



**Partnership Committee Report**

# **Puerto Rico Maritime Transportation Services Public-Private Partnership**

September 28, 2020  
San Juan, Puerto Rico



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# 1. EXECUTIVE SUMMARY



## 1.1 Introduction<sup>1</sup>

On September 28, 2