	East	Km. 65.3
				West	Km. 63.8
PR-22	Hatillo	Km. 82.3	1	East	Km. 82.7
				West	Km. 82.0
PR-5	Bayamón	Km. 6.75	1	North	Km. 6.3

Bus Rapid Transit/Dynamic Toll Lane: As of August 2013, the BRT/DTL began operations. It consists of two (2) lanes in the central median of PR-22, starting at the Toa Baja Toll Plaza and extending to the Bayamón Urban Train Station. The lanes on PR-22 end at the intersection with PR-5. These lanes allow access to Class 1 vehicles at a variable toll rate depending on traffic conditions on PR-22 and on the use of the lanes by users. According to the Concession Agreement, the management and maintenance of this system is the responsibility of the Concessionaire. The BRT/DTL has two (2) toll collection points (independent from the toll collection points in the PR-22 Plazas). These points are also of the ORT type. The BRT/DTL toll collection points are shown in the table below.

TABLE 14: BRT/DTL TOLL COLLECTION POINTS

Road	Municipality	ORT Gantry Location	Collection Direction
PR-22	Toa Baja	Km. 21.3	East
PR-22	Bayamón	Km. 12.7	West


EVALUATION METHODOLOGY

For the evaluation of tolls on the Toll Roads, the Monthly Electronic Toll Collection Reports submitted by the Concessionaire to HTA were evaluated. This was done to determine the total amount of tolls that the Concessionaire should have collected for each period. This amount was then compared to the number of disbursements made by Banco Popular de Puerto Rico ("BPPR") to the Concessionaire for the periods. The BPPR maintains in an escrow account the funds received for payment of tolls on the Toll Roads.

In addition, the calculations of toll increases were reviewed in accordance with the provisions of the Concession Agreement. The criteria evaluated in this section are as follows:

- Toll Rates
- Notifications of Toll Rates to HTA and the General Public
- Toll Transactions, Toll Collection, and Revenue Division
- Transfer of Excess Revenues to HTA

 EVALUATION

- Toll Rates

The computation of Toll Rates on Toll Roads is established in Section 2.1(a) of Schedule 10. This Section establishes that the Toll Rates will be calculated, using as a base the rates in effect at the beginning of the concession. It also establishes that the rates will be reviewed annually starting in 2014, since it is established that the rates in effect at the beginning of the concession should have remained in effect until December 31, 2013.

The calculation of Toll Rates is set forth in Schedule 10 as the rate for the predecessor year to which any increase applies, multiplied by the increase in the U.S. Consumer Price Index in the predecessor year, if any, plus 1.5%.

Accordingly, the calculation of the percentage increases in the Toll Rates effective January 1, 2020 is presented in Table (15) of this section, and the calculation for those effective January 1, 2021 is presented in Table (16). The percent increases in the Consumer Price Index can be obtained from the *United States Bureau of Labor Statistics* at <https://www.usinflationcalculator.com/inflation/consumer-price-index-and-annual-percent-changes-from-1913-to-2008/>.

TABLE 15: CALCULATION OF PERCENTAGE INCREASE TO TOLL RATES EFFECTIVE JANUARY 1, 2020

Schedule Section 10	Description	Value
2.1(a)(iii)(y)	Increase in the Consumer Price Index During Calendar Year 2018 [A].	1.90%
2.1(a)(iii)(z)	One and One-Half Percent [B].	1.50%
2.1(a)(iii)	Toll Increase Effective January 1, 2020 [C = A + B].	3.40%

TABLE 16: CALCULATION OF PERCENTAGE INCREASE TO TOLL RATES EFFECTIVE
JANUARY 1, 2021

Schedule Section 10	Description	Value
2.1(a)(iii)(y)	Increase in the Consumer Price Index During Calendar Year 2019 [A].	2.30%
2.1(a)(iii)(z)	One and One-Half Percent [B].	1.50%
2.1(a)(iii)	Toll Increase Effective January 1, 2021 [C = A + B].	3.80%

For purposes of establishing the Toll Rates to be applied to the Toll Roads, Section 2.3(a) of Schedule 10 establishes a rounding rule to be applied to the final rates to be established. Specifically, this Section establishes that if the corresponding calculation does not result in a rate of one tenth of a dollar (.10¢), then the calculation must be rounded to the nearest tenth of a dollar. However, for purposes of calculating the rates for the next year, the increase will be calculated based on the results of the increase, without considering rounding to the nearest tenth of a dollar. In addition, the Fifth Amendment to the Agreement established that the rates for the reconfigured plazas for toll collection in both directions will only be subject to rounding to the next fraction of five cents (.5¢), and not to rounding to the nearest tenth of a dollar.

Pursuant to the above, Table 17 just below shows the increase in the rates applied until the end of 2019 by the Concessionaire before applying the rounding established by Schedule 10, while Table 18 of this section shows the rates in Table (C) with the rounding applied.

TABLE 17: CALCULATION OF TOLL RATE INCREASE BEFORE ROUNDING OF SECTION 2.3(A)
OF SCHEDULE 10

2019 Rates Before Rounding [C= B x (100% + 3.0%)].							
Class	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7
Bayamón	0.36	0.36	0.98	1.29	1.60	1.91	2.22
Buchanan	0.67	1.29	1.60	1.91	2.22	2.53	2.84
Toa Baja	0.67	1.29	1.60	1.91	2.22	2.53	2.84
Vega Alta	0.67	1.29	1.60	1.91	2.22	2.53	2.84
Manatí	0.98	1.91	2.22	2.53	2.84	3.15	3.46
Arecibo	0.93	1.86	2.17	2.48	2.79	3.10	3.41
Arecibo Ramp	0.62	1.24	1.55	1.86	2.17	2.48	2.79
Hatillo Ramp	0.67	1.29	1.60	1.91	2.22	2.53	2.84
2020 Rates Before Rounding [C= B x (100% + 3.40%)].							
Class	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7
PR-5 Bayamón	0.38	0.70	1.02	1.34	1.66	1.98	2.30
PR-22 Buchanan	0.70	1.34	1.66	1.98	2.30	2.62	2.94
PR-22 Toa Baja	0.70	1.34	1.66	1.98	2.30	2.62	2.94
PR-22 Vega Alta	0.70	1.34	1.66	1.98	2.30	2.62	2.94
PR-22 Manatí	1.02	1.94	2.30	2.62	2.94	3.26	3.58
PR-22 Arecibo	0.96	1.92	2.24	2.56	2.88	3.20	3.52
PR-22 Arecibo Ramp	0.64	1.28	1.60	1.92	2.24	2.56	2.88
PR-22 Hatillo Ramp	0.70	1.34	1.66	1.98	2.30	2.62	2.94
2021 Rates Before Rounding [C= B x (100% + 3.80%)].							
Class	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7
PR-5 Bayamón	0.39	0.72	1.00	1.39	1.72	2.05	2.39
PR-22 Buchanan	0.72	1.39	1.72	2.05	2.39	2.72	3.05
PR-22 Toa Baja	0.72	1.39	1.72	2.05	2.39	2.72	3.05
PR-22 Vega Alta	0.72	1.39	1.72	2.05	2.39	2.72	3.05
PR-22 Manatí	1.06	2.05	2.39	2.72	3.05	3.38	3.72
PR-22 Arecibo	1.00	2.00	2.33	2.66	2.99	3.33	3.66
PR-22 Arecibo Ramp	0.67	1.33	1.66	2.00	2.33	2.66	2.99
PR-22 Hatillo Ramp	0.72	1.39	1.72	2.05	2.39	2.72	3.05

TABLE 18: CALCULATION OF TOLL RATE INCREASE AFTER ROUNDING OF SECTION 2.3(A) OF SCHEDULE 10

Rates that Should have been Implemented in 2020							
Class	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7
PR-5 Bayamón	0.40	0.70	1.05	1.35	1.70	2.00	2.30
PR-22 Buchanan	0.70	1.35	1.70	2.00	2.30	2.65	2.95
PR-22 Toa Baja	0.70	1.35	1.70	2.00	2.30	2.65	2.95
PR-22 Vega Alta	0.70	1.35	1.70	2.00	2.30	2.65	2.95
PR-22 Manatí	1.05	2.00	2.30	2.65	2.95	3.30	3.60
PR-22 Arecibo	1.00	2.00	2.30	2.60	2.90	3.30	3.60
PR-22 Arecibo Ramp	0.70	1.30	1.70	2.00	2.30	2.60	2.90
PR-22 Hatillo Ramp	0.70	1.35	1.70	2.00	2.30	2.65	2.95
Projected Rates for the year 2021							
Class	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7
PR-5 Bayamón	0.40	0.75	1.10	1.40	1.75	2.10	2.40
PR-22 Buchanan	0.75	1.40	1.75	2.10	2.40	2.75	3.10
PR-22 Toa Baja	0.75	1.40	1.75	2.10	2.40	2.75	3.10
PR-22 Vega Alta	0.75	1.40	1.75	2.10	2.40	2.75	3.10
PR-22 Manatí	1.10	2.10	2.40	2.75	3.10	3.40	3.75
PR-22 Arecibo	1.00	2.00	2.35	2.70	3.00	3.35	3.70
PR-22 Arecibo Ramp	0.70	1.35	1.70	2.00	2.35	2.70	3.00
PR-22 Hatillo Ramp	0.70	1.40	1.75	2.10	2.40	2.75	3.10

The Charts below show the rates for class 1, 2, 3, 4, 5, 6 and 7 vehicles for 2019, 2020 and a projection for 2021 rates:

CHART 1: CLASS 1 VEHICLE TOLL RATES

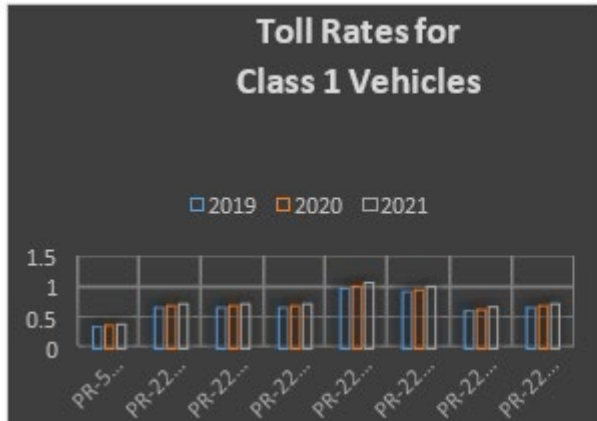


CHART 2: CLASS 2 VEHICLE TOLL RATES

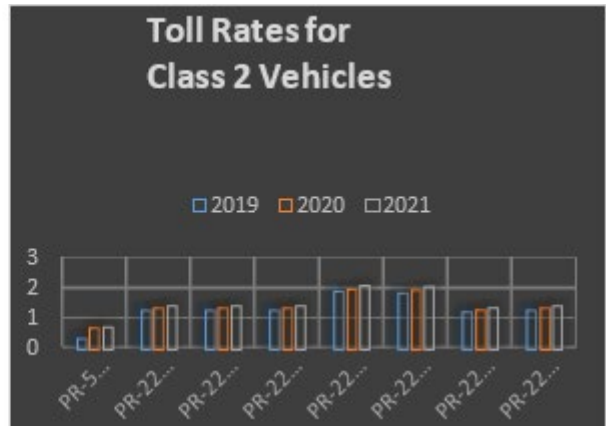


CHART 3: CLASS 3 VEHICLE TOLL RATES

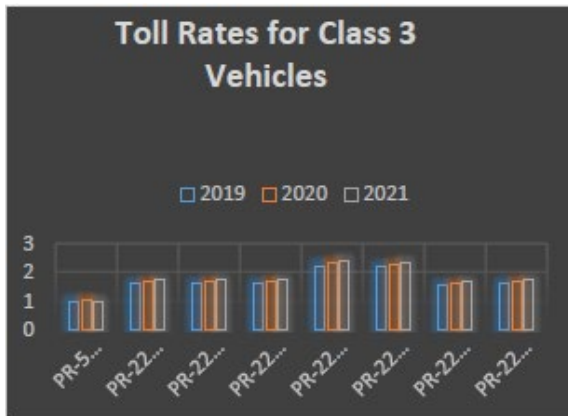


CHART 4: CLASS 4 VEHICLE TOLL RATES

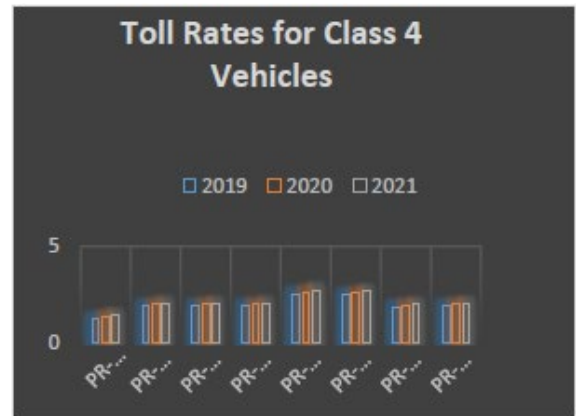


CHART 5: CLASS 5 VEHICLE TOLL RATES

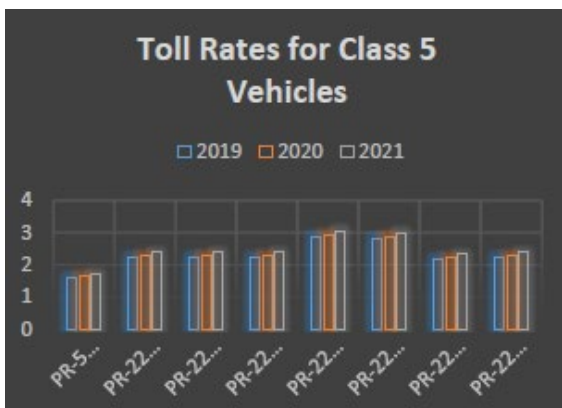


CHART 6: CLASS 6 VEHICLE TOLL RATES

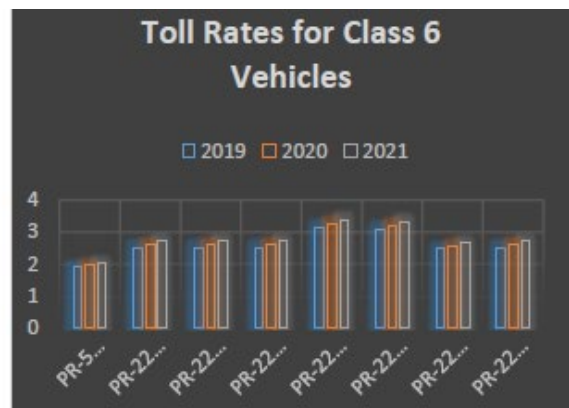
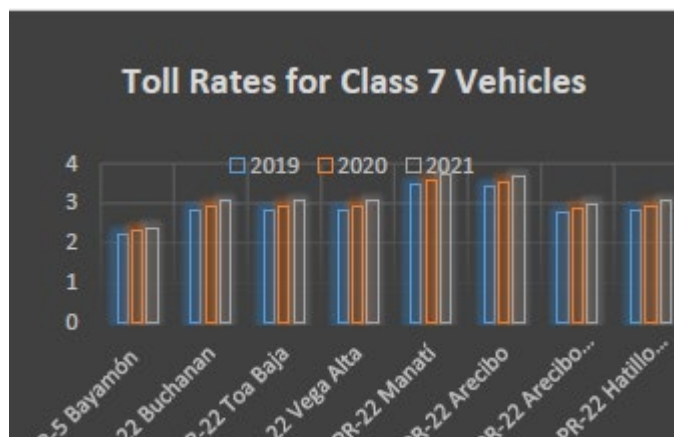


CHART 7: CLASS 7 VEHICLE TOLL RATES



Result: Comparing the rates calculated according to Schedule 10 of the Concession Agreement and the rates implemented by the Concessionaire on the Toll Roads during the evaluation period, the monitoring has concluded that the provisions of the Agreement are being complied with. The implemented rates are the same as those presented here.

- **Notifications of Toll Rates to HTA and the General Public**

Schedule 10, Section 2.1(c), establishes the notifications that must be made by the Concessionaire to HTA and to the general public for each change in the Toll Rates of the Highways. In the case of HTA, notifications of changes in the Toll Rates must be made ninety (90) days prior to the implementation of the new rates pursuant to Section 2.1(c)(i). Since the Toll Rates normally become effective on January 1 of each year, the Concessionaire must notify HTA on or before October 3 of each year of any increase in the Toll Rates. This clause does not require the Concessionaire to inform HTA of the new rates to be implemented on the Toll Roads, it only requires notification of the Concessionaire's intention to implement new rates.

In the case of the general public, notifications must be made twenty (20) days prior to the implementation of the new rates, pursuant to Section 2.1(c)(ii) of the Agreement. Since Toll Rates normally become effective on January 1 of each year, the Concessionaire must notify the general public of the new rates on or before December 12 of each year. In the notifications to the general public, the Concessionaire must include in the notification the new rates that will be implemented on the Toll Roads. In addition, the Concessionaire is required to use reasonable efforts to inform the public of the new rates, and to maintain a website where the Toll Rates applicable to the Toll Roads are available to the public.

The table below shows the notifications of revisions to the Toll Rates made by the Concessionaire for the year 2020.

TABLE 19: CONCESSIONAIRE NOTIFICATIONS TO THE AUTHORITY AND THE PUBLIC ON TOLL RATE REVISIONS

Type of Notification	Contract Deadline	Date of Notification
2020 Rates		
Notification to HTA	3-Oct-2019	24-Sep-2019
Notification to the Public (Letter to HTA)	12-Dec-2019	6-Dec-2019

Notifications to HTA consist of a letter from the Concessionaire informing their intention to apply the corresponding increase, according to the clauses of the Concession Agreement.

On the other hand, Public Notices consist of a letter to HTA, where the Concessionaire presents the detailed calculation of the new rates and includes a Public Notice, which is always mentioned to be disclosed in the news media and on its website. As mentioned by the Concessionaire to HTA in its Public Notices, it was possible to verify the dissemination of the toll increases in the Puerto Rico news media. The following table presents some of the news found in the Puerto Rico news media, reporting the toll increases by the Concessionaire.

TABLE 20: DISCLOSURE OF TOLL INCREASES IN THE NEWS MEDIA OF PUERTO RICO

News Media / News Title	Date of Publication
Rates for 2020	
El Nuevo día / Toll hikes looming, but also highway improvements	7-Dec-2019
Rates for 2021	
El Nuevo día / Find out how much tolls will be increased	4-Dec-2020

Result: Based on the documentation evaluated, monitoring has determined compliance with the provisions of the Agreement.

- **Toll Transactions, Toll Collection, and Revenue Division**

For the audit period, all toll transactions were collected using electronic toll collection (AutoExpreso). The transactions recorded at each of the Toll Gates by vehicle classification are reported by the Concessionaire on a monthly basis in the *Monthly ETC Traffic Report*, required by Sections 8.1(a) of the Concession Agreement. In the Monthly ETC Traffic Report, the Concessionaire records the total number of electronic transactions recorded at each toll collection point. This report divides the transactions by vehicle classification, location of the transaction, and type of transaction. The report also collects electronic toll revenue data by applying the corresponding toll rates to the recorded transactions.

For this year's monitoring, the Concessionaire was asked to provide a copy of the electronic transfers made by the BPPR. This, with the purpose of comparing them with the toll revenues reported in the Monthly Electronic Toll Collection Reports submitted by the Concessionaire. The amounts transferred by the BPPR to the Concessionaire and the revenue amounts reported by the Concessionaire for the year 2020 are presented in Table 21.

The differences between the amounts reported by the Concessionaire in its Monthly Electronic Toll Collection Reports and the amounts transferred by the Bank to the Concessionaire are explained below, according to the Concessionaire's responses:

The monthly reports sent to HTA are reports with estimated data from the fourth (4th) week prior to the release of the official data in the *Professional Account Management* (PAM) report.

Differences between the reports submitted and the amount transferred by BPPR are due to manual adjustments made by PAM as part of the reconciliation process and/or inadvertent human errors by the Concessionaire in the information submitted. However, the amount transferred by BPPR prevails.

Through the enactment of Executive Order 2020-029, Wanda Vázquez Garced ordered the elimination of toll collection in Puerto Rico for the period from March 23 to March 31, as part of the COVID-19 emergency. The difference presented is the recording of transactions that occurred within this period and their respective loss of income.

TABLE 21: BANK TRANSFERS (\$) VS. REPORTED REVENUES BY 2020

PERIOD	INCOME ACCORDING TO TRAFFIC REPORT	AMOUNT TRANSFERRED BY BPPR	INCOME DIFF. ACCORDING TRAFFIC AND BPPR TRANSFER REPORT
	[A]	[B]	
2020-1	\$ 11,760,855.13	\$ 11,765,181.89	\$ 4,326.76
2020-2	\$ 12,076,811.46	\$ 12,084,657.54	\$ 7,846.08
2020-3	\$ 8,271,911.12	\$ 7,385,348.59	\$ (886,562.53)
2020-4	\$ 4,169,348.21	\$ 4,168,436.64	\$ (911.57)
2020-5	\$ 7,351,091.05	\$ 7,357,020.25	\$ 5,929.20
2020-6	\$ 10,090,398.48	\$ 10,090,281.20	\$ (117.28)
2020-7	\$ 10,829,961.83	\$ 10,837,098.84	\$ 7,137.01
2020-8	\$ 10,401,676.95	\$ 10,401,629.59	\$ (47.36)
2020-9	\$ 10,666,612.10	\$ 10,666,438.40	\$ (173.70)
2020-10	\$ 11,371,557.91	\$ 11,331,381.55	\$ (40,176.36)
2020-11	\$ 10,436,757.00	\$ 10,411,879.40	\$ (24,877.60)
2020-12	\$ 11,265,534.20	\$ 11,265,451.00	\$ (83.20)
TOTALS	\$ 118,692,515.44	\$ 117,764,804.89	\$ 927,710.55

Result: Based on the information evaluated, the monitoring has concluded that the toll transactions were properly implemented in accordance with the Concession Agreement, taking into consideration the information provided by the Concessionaire.

• **Transfer of Excess Revenues to HTA**

Section 7.2(f) of the Concession Agreement, included by the Fifth Amendment, establishes that HTA shall be entitled to 30% in excess of those revenues estimated in Schedule 23 of the Concession Agreement at the end of each calendar year. If there are no excess revenues, the Concessionaire will not be obligated to pay HTA any amount for this concept. Sub-clause (iv) of this Section also establishes that the Concessionaire shall submit to HTA the calculation of the excess revenues on or before thirty (30) days after the end of each calendar year, that is, January 30. HTA, in turn, shall have thirty (30) calendar days to refute any calculation made by the Concessionaire with respect to the excess revenues.

In accordance with the provisions of the Agreement, the Concessionaire delivered its calculation of excess revenues for the year 2020 on January 25, 2021, meeting the deadline imposed in the Concession Agreement. It should be noted that there were no excess revenues for 2020.

Result: According to the documentation evaluated we consider the provisions of Section 7.2(f) of the Concession Agreement in compliance for the year 2020.

Evaluation Summary



The table below presents a summary of the evaluation.

TABLE 22: TOLL EVALUATION SUMMARY

Criteria	Result
Toll Rates	C
Toll Rate Notifications	C
Toll Transactions, Toll Collection, and Revenue Division	C
Transfer of Excess Revenues to HTA	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

INSURANCE

Section 13.1 of the Concession Agreement imposes an obligation on the Concessionaire to maintain, at its own cost, or cause to be maintained, all types of policies in compliance with the limits set forth below, during the term provided, and any other period in which the Concessionaire is required to return and perform any additional work, after the term of coverage required of it. Section 13.2 of the Concession Agreement provides how, and the term within which, the Concessionaire shall provide evidence of, among other obligations related to HTA, the insurance policies required under Section 13.1 of the Concession Agreement.



IMPLEMENTATION

The Concessionaire must have arranged and received the required insurance policies and they must cover the evaluation periods specified in the monitoring. For the purposes of this monitoring, we will verify that the policies are in force from January 1 to December 31, 2020.



EVALUATION METHODOLOGY

To determine compliance with the insurance requirements of the Concession Agreement, copies of insurance certificates were requested for the time being monitored and will be compared with the requirements of Section 13.1 of the Concession Agreement. The insurance coverage required is as follows:

- **General Commercial Insurance**
- **Business Auto Insurance**
- **State Insurance Fund Policy**
- **Professional Liability**
- **Pollution Legal Liability Insurance**
- **Officers and Directors Coverage**
- **Employment Practices Coverage**
- **Fiduciary Liability**
- **Construction Liability**
- **Property Insurance**
- **Coverage for Heavy Machinery and Equipment**
- **Business Interruption Coverage**
- **Owner Protection for Contractor Liability**



EVALUATION

- **General Commercial Insurance**

Section 13.1(a) of the Concession Agreement requires the Concessionaire to maintain a Commercial General Insurance policy of at least twelve million dollars

(\$12,000,000.00) per occurrence with an annual aggregate in the same amount. This coverage shall name HTA, together with its officers, employees, agents and representatives as additional insureds; shall be primary coverage to any other coverage on the property or persons subject to the Concession Agreement; and shall include coverage for terrorist acts. The Concession Agreement clarifies that any coverage may be provided by umbrella or excess coverage.

The Concessionaire provided a copy of the insurance certificate for the following period:

- December 31, 2019 to December 31, 2020

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

• **Business Auto Insurance**

Section 13.1(b) of the Concession Agreement requires the Concessionaire to obtain coverage for commercial automobiles, with a limit equal to or greater than two million dollars (\$2,000,000.00) per accident. This coverage must include all vehicles used in the work of the Concession Agreement, whether or not they are owned or leased by the Concessionaire. Any part of the coverage may be provided by excess or umbrella policies.

The Concessionaire provided a copy of the insurance certificate for the following period:

- *Automobile Liability* - January 1, 2020 to January 1, 2021 (with limit of \$1,000,000.00)
- *Excess Auto Liability* - from January 1, 2020 to January 1, 2021 (per occurrence limit of \$11,000,000.00; aggregate with limit of \$11,000,000.00 and excess of \$1,000,000.00). Also, the endorsement of policy number 1000235992-04 was included, from January 1, 2020 to January 1, 2021.

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

• **State Insurance Fund Policy**

Section 13.1(c) of the Concession Agreement requires the Concessionaire to maintain in force the corresponding policies with the State Insurance Fund Corporation.

- The Concessionaire submitted, and we examined, a certification issued by the State Insurance Fund Corporation, in which the entity certifies compliance with this requirement, in the period of time relevant to this document.

Result: Since it is a certificate from the corresponding governmental entity, it is understood that the Concessionaire obtained the coverage required by this subsection of the Agreement.

- **Professional Liability**

Section 13.1(d) of the Concession Agreement requires the Concessionaire to maintain professional liability coverage, with limits of two million dollars (\$2,000,000.00) or more, when any architect, engineer, construction manager or any other professional performs work as part of the Concession Agreement.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - December 31, 2019 to December 31, 2020

Result: The Concessionaire obtained professional liability coverage for the time and amount required.

- **Pollution Legal Liability Insurance**

Section 13.1(e) of the Concession Agreement requires the Concessionaire to maintain coverage for environmental damages, with limits of at least five million dollars (\$5,000,000.00) per occurrence, for events occurring during the term of the Concession Agreement. The coverage must extend to pollution cleanup expenses.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - January 1, 2020 to January 1, 2021

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Officers and Directors Coverage**

Section 13.1(f) of the Concession Agreement requires the Concessionaire to maintain coverage for directors and officers, with limits of at least five million dollars (\$5,000,000.00). If it is a claims-made coverage, the same must be maintained in force for at least three (3) years after the termination of the professional's work.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - December 31, 2019 to December 31, 2020

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Employment Practices Cover**

Section 13.1(g) of the Concession Agreement requires the Concessionaire to maintain coverage for employment practices (employer's liability) with limits of at least five million dollars (\$5,000,000.00). If it is a claims-made coverage, the same must be maintained in force for at least three (3) years after the termination of the professional's work.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - December 31, 2019 to December 31, 2020

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Fiduciary Liability**

Section 13.1(h) of the Concession Agreement requires the Concessionaire to maintain fiduciary liability coverage with limits of at least three million dollars (\$3,000,000.00). If it is a claims-made coverage, the same must be maintained in force for at least three (3) years after the termination of the professional's work.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - December 31, 2019 to December 31, 2020

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Construction Liability**

Section 13.1(i) of the Concession Agreement requires the Concessionaire to maintain construction coverage for each project to be executed, during the term of the contract, whose total value exceeds one hundred thousand dollars (\$100,000.00). This coverage must include the total value of the project, soft costs, loss of income or rent, casualty coverage, total collapse of the project, temporary off-site storage expenses, if necessary, removal of contaminants and debris, compliance with laws and ordinances, mechanical failures, and terrorist acts coverage. These policies must include HTA as an additional insured and may not include coinsurance limits or deductibles in excess of fifty thousand dollars (\$50,000.00).

- As part of this project, two (2) projects were randomly selected to evaluate compliance with this section of the Concession Agreement.

Result: The results for each of the projects are discussed in the Design and Construction Requirements Section, but demonstrate the Concessionaire's compliance with this requirement.

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Property Insurance**

Section 13.1(j) of the Concession Agreement requires the Concessionaire to maintain insurance for all existing property, subject to the Concession Agreement, including bridges, tunnels, buildings, towers, etc. This includes any additions to the property that are not previously subject to construction insurance due to the completion of construction. This insurance must cover: (1) the total cost of replacing the subject property based on a major loss analysis; (2) provide insurance for loss of income and/or rents; (3) have no coinsurance limits; (4) have HTA as an additional insured; (5) include coverage for fiber optic cabling under roadways; (6) coverage for bridges whose replacement value is greater than five hundred thousand dollars (\$500,000.00) and tunnels; (7) coverage for communication towers; (8) coverage for handling and cleaning of hazardous waste or substance; (9) coverage for handling equipment for processing and handling data; (10) casualties such as earthquake and flood; (11) debris removal; (12) coverage of important/valuable papers; (13) laws and ordinances coverage; and (14) terrorism coverage.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - December 31, 2019 to December 31, 2020

Result: The Concessionaire obtained property insurance and, for the purposes of this monitoring, the focus was on having the insurance in place and covering the evaluation period, therefore, the Concessionaire was found to be in compliance.

- **Heavy Machinery and Equipment Coverage**

Section 13.1(k) of the Concession Agreement requires the Concessionaire to maintain heavy equipment and machinery coverage for any equipment, structure, machinery and electrical system that is part of the Concession Agreement with a replacement value of twenty-five thousand dollars (\$25,000.00) or more. This coverage must include: (1) limit at least equal to the total replacement of all available equipment, plus ten percent (10%); (2) include HTA as an additional insured; and (3) include law and ordinance coverage.

- The coverages required herein are within the property policies required under Section 13.1(j) of the Concession Agreement. The documentation provided indicates that the policies provided machinery coverage and include HTA as an additional insured.

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Business Interruption Coverage**

Section 13.1(l) of the Concession Agreement requires the Concessionaire to obtain insurance against loss or interruption of toll revenues for at least six (6) months as a result of physical damage to the property subject to the Concession Agreement and the roads feeding them.

- The Concessionaire provided a copy of the insurance certificate for the following period:
 - December 31, 2019 to December 31, 2020

According to the documentation, the Concessionaire obtained business interruption coverage for a limit of one hundred twenty million dollars (\$120,000,000.00), which is included in the Property Insurance policy. The documentation also includes corresponding endorsements to include HTA as an additional insured.

Result: The Concessionaire obtained the insurance coverage required by this section of the Agreement.

- **Owner Protection for Contractor Liability**

Section 13.1(m) of the Concession Agreement requires the Concessionaire to obtain insurance to protect HTA from liability on the part of contractors and subcontractors of the Concessionaire with a limit of at least two million dollars (\$2,000,000.00) per occurrence. This coverage must include physical and property damage to third parties.

- The documentation provided did not include evidence of a policy under this title, so in past monitoring additional information was requested from the Concessionaire. In response, the Concessionaire provided a letter dated June 9, 2022, from Aon Risk Solutions of PR (hereinafter "Aon"), the Concessionaire's insurance agent. In the letter, Aon indicates that, although the Concessionaire did not obtain a policy under this name, the Concessionaire obtained coverage in compliance with this subsection through other policies, thus certifying compliance with the requirements of the Agreement.



EVALUATION SUMMARY

The Concessionaire fulfilled the insurance requirements of the Concession Agreement. In addition, the Concessionaire submitted evidence where the insurance company certifies that the insurance policies include property damage to the fiber optic cables (underground or otherwise). The table below presents a summary of the evaluation.

TABLE 23: SUMMARY OF EVALUATION OF INSURANCE REQUIRED BY THE CONCESSION AGREEMENT

Criteria	Result
General Commercial Insurance	C
Business Auto Insurance	C
State Insurance Fund Policy	C
Professional Liability	C
Pollution Legal Liability Insurance	C
Officers and Directors Coverage	C
Employment Practices Coverage	C
Fiduciary Liability	C
Construction Liability	C
Property Insurance	C
Heavy Machinery and Equipment Coverage	C
Business Interruption Coverage	C
Owner Protection for Contractor Liability	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

TAX OBLIGATIONS

Section 3.10 of the Concession Agreement imposes on the Concessionaire the obligation to comply with the payment of taxes and the filing of the corresponding tax returns when due. Therefore, according to the Concession Agreement, the Concessionaire must pay and be current with all its tax obligations related to the operation and maintenance of the Toll Roads.

Failure by the Concessionaire to timely file and/or pay the contributions imposed by law, without having remedied such failure, within ninety (90) days, as provided in Section 16.1(a)(i), is considered an Event of Default under the Concession Agreement. In addition, Section 16.1(b)(ii) provides that "if the Concessionaire's Default is due to the non-payment of any moneys, the Authority may (without obligation to do so) make payment, on behalf of the Concessionaire, of such funds and, any amount so paid by the Authority, shall be payable by the Concessionaire to the Authority, within three (3) Business Days after due written notice..."

Therefore, in the event that the Concessionaire does not comply with the obligation to file and pay the corresponding forms and taxes required by law, the Concessionaire will be in default of the Concession Agreement.



IMPLEMENTATION

As required by the Concession Agreement and the laws of Puerto Rico, the Concessionaire has carried out the corresponding procedures of its tax obligations before the Government and the different entities, such as the municipalities and the CRIM.

 EVALUATION METHODOLOGY

In order to achieve the objectives of the monitoring, documentation was requested from the Concessionaire to evidence its compliance with the Agreement, in relation to the following areas: (i) Taxes, (ii) Reports, and (iii) Certifications. The information and documentation were requested for the period from January 1, 2020 to December 31, 2020.

The contributory obligations of the Concessionaire are divided into the following:

- **Income Tax Returns**
- **Business Volume Statements**
- **Movable Property Tax Return**
- **Payment of Annual Limited Liability Company Fee**
- **Sales and Use Taxes**

 EVALUATION

The following are the results of the monitoring of the Concessionaire's compliance with its tax obligations.

- **Income Tax Returns**

The Concessionaire is required to file a Corporate Income Tax Return for each taxable year, reporting its income and paying the determined tax. Said return must be filed no later than the fifteenth (15th) day of the fourth (4th) month following the closing of the taxable year, in the case of the Concessionaire, it must be rendered on or before April 15, since its taxable closing date is December 31 of each year.

- The Concessionaire provided a copy of the Corporation's Income Tax Return filed for tax year 2020. Compliance with the requirement of filing the income tax returns for the last five (5) years was confirmed with the Certification of Filing of Income Tax Returns issued by the Department of the Treasury on May 11, 2022. It was also certified that on April 29, 2022, the Concessionaire had no debts with the Department of the Treasury for Income Taxes, as stated in the Negative Certification of Debt issued by the Department of the Treasury.

Result: The Concessionaire complied with its income tax obligation by virtue of the following documents submitted.

- **Business Volume Statements**

Every taxpayer is required to pay and remit to the corresponding municipality the Business Volume Declaration, reporting and paying the tax imposed pursuant to Act 107-2020, as amended, known as the "Municipal Code of Puerto Rico. We clarify that, according to its applicability, during the year 2020, Act 81-1991, repealed, known as the "Puerto Rico Autonomous Municipalities Act"; as well as Act 113-1974, repealed, known as the "Municipal Business License Act", both repealed after the approval of Act 107-2020, were in effect until August 13, 2020. Once the taxpayer complies with

the payment and with the required documents and information, the Municipality issues the corresponding business license certificate.

Under current legislation, the concessionaire is required to pay a municipal business license fee only to the municipalities through which any part of the road maintained and operated under the concession runs.

Accordingly, the Concessionaire is required to file a Business Volume Statement and pay the municipal license tax to the municipalities indicated in the table below.

TABLE 24: MUNICIPALITIES CORRESPONDING TO MUNICIPAL PATENT PAYMENTS

Municipalities			
Arecibo	Cataño	Hatillo	Vega Alta
Barceloneta	Dorado	Manatí	Vega Baja
Bayamón	Guaynabo	Toa Baja	San Juan

- Certificates of filing compliance, payment of Municipal Business Licenses, License tax, Certifications of no debt and Business Volume for Calendar Year 2020 and Calendar Year 2021 were issued by the aforementioned municipalities.

Result: In light of the aforementioned, we find that the Concessionaire is in compliance with its obligation to file Business Volume Statements.

- **Movable Property Tax Return**

According to the information provided by the Concessionaire, it was verified that the Property Tax Returns for the year 2020 were filed with the Municipal Revenue Collection Center (hereinafter "CRIM"). In essence, the Concessionaire's compliance with the filing of the Movable Property Tax Returns was verified by examining copies of said returns or certifications of filing issued by the CRIM. In addition, a Certification of Debt for all concepts was provided, dated April 29, 2020, which indicates that there is no debt and is effective until July 29, 2022.

Result: Based on the foregoing, we consider that the Concessionaire is in compliance with its obligation to file a Movable Property Tax Return.

- **Payment of Annual Limited Liability Company Fee**

The Concessionaire evidenced compliance with the Annual Limited Liability Company Fee to the Department of State for the 2020 tax year.

Result: According to the above, we consider the Concessionaire in compliance with its obligation to pay the Annual Limited Liability Company Fee.

- **Sales and Use Taxes ("SUT")**

Section 3.10(b)(iii) of the Concession Agreement provides that the Concessionaire shall not be liable for, or be subject to, the sales and use tax established pursuant to

Sections 4010.01(p) and (nn) of the Puerto Rico Internal Revenue Code. Ángel Marzán, Assistant Secretary of Internal Revenue of the Department of the Treasury, issued an administrative determination (i.e. 'Ruling') dated December 2, 2014, certifying that, for SUT purposes, in consideration of the fact that the Concessionaire exercises a governmental function, it is considered a Government agent pursuant to Section 4010.01(p) of the Puerto Rico Internal Revenue Code. Further, that the Concessionaire shall be entitled to the SUT exemption described in Section 4030.08 of the Code which provides that goods and services acquired by governmental agencies are exempt from SUT.

In addition, the Concessionaire is registered as a merchant with the Treasury Department and has Merchant Registration Certificates as a non-withholding agent, issued by the new Unified Internal Revenue System ("SURI"), for itself and for each location, that is, the toll plazas located in the municipalities of Bayamón, Guaynabo (Buchanan), Toa Baja, Vega Alta, Manatí, Arecibo, and Hatillo.

Observation: In the previous Monitoring, renewal was issued with an effective date of March 14, 2019 to February 28, 2020. There is evidence of the Merchant Registration Certificate for 2020 dated February 29, 2020 to February 28, 2022 for each location, i.e., the toll plazas located in the municipalities of Bayamón, Guaynabo (Buchanan), Toa Baja, Vega Alta, Manatí, Arecibo, and Hatillo.

Result: Based on the foregoing, it is considered that the Concessionaire was in compliance with its Sales and Use Tax obligation.

 **EVALUATION SUMMARY**

The Concessionaire has been found in compliance with its tax obligations. The table below presents a summary of the evaluation.

TABLE 25: SUMMARY OF THE CONTRIBUTION OBLIGATIONS ASSESSMENT OF THE CONCESSIONAIRE

Obligation	Result
Income Tax Returns	C
Business Volume Statements	C
Personal Property Tax Return	C
Annual Fee for Limited Liability Company	C
Sales and Use Tax	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

AUTHORIZATIONS (PERMITS, ENDORSEMENTS, ETC.)

Section 3.4 of the Concession Agreement requires the Concessionaire to obtain, renew, and maintain in effect all certifications, licenses, and permits necessary for the

Concessionaire's operation of the Toll Roads. The authorizations required by this section are as follows:

- **Certificate of Compliance with Recycling Plan**
- **National Pollutant Discharge Elimination System permit ("NPDES Permit") for the Toll Roads and their facilities.**
- **Use Permits**
- **Fire Prevention Certificates**
- **Environmental Health Certificates and Sanitary Licenses**
- **Permit for Operation of Emergency Generators**
- **Permit for Fuel Storage Tank**
- **Operating Permits for Underground Injection Systems ("UIF Permit")**



IMPLEMENTATION

Pursuant to the provisions of the Concession Agreement and its First Amendment, HTA and the Concessionaire have taken steps to obtain, renew and maintain the necessary authorizations for the operation of the Toll Roads.



EVALUATION METHODOLOGY

The evaluation is divided into the following items:

- **General Operations**

In the first of these we detail the permits, endorsements, and certifications required for the general operation of the Toll Roads.



EVALUATION

- **General Operations**

Within the General Operations category, we detail the Concessionaire's compliance with the permits, endorsements, and certificates required for the general operation of the Toll Roads, these being the Certificate of Compliance with the Recycling Plan and the NPDES Permit.

- ***Recycling Plan***

As required by Section 3.4(e) of the Concession Agreement, the Concessionaire has obtained Certificates of Compliance of its Recycling Plans with Act 70 of September 18, 1992. To demonstrate compliance with this authorization requirement for the Toll Roads, the Concessionaire submitted the following evidence:

Toll Plaza		Certificate of Compliance with Recycling Plan No.	Date issued	Validity
General Operations	☑	No. RPRSP-0454-03-09-2020	9/March/2020	9/Sept/2021

- **NPDES Permit**

The National Pollutant Discharge Elimination System ("NPDES") permit that applies to Highway operations is the MS4 - Small Municipal Separated Storm Sewer Systems. This permit covers all highways in Puerto Rico. Obtaining the NPDES Permit is the responsibility of HTA and not of the Concessionaire. To comply with this requirement HTA obtained the following permits:

Toll Plaza		NPDES Permit No.	Validity
General Operations	☑	PRR No. 040000	1/Jul/2016 - 30/Jun/2021
General Operations	☑	PRR No. 04000F	1/Jul/2016 - 30/Jun/2021

- **Toll Plaza**

Within the Toll Plaza category, we detail the Concessionaire's compliance with the permits, endorsements, and certificates required for the operation of the Toll Plazas, these being the Use Permit, Fire Prevention Certificate, Environmental Health and Sanitary Licenses, Emergency Generator Operation Permit, Fuel Storage Tank Permit and the UIF Permit, as applicable.

- **Use Permit**

As required by the Concession Agreement, HTA obtained the Use Permit for the Toll Roads on September 19, 2011. This permit has no expiration date. The following certifications were received from the Concessionaire, which indicate that there have been no changes in the Permits after they were issued. The following are the Single Permits for each toll plaza, which include the sanitary license and the Fire Prevention Certificate, issued by the Permits Management Office (OGPe, the Spanish acronym).

Toll Plaza		Use Permit No.	Date of Issue	Certification Date
Buchanan	☑	No. 2016-108904-PU-022777	21/Oct/2020	22/Oct/2021
Toa Baja	☑	No. 2016-108780-PU-022210	15/Feb/2020	15/Feb/2021
Vega Alta	☑	No. 2016-108791-PU-022228	29/June/2020	30/June/2021
Manatí	☑	No. 2017-150851-PU-022237	30/June/2020	1/July/2021

Toll Plaza		Use Permit No.	Date of Issue	Certification Date
Arecibo	☑	No. 2016-109146-PU-022233	June 25/2020	26/June/2021
Arecibo Ramp	☑	No. 2016-109308-PU-022231	20/Feb/2020	20/Feb/2021
Hatillo	☑	No. 2017-150850-PU-022239	10/Mar/2020	11/Mar/2021
Bayamón	☑	No. 2020-300637 PU-022707	10/Mar/2020	11/Mar/2021

• UIF Permits

The Concessionaire maintained the Operating Permits for Underground Injection Systems ("UIF") during the applicable period. To demonstrate its compliance, it provided copies of the following documents:

Toll Plaza		UIF Permit No.	Date of Issue	Validity
Buchanan	☑	N/A		
Toa Baja	☑	Permit Renewal Number UIC-16-70-0020	Renewal requested 12/Sept/2019	Pending issuance
Vega Alta	☑	Permit Renewal No. UIC-12-73-0008	Renewal requested 12/Sept/2019	Pending issuance
Manatí	☑	No. UIC-12-47-0009	Renewal requested 29/Aug/2019	Pending issuance
		Permit No. UIC-12-47- 0009	15/Oct/2020	4/Jun/2021
Arecibo	☑	N/A		
Arecibo Ramp	☑	N/A		
Hatillo	☑	Renewal of Operating Permit UIC-12-34- 0011- RA	12/Aug/2019	4/Jun/2021
Bayamón	☑	N/A		

Observation: It is noted that, for the Manatí Toll Plaza, the Co-owner provided evidence of the renewal request of the Class VC-1 Operating Permit (UIC-12- 47- 0009) dated August 29, 2019, that is, after its expiration date, which was June 4, 2019. The renewed permit provided is valid from October 15, 2020 to June 4, 2021, as reflected in the table above.

- Emergency Generators Operating Permit**

The Concessionaire maintained the Emergency Generator Operating Permits during the applicable period. To demonstrate its compliance, it provided copies of the following documents:

Toll Plaza		General Permit for Emergency Generators Commercial/Industrial No.	Date of Issue	Validity
Buchanan	<input checked="" type="checkbox"/>	No. 2016-108904-PGE-190226	9/Sept/2016	8/Sep/2021
Toa Baja	<input checked="" type="checkbox"/>	No. 2016-108780-PGE-194913	9/Sept/2016	8/Sept/2021
Vega Alta	<input checked="" type="checkbox"/>	No. 2016-108791-PGE-174029	8/Jun/2016	8/Jun/2021
Manatí	<input checked="" type="checkbox"/>	No. 2017-150851-PGE-005328	24/Feb/2017	23/Feb/2022
Arecibo	<input checked="" type="checkbox"/>	No. 2016-109146-PGE-005353	24/Feb/2017	24/Feb/2022
Arecibo Ramp	<input checked="" type="checkbox"/>	No. 2016-109308-PGE-005352	24/Feb/2017	24/Feb/2022
Hatillo	<input checked="" type="checkbox"/>	No. 2017-150850-PGE-005329	24/Feb/2017	23/Feb/2022
Bayamón	<input checked="" type="checkbox"/>	No. 2016-108773-PGE-173993	8/Jun/2016	8/Jun/2021

- Fuel Storage Tank Permit**

The Concessionaire maintained the Fuel Storage Tank Permits during the applicable period. To demonstrate its compliance, it provided copies of the following documents:

Toll Plaza		Fuel Storage Tank Permit No.	Date of Issue	Validity
Buchanan	<input checked="" type="checkbox"/>	No. 07-04-12CB	19/Jul/2012	No expiration date
Toa Baja	<input checked="" type="checkbox"/>	No. 07-03-12CB	19/Jul/2012	No expiration date
Vega Alta	<input checked="" type="checkbox"/>	No. 07-06-12CB	19/Jul/2012	No expiration date
Manatí	<input checked="" type="checkbox"/>	No. 07-07-12CB	19/Jul/2012	No expiration date
Arecibo	<input checked="" type="checkbox"/>	No. 07-05-12CB	19/Jul/2012	No expiration date

Toll Plaza		Fuel Storage Tank Permit No.	Date of Issue	Validity
Arecibo Ramp	☑	No. 07-09-12CB	19/Jul/2012	No expiration date
Hatillo	☑	No. 07-02-12CB	19/Jul/2012	No expiration date
Bayamón	☑	No. 07-08-12CB	19/Jul/2012	No expiration date



EVALUATION SUMMARY

The Concessionaire has been consistent in its compliance with the required authorizations for the operation of the Toll Roads and its facilities. The Concessionaire has been found to be in full compliance with the requirements of Use Permit, UIF Permit, Sanitary Licenses, Fire Prevention Permits, Emergency Generator Operation Permits and Fuel Storage Tank Permits for the facilities as applicable.

For the Manatí Toll Plaza UIF Permit, the Environmental Quality Board ("EQB") did not issue a permit for the 2019-2020 period, had it done so, the appropriate filing date to evaluate was 2020. Due to the delay, which we understand was due to the COVID-19 pandemic, the EQB issued the permit for the 2020-2021 period.

The table below shows the summary of the results of the evaluation of the Permits.

TABLE 26: SUMMARY OF THE EVALUATION OF HIGHWAY PERMITS OPERATIONS

Criteria	General	Buchanan	Toa Baja	Vegto Alta	Manatí	Arecibo	Rampa	Hatillo	Bayamón
Recycling Plan	C	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NPDES Permits	C	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Use Permits	N/A	C	C	C	C	C	C	C	C
Environmental Health Certification and Sanitary Licenses	N/A	C	C	C	C	C	C	C	C

Criteria	General	Buchanan	Toa Baja	Veg to Alta	Manatí	Arecibo	Rampa	Hatillo	Bayamón
Fire Prevention Certifications and Permits	N/A	C	C	C	C	C	C	C	C
UIF Permits	N/A	N/A	C	C	N/A	N/A	N/A	C	N/A
Emergency Generator Operation Permits	N/A	C	C	C	C	C	C	C	C
Fuel Storage Tank Permits	N/A	C	C	C	C	C	C	C	C

Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable

PAYMENT OF UTILITIES

Section 3.11 of the Concession Agreement requires the Concessionaire to pay for services related to utilities, including electricity and potable water services, and any other utilities necessary for the operations of the Toll Roads.



IMPLEMENTATION

Pursuant to the requirements of the Concession Agreement, the Concessionaire established contracts for the supply of utilities such as electric power, potable water and sanitary services on the Toll Roads. Once the service contracts were established, the Concessionaire has been responsible for the payment of these services, at the established rates.

- Electric Power Service:** For electric power services, the Concessionaire established service contracts with the Electric Power Authority (hereinafter, PREPA and since June 22, 2020 LUMA Energy). Then, the Concessionaire entered into a Summary Billing Agreement with PREPA. A summary billing contract is a legal tool used by PREPA for customers who have several electric service accounts that are paid from a centralized source. The Summary Billing Agreement resulted in two accounts for electric services in the Toll Roads, indicated in the table below.

Description	Account No.
Primary Account	662-4095091
Secondary Account	413-8062534

- **Potable Water and Sanitary Service:** For potable water services the Concessionaire obtained the accounts indicated in the table below.

Description	Account No.
Hatillo Toll Plaza	22301636-1
Arecibo Ramp Toll Plaza	22301638-7
Arecibo Toll Plaza	22301637-9
Manatí Toll Plaza	22301639-5
Vega Alta Toll Plaza	22301640-3
Toa Baja Toll Plaza	22301641-1
Bayamón Toll Plaza	22301642-9
Buchanan Toll Plaza	22301643-7

EVALUATION METHODOLOGY

The evaluation is aimed at verifying whether the Concessionaire is in compliance with the payments for electric power and potable water services on the Toll Roads.

EVALUATION

- **Electric Power Service**

The Concessionaire maintained current payments for electric energy services on the Toll Roads during the monitoring period. To demonstrate its compliance, it provided two (2) certifications of no-debt from LUMA Energy, which are described below.

Account		Certificate of No-Debt	No-Debt up to
No. 413-8062534	<input checked="" type="checkbox"/>	Certification of Debt No. 100-22-06-0018	23/June/2022
No. 662-4095091	<input checked="" type="checkbox"/>	Certification of Debt No. 100-22-06-0017	23/June/2022

- **Drinking Water and Sanitary Service**

To demonstrate compliance with the payment of potable water and sanitary services on the Toll Roads, during the monitoring period. The concessionaire provided eight (8) certifications of no debt. These are detailed below:

Toll Plaza		Certificate of No-Debt	No-Debt up to
Buchanan	<input checked="" type="checkbox"/>	Certification of Debt account no. 22301643-7 (balance \$2,867.10)	June 22/2022
Toa Baja	<input checked="" type="checkbox"/>	No-Debt Certification account no. 22301641- 1	June 22/2022

Toll Plaza		Certificate of No-Debt	No-Debt up to
Vega Alta	☑	Debt Certification account no. 22301640-3 (balance \$3,426.07)	June 22/2022
Manatí	☑	Debt Certification account no. 22301639-5 (balance \$2,132.09)	June 22/2022
Arecibo	☑	Debt Certification account no. 22301637-9 (\$2,219.77)	June 22/2022
Arecibo Ramp	☑	Debt Certification account no. 22301638-7 (balance \$403.32)	June 22/2022
Hatillo	☑	Debt Certification account no. 22301636-1 (balance \$1,716.26)	June 22/2022
Bayamón	☑	No-Debt Certification account no. 22301642- 9	June 22/2022



EVALUATION SUMMARY

The Concessionaire has complied with the payments for the supply of electric, potable water and sanitary services on the Toll Roads, although the accounts for the Buchanan, Vega Alta, Arecibo Ramp, Hatillo, Arecibo and Manatí tolls present balances pending payment of current charges. The table below presents a summary of the evaluation of utility payments.

TABLE 27: SUMMARY OF THE EVALUATION OF TOLL ROAD UTILITY PAYMENTS

Criteria	Result
Payment for Electric Energy Services (PREPA)	C
Payment for Drinking Water Services (PRASA)	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

PAYMENTS FOR THE BENEFIT OF THE MEMBERS OF THE PUERTO RICO POLICE BUREAU

Section 3.16(a) of the Concession Agreement requires HTA to make reasonable efforts to ensure that Members of the Puerto Rico Police Bureau provide traffic control and enforce the laws on the Toll Roads. However, if the Concessionaire is not in compliance with Section 3.16(e)(i) or has invoked Section 3.16(e)(ii) of the Concession Agreement, HTA will not be required to comply with Section 3.16(a).

Section 3.16(e)(i) of the Concession Agreement requires the Concessionaire to make payments to HTA in the amount of \$450,000.00, payable on or before the fourteenth (14th) business day following the Financial Closing and on each anniversary of the Financial Closing. On the other hand, on each seventh (7th) anniversary of the grant, Section 3.16(e)(i) requires the Concessionaire to pay an additional \$450,000.00 to HTA. These payments are

for capital improvements, equipment, and operational expenses of the Members of the Bureau of the Puerto Rico Police in the provision of their services on the Toll Roads.

Section 3.16(e)(ii) provides the option for the Concessionaire to enter into an agreement with the Puerto Rico Police Bureau to provide traffic control and law enforcement services on the Toll Roads. Such agreement would have to comply with the Minimum Police Service Level, which is defined in the Concession Agreement as the level of service at the time of the concession auction date. If the Concessionaire enters into an agreement with the Puerto Rico Police pursuant to Section 3.16(e)(ii), the payments required by Section 3.16(e)(i) during the term of such agreement would be null and void.



IMPLEMENTATION

On June 11, 2012, the Concessionaire and the Puerto Rico Police Bureau entered into agreement number 2012- A00134, whereby the Puerto Rico Police Bureau committed to provide the Minimum Level of Police Services on the Toll Roads, while the Concessionaire committed to provide equipment, defray costs, and provide productivity bonuses for the services provided by the Puerto Rico Police.

In the agreement signed between the parties, the minimum level of police services was defined as two (2) shifts of eight (8) hours, each to be performed through the use of a minimum of seven (7) patrol cars along PR-5 and PR-22; and one shift of eight (8) consecutive hours to be performed through the use of a minimum of five (5) patrol cars along PR-5 and PR-22.

For the provision of the Minimum Police Service Level, the Concessionaire committed to the following:

- To provide the personnel of the Bureau of the Puerto Rico Police with work spaces or premises without furniture, no larger than those existing at the time the agreement was signed;
- Provide routine maintenance of the Buchanan and Arecibo police stations;
- To defray the costs and expenses related to water, electricity and telephone services at the Buchanan and Arecibo police stations;
- To defray the repair costs for the normal use and depreciation of the infrastructure of the Buchanan and Arecibo police stations;
- Provide cleaning services at the Buchanan and Arecibo police stations;
- Provide air conditioners in the Buchanan and Arecibo police stations with proper maintenance;
- Provide up to a maximum of nine thousand dollars (\$9,000.00) annually for each police station (Buchanan and Arecibo) to defray administrative expenses such as printers, inks, paper, pencils, pens, folders, furniture, office supplies, and other special requests approved by the Concessionaire;
- Order thirteen (13) new patrol cars to be used by the Police for patrolling the Toll Roads;

- Replace or repair any of the thirteen (13) patrol cars provided, should the need arise;
- To cover the cost of repair and maintenance of the thirteen (13) patrol cars provided;
- To cover the cost of fuel consumption of the thirteen (13) patrol cars provided;
- To grant a budget of \$35,000.00 per year for Productivity Bonuses, if the parameters established for the same are met; and
- Distribute to the Police 50% of the savings in the budget for the calendar year for savings in fuel and administrative expenses.

Agreement number 2012-A00134 between the Puerto Rico Police Bureau and the Concessionaire was in effect until June 11, 2016. After expiration of the original agreement between the parties, the Concessionaire and the Police Bureau entered into a second agreement. This was agreement number 2017-A00116 executed on August 22, 2016 and effective until June 30, 2017. In this agreement, the Police and the Concessionaire agreed to the same terms of the previous contract with the exception of the acquisition of thirteen (13) patrol cars for the security patrols on the Toll Roads, since the patrol cars had already been provided to the Members of the Bureau of the Police of Puerto Rico through the previous agreement. Subsequently, agreements 2018-A00006 and 2019-A00071 were executed with effective dates June 30, 2017 to June 30, 2018, and from August 31, 2018 to August 30, 2020, respectively, in which the agreements reached between the parties were renewed, both executed pursuant to Act 20-2017, as amended, known as the "Puerto Rico Department of Public Safety Act" (hereinafter, "DPS"), which creates the Puerto Rico Police Bureau attached to the DPS.

EVALUATION METHODOLOGY

The evaluation of this line item of the Concession Agreement was based on the payments made by the Concessionaire to HTA, the terms and conditions of the agreements executed between the Concessionaire and the Puerto Rico Police Bureau, and the Concessionaire's compliance with the terms and conditions of such agreements.

EVALUATION

To verify the Concessionaire's compliance with the terms and conditions of the agreements signed with the Puerto Rico Police Bureau, a letter was sent to then Commissioner Henry Escalera Rivera regarding the actions of the Concessionaire related to agreement Nos. 2018-A00006 and 2019-A00071.

On September 10, 2020, a response was received from Commissioner Escalera Rivera, providing the requested information. In the letter received (OC-1-1-273) dated December 2, 2020, the Commissioner confirmed that the company Autopistas Metropolitanas de Puerto Rico, LLC under the agreement described above, has complied with the services agreed for the highways.

Also, this letter refers to faithful fulfillment of the obligations and responsibilities set forth in agreement 2021-A00008, granted on June 29, 2020 and effective from July 1, 2020 to June 29, 2022.

Given the information provided by the Puerto Rico Police Bureau, it can be seen that the Concessionaire has been in compliance with the terms of the Agreement for the year 2020 and the 2019-A00071 agreement.

Result: For the purposes of this monitoring, the concessionaire is found to be in compliance with the agreements and in good standing.

 **EVALUATION SUMMARY**

Payments for the Benefit of Members of the Puerto Rico Police Bureau have been in compliance with the requirements of Section 3.16(e) of the Concession Agreement. The following table presents a summary of the evaluation of the provisions of Section 3.16(e) of the Concession Agreement.

TABLE 28: SUMMARY OF COMPLIANCE WITH SECTION 3.16(E) OF THE CONCESSION AGREEMENT

Criteria	Result
Term of Agreement between Police and Concessionaire	C
Compliance with Terms and Conditions of Agreement	C
Payment of \$450,000	N/A
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable	

DESIGN AND CONSTRUCTION REQUIREMENTS

Chapter K of Volume II of the Operating Standards establishes requirements and guidelines to the Concessionaire for the execution of capital improvement projects, rehabilitations, and capacity improvements on the Toll Roads. The Chapter describes the necessary coordination with the Authority and other Government entities and establishes minimum requirements to the Concessionaire for the sound management of such projects.

Among the requirements for the projects, Section K.2.2 states that the Concessionaire shall employ the services of qualified licensed engineers and architects for the work to be performed. This Section allows the Concessionaire to have a mix of internal and external resources to carry out the projects, depending on the complexity of the projects. On the other hand, Section K.3.11 establishes that the Concessionaire must provide project management services with its internal and external resources to manage, monitor and control the construction works on the Toll Roads.

With respect to specific requirements for the execution of projects, Chapter K and the Laws of Puerto Rico impose the following on the Concessionaire:

- **Stamps of the Puerto Rico Association of Engineers and Surveyors**

Pursuant to Act No. 319 of May 15, 1938, as amended, all construction projects require the payment of stamps of the Puerto Rico Association of Engineers and Surveyors, for plans drawn by licensed engineers.

- **HTA Approval**

Section K.3.2 requires that all projects to be implemented by the Concessionaire have the approval of HTA.

- **Environmental Assessment**

Section K.3.10 requires the Concessionaire to conduct all construction activities in accordance with the environmental criteria of HTA, the Government, and the Federal [National] Environmental Protection Act ("NEPA"). The EQBs Environmental Assessment Regulations require an assessment of the environmental impacts that project may have. The regulations also establish a Categorical Exclusion, which exempts from environmental review those routine or foreseeable actions that will not have a significant environmental impact. A Categorical Exclusion allows a project to proceed without prior evaluation by the EQB.

- **National Pollution Discharge Elimination System (NPDES)**

Section K.3.10 requires the Concessionaire to conduct all construction activities in accordance with HTA, State, and NEPA environmental criteria. The federal Environmental Protection Agency ("EPA"), through its authority under the federal Clean Water Act, requires a National Pollution Discharge Elimination System ("NPDES") Permit for discharges from construction projects into water bodies.

- ***Storm Water Pollution Prevention Plan***

As part of the NPDES Permit issued by the EPA for construction projects, a *Storm Water Pollution Prevention Plan* ("SWPPP") is required to be prepared in cases where one acre or more of surface area is impacted. The plan must detail the activities the Contractor will undertake to prevent or minimize pollution of water bodies from erosion or sedimentation generated by construction activities.

- **Consolidated General Permit**

The Joint Regulations for the Evaluation and Issuance of Permits Related to the Development and Use of Land of the Puerto Rico Planning Board require

obtaining the Consolidated General Permit, which includes the Erosion Control and Sedimentation Prevention Plan ("CES [Spanish Acronym] Permit"), the Non-Hazardous Solid Waste Generating Activity Permit ("DS-3 Permit") and the Permit for Source of Emission ("PFE Permit"), all issued by the EQB. This permit consolidates several permits related to environmental impacts on construction projects.

- **CES Plan Reports**

The Erosion Control and Sedimentation Prevention Plan (CES Plan) requires the submission of an initial report, a report for each month, and a final project report, all certified by a licensed engineer.

- **Permit for Removal of Lead-Containing Material**

The EQB's Regulations for the Control of Lead-Based Paint Mitigation Activities require that a permit be obtained prior to the commencement of any lead-based paint mitigation and disposal activities. Upon completion of lead-containing material removal work, the EQB requires certification of the proper disposal of lead-containing material and its respective evidence. Upon notification of the above, the EQB issues a notice closing the Project file, which constitutes closure of the permit.

- **USACE Permit**

The U.S. Army Corps of Engineers (USACE) is responsible for evaluating contingency plans for construction projects to ensure protection of water bodies during development. USACE issues a permit after evaluating environmental conditions and measures to be taken during the project to protect water bodies.

- **Solid Waste Manifests**

Solid Waste Manifests are part of the documents required under the EQB's Consolidated General Permit, specifically for solid waste generating activities.

- **Payment of Municipal Licenses and Taxes**

The Puerto Rico Municipal Code, Act 107-2020, as amended, and formerly the repealed Municipal Patent Law, Act 113-1974, *impose* the payment of municipal licenses for any activity for profit or rendering of services, including construction. The payment of municipal licenses must be made prior to the commencement of construction. A tax is levied on construction projects for the right to carry out construction activity or work within the territorial limits of the corresponding municipality. The payment of municipal taxes must be made prior to the start of construction.

- **Notice to Proceed**

In the interest of sound management of the schedule of any construction project, it is typical in the industry to notify the contractor of the official start date of the work. This is done by issuing a notice to proceed, which indicates the date on which the contractor is officially authorized to begin construction work. This is also when the construction time established in the contract for the work begins to count.

- **Certificate of Substantial Completion**

As part of the sound management of the schedule of any construction project, it is typical in the industry to notify contractors of the substantial completion of projects. Substantial completion of a construction project constitutes the date on which the work has made such progress that the project can begin to be used for the purposes for which it was designed.

- **Certificate of Final Completion**

As part of the sound administration of any construction contract, it is typical in the industry to notify contractors of the final completion of projects. Final completion of a construction project constitutes the date on which any and all work required by the contract has been completed by the contractor, in its entirety, in accordance with the plans and specifications.

- **Insurance**

Section 13.1(i) of the Concession Agreement requires the Concessionaire to maintain a Builders Risk coverage for each project to be executed during the term of the Concession Agreement, the total value of which exceeds one hundred thousand dollars (\$100,000.00).

- **As-Built Plans**

Section K.3.12 requires that all construction work completed by the Concessionaire be documented on As-Built drawings. As-Built drawings are vitally important, as they reflect how the project was actually constructed and are the only reliable reference drawing after completion of a project.



IMPLEMENTATION

Pursuant to the requirements of the Concession Agreement regarding design, construction and project management, the Concessionaire has used internal and external resources to manage and execute the capital improvement projects on the Toll Roads. In addition, it has managed the permits, endorsements, payments, insurance, and reports, among others, required for the implementation, in accordance with the Operating Standards and the laws of Puerto Rico.



EVALUATION METHODOLOGY

The evaluation focused on two (2) projects. For each of these projects, compliance with the various compliance items discussed above was evaluated. The projects evaluated are:

- ***Hatillo & Manatí Canopy Demolition***
- ***Buchanan Fuel Tanks***

To evaluate the projects, we requested detailed documentation from the Concessionaire, evidencing the steps taken to carry out the projects, in compliance with the requirements of Chapter K of the Operating Standards and the laws in force.



EVALUATION

- ***Hatillo & Manatí Canopy Demolition***

The project is part of the agreement for the demolition and reconfiguration of the Hatillo and Manatí canopies. It is currently a work in progress, which is in phase 3.

- **College of Engineers and Land Surveyors of PR Stamps **Compliant****

The Concessionaire provided evidence of the payment of the stamps. Evidence of the stamps can be found on the signature pages of the contract extension between the Concessionaire and the Contractor (Del Valle Group), executed on January 26, 2020.

- **HTA Approval **Compliant****

The Concessionaire submitted evidence of the approval of the project by HTA. The construction plans were approved in letter dated July 23, 2019. On the other hand, authorization from the Federal Highway Administration, FHWA, was not required since the project is one of rehabilitation.

- **Environmental Assessment **Compliant****

The Concessionaire provided an Environmental Compliance Determination by Categorical Exclusion, therefore, did not require an environmental assessment.

- **NPDES Permit **Not Applicable****

The NPDES Permit was not required for this project.

- **Storm Water Pollution Prevention Plan **Not Applicable****

The SWPPP is required for projects that impact more than one surface acre. Since this project does not impact more than one surface acre, the SWPPP was not required.

- **Consolidated General Permit (CGP)** **Compliant**

The Concessionaire provided evidence of Consolidated General Permit number 2020-303442-PUI-002557, with an issue date of October 20, 2020, and an expiration date of October 5, 2025.

- **CES Plan Reports** **Compliant**

The Concessionaire provided evidence of the CES Plan Implementation Reports, and evidence that they were received by the EQB at the Office of Municipal Solid Waste and Disposal ("RCUD"). The reports provided by the Concessionaire were from October 2020 (start of the project) to September 2021.

- **Permit for Removal of Lead-Containing Material** **Compliant**

The Concessionaire provided Certification of No Lead-Based Paint, so it was not required to obtain a permit for this purpose.

- **USACE Permit** **Not Applicable**

The scope of work of the project does not require a USACE permit, since the project does not impact any body of water, so the Concessionaire was not required to provide related documentation.

- **Solid Waste Manifests** **Compliant**

The Concessionaire provided evidence of manifests (Form PGC-012) delivered from October 2020 through February 2021. The project was completed on August 5, 2021.

- **Payment of Municipal Licenses and Taxes** **Compliant**

The Concessionaire provided evidence of a certification issued by the Autonomous Municipality of Manatí on March 17, 2021. The certification indicates the total cost of the Project.

The Concessionaire provided evidence of a certification issued by the Municipality of Hatillo on February 20, 2020. The certification indicates the total cost of the Project.

- **Notice to Proceed** **Compliant**

The Concessionaire provided evidence of the Notice to Proceed to the contractor. The Notice to Proceed was issued on July 13, 2020. The Notice to Proceed set a date to commence construction work of July 22, 2020.

- **Certificate of Substantial Completion** **Compliant**

The Concessionaire provided evidence of Substantial Completion by August 5, 2021.

- **Certificate of Final Completion** **Compliant**

The Concessionaire provided evidence of Final Completion by October 8, 2021.

- **Insurance** **Compliant**

The Concessionaire provided evidence of insurance for the Project managed by its contractor. The insurances include: (i) General Commercial Liability; (ii) Payment and Performance Bond; (iii) State Insurance Fund; (iv) Builders Risk; (v) Automobile Liability; (vi) Umbrella Liability; and (vii) Employer's Liability Insurance.

- **As-Built Plans** **Compliant**

The Concessionaire informed that it submitted the "As-Built" Plans for Manatí and Hatillo.

- **Buchanan Fuel Tanks**

The Project consists of the installation of two (2) fuel storage tanks.

- **College of Engineers and Land Surveyors of PR Stamps Compliant**

The Concessionaire provided evidence of payment of the stamps. Evidence of the stamps can be found on the signature pages of the contract between the Concessionaire and the Contractor (Tekniek Construction Company), executed on June 9, 2020.

- **HTA Approval** **Compliant**

The Concessionaire submitted evidence of the approval of the project by HTA. The construction plans for the project were endorsed in a letter dated January 15, 2020.

On the other hand, authorization from the Federal Highway Administration, FHWA, was not required, since the project is a rehabilitation project.

- **Environmental Assessment** **Compliant**

The Concessionaire provided a Determination of Environmental Compliance for Environmental Assessment dated March 30, 2020, 2019-265450-DEA-003399.

- **NPDES Permit** **Not Applicable**

The NPDES Permit was not required for this project.

- ***Storm Water Pollution Prevention Plan*** **Not Applicable**

The *Storm Water Pollution Prevention Plan* is required for projects that impact more than one surface acre. Since this project does not impact more than one surface acre the *Storm Water Pollution Prevention Plan* was not required.

- **Consolidated General Permit** **Compliant**

The Concessionaire provided evidence of the General Permit for Other Works for this project. The Permit is numbered 2020-309640-PGO-003869, with an issuance date of July 8, 2020, and an expiration date of July 8, 2025.

- **CES Plan Reports** **Compliant**

The Concessionaire provided evidence of the CES Plan Monthly Reports for this project from the EQB from August 2020 through December 2020. These were submitted monthly to the corresponding agency.

- **Permit for Removal of Lead-containing Material** **Not Applicable**

The Permit was not required for this project as there is no demolition of the structure involved.

- **USACE Permit** **Not Applicable**

The project scope of work does not require a USACE permit, so the Concessionaire did not submit related documentation.

- **Solid Waste Manifests** **Compliant**

The Concessionaire provided evidence of manifests delivered from September 4 to September 11, 2020.

- **Payment of Municipal Licenses and Taxes** **Compliant**

The Concessionaire provided evidence of a certification issued by the Autonomous Municipality of Guaynabo on September 27, 2021. The certification indicates the total cost of the Project and includes taxes.

- **Notice to Proceed** **Compliant**

The Concessionaire provided evidence of the Notice to Proceed to the contractor. The initial Notice to Proceed was issued dated August 20, 2020. The Notice to Proceed established August 31, 2020, as the date for commencement of construction work.

• Certificate of Substantial Completion Compliant

The Concessionaire provided evidence of Substantial Completion by February 14, 2021.

• Certificate of Final Completion Compliant

The Concessionaire provided evidence of a Certificate of Final Completion issued for the Project on May 7, 2021.

• Insurance Compliant

The Concessionaire provided evidence of insurance for the Project managed by its contractor. The insurances include: (i) General Commercial Liability; (ii) Payment and Performance Bond; (iii) State Insurance Fund; (iv) Automobile Liability; (v) Excess Liability; (vi) Worker's Compensation and Employer's Liability Insurance; (vii) Inland Marine.

• As-Built Plans Compliant

The Concessionaire reported that it submitted As-Built Plans for the project.

 **EVALUATION SUMMARY**

The Concessionaire has been consistent in its compliance with the evaluated criteria. The table below presents a summary of the evaluation.

TABLE 29: SUMMARY OF DESIGN AND CONSTRUCTION REQUIREMENTS EVALUATION

Criteria	Hatillo & Manatí Canopy Demolition	Buchanan Guel Tanks
CIAPR Stamps	C	C
HTA Approval	C	C
Environmental Assessment	C	C
NPDES Permit	N/A	N/A
Storm Water Pollution Prevention Plan	N/A	N/A
Consolidated General Permit	C	C
CES Plan Reports	C	C
Lead Permit	N/A	N/A
USACE Permit	N/A	N/A
Waste Manifests	C	C

Municipal Licenses & Fees	C	C
Notice to Proceed	C	C
Substantial Termination	C	C
Final Completion	C	C
Insurance	C	C
As Built Plans	C	C
Legend: C = Compliant • PC = Partially Compliant • NC = Non-Compliant • N/A = Not Applicable		

MONITORING REPORT - RECOMMENDATIONS

During the exercise of our assigned monitoring functions, we have identified several areas of opportunity and aspects to improve in relation to compliance with the Concession Agreement. In order for all parties involved to evaluate and decide whether or not to adopt the recommendations presented, we have chosen to document them in a separate report. This report will also serve as a guide for the parties to prepare a Corrective Action Plan.

The issues presented below have been subject to evaluation in the monitoring process corresponding to the year 2020, in which certain areas for improvement have been identified. For each of these issues, a concise summary of the requirements established in the relevant section of the Concession Agreement has been prepared, followed by the observations and recommendations made.

The recommendations presented are based on the documentation analyzed during the monitoring process of the Concession Agreement. It should be noted that the implementation of these recommendations will be subject to the evaluation of the parties involved in the Concession Agreement.

METHODOLOGY FOR OBSERVATIONS AND RECOMMENDATIONS

Observations and recommendations are classified as follows in this audit report:

Recommendation: Indicates that observations and recommendations have been identified that have not yet been addressed to date.

Tolls

The Concessionaire must provide the Monthly Electronic Toll Collection Report on a monthly basis, as established in Section 8.1(a) of the Concession Agreement. In this report, the transactions made at each Toll Plaza are recorded according to the classification of vehicles. The report includes the total number of electronic

transactions recorded at each collection point are broken down by vehicle classification, location and type of transaction. In addition, electronic toll revenue data is collected by applying the corresponding rates to the recorded transactions.

- **OBSERVATION**

When comparing the Monthly Electronic Toll Collection Reports with the amounts transferred by the BPPR to the Concessionaire, it was observed that the reports were not easily readable, which made their evaluation difficult. The Concessionaire indicated that some of the monthly reports were sent with estimated information, due to the unavailability of the final reports within the required time. During the audit process, the Concessionaire had to provide additional information (adjustments) to facilitate the analysis performed.

- **RECOMMENDATION**

It is recommended that reports, such as the Traffic and DTL Reports, be clearly legible to facilitate evaluation of the information presented. It is important that the information provided is official and accurate, especially when evaluating aspects such as Toll Transactions, Toll Collection and Revenue Division. In the case of having to submit estimated information, it is suggested that it be reported at the time of submitting the document and a note or comment be included in the corresponding report. Once all the necessary information is obtained, the official monthly report should be submitted.

Monthly BRT/DTL Performance Reports

Pursuant to Section 2.2(j) of Schedule 10 of the Concession Agreement, the Concessionaire is required to submit monthly reports to HTA on the performance of the BRT/DTL. These reports must include the following information at ten (10) minute intervals:

- Observed Traffic Volumes.
- Average Speeds.
- Toll rates applicable during the reported periods.

- **OBSERVATION**

It has been noted that the Concessionaire has not complied with the requirement to submit the BRT/DTL performance detail as set forth in Schedule 10. However, it has been noted that the Concessionaire has the capacity to generate the requested reports. In its reporting template, the Concessionaire includes notes indicating that details of traffic volumes, average speeds and applicable toll rates at five (5) minute intervals are available upon request from HTA. However, no evidence of requests by HTA or comments on this notation made by the Concessionaire have been found.

- **RECOMMENDATION**

It is recommended that HTA and the Concessionaire review the need to maintain the BRT/DTL Performance Reports as a contractual requirement. It is suggested that the Concession Agreement be amended to provide that such reports be made available and submitted as required by HTA, rather than having a strict submission requirement. This will allow for greater flexibility and efficiency in the generation and provision of the reports, without compromising the monitoring and evaluation of BRT/DTL performance.

Operating Standards Volume II: Operations & Procedures Manual

As established in Article 6 of the Agreement, the Concessionaire is responsible for ensuring that the operations of the Toll Roads comply with the requirements of the Operating Standards, which are detailed in Schedule 9 of the Concession Agreement. These Operating Standards require that the operations be performed in accordance with the highest quality standards and practices, as well as in compliance with the clauses set forth in the Concession Agreement.

In Volume II of the Operating Standards, specifically in Schedule 9B entitled Operations and Procedures Manual, it is established that the Concessionaire must prepare and submit certain annual plans and reports to HTA for evaluation and approval. The purpose of these plans is to establish the manner in which the Concessionaire will comply with the quality and service standards required by the Concession Agreement. On the other hand, the reports are intended to show the results obtained by the Concessionaire, demonstrating compliance with the Operating Standards.

The Operations and Procedures Manual establishes that the Concessionaire must submit several annual plans to HTA. Also, in Chapter L of said manual, the Concessionaire is required to submit the Annual Toll Road Condition Report and the Capital Improvement Program. This report is divided into different topics including:

- Bridge and Structures Condition Report (Section L.3.6.1)
- Underwater Conditions Report (Section L.3.7)
- Fracture Critical Condition Structures Report (Section L.3.8)
- Civil and Road Conditions Report (Section L.3.6.2)
- Facility Condition Report (Section L.3.6.3)
- Capital Improvement Program Report (Section L.3.10.3)
- Current Traffic Condition and 10-Year Growth Projection Report (Section L.2.2)
- Concessionaire Certification (Section L.2.3)

Section L.2.4, entitled "Acceptance Criteria", establishes the criteria that must be met to obtain the approval of HTA and the Government of Puerto Rico. These criteria are as follows:

- All inspections have been performed in accordance with the requirements set forth in this Chapter.
- All reports have been signed and sealed by a Licensed Professional Engineer in the Commonwealth of Puerto Rico.
- All required documentation and reports have been properly filed with the appropriate agency.

Likewise, Section A.5 of Volume II of the Operating Standards establishes that the annual plans and reports must receive the approval of HTA within a maximum term of one hundred and twenty (120) calendar days after the Concessionaire submits them.

IMPLEMENTATION

Pursuant to the requirements of Volume II of the Operating Standard, the Concessionaire submitted the required plans and reports to HTA. However, not all of the required reports apply to the Toll Roads under the concession and that, as required by HTA, the frequency of some of the reports differs from that required by the Operating Standard.

- **OBSERVATION**

- During the audit process, it was observed that the Fracture Critical Condition Structures Report, established in Chapter L, is not applicable to the concession. This is because no structures within the concession boundaries meet the requirements to be classified as such according to the FHWA's National Bridge Inventory System (NBIS). The Concessionaire confirmed this information, and a check of the FHWA's bridge database for Puerto Rico supported the Concessionaire's report.
- The Underwater Conditions Report, required by Chapter L, has been prepared biannually since 2016. Chapter L in its Table L.3.12.2 establishes that the bridges that require aquatic inspections are No. 1021, No. 888, No. 889, No. 894, No. 2774 (the Concessionaire provided evidence that this bridge is outside the concession limits) and No. 1180. The company Desarrolladora JA is charged with bridge inspections.
- As of the date of this review, no evidence of approval of the annual plans and annual reports by HTA, as required by the Operating Standards, was presented.

- **RECOMMENDATION**

We recommend that, in accordance with Section 20.4, which requires that any waiver or consent related to contractual requirements be documented in writing and signed, amendments be made to the Concession Agreement to address the following matters:

- Accurately identify bridges requiring water inspections based on actual conditions. In the case of new bridge construction, the corresponding requirements should be evaluated and established.
- HTA shall comply with its contractual obligations and the requirements established by the Operating Standards. This involves evaluating and approving documents submitted by the Concessionaire, such as plans and reports. HTA must exercise adequate oversight to ensure the Concessionaire's compliance with its contractual obligations and the regulations established by the agency.

Modifications to the Requirements/Contractual Obligations

Article 5 of the Concession Agreement provides that "[e]ither the Authority or the Concessionaire may propose a Modification. Immediately following any proposed Modification by the Authority or the Concessionaire, the Concessionaire shall prepare and deliver to the Authority a written statement..."

- **OBSERVATION**

The Concessionaire indicates that on several occasions both HTA and Metropistas have reached verbal agreements, mainly regarding the content of Traffic Characteristic Reports and the delivery of the BRT/DTL Monthly Performance Reports.

RECOMMENDATION

As required by the contract, the concessionaire must submit a written statement containing the proposed modifications, following the established process. In addition, in the case of verbal agreements between the parties (HTA and Metropistas), it is recommended that they be documented in writing for the record. This is based on the provision of section 20.4 of the Agreement, which specifies that any waiver or consent to deviate from the requirements of this contract must be documented in writing and signed by the corresponding party.

I CERTIFY: that this document has been prepared by Yardley Knox LLC, using the information provided by the Puerto Rico Highway and Transportation Authority and Metropolitan Expressways of Puerto Rico, LLC ("Metropistas").



Tamara Torres - Authorized Representative Yardley Knox LLC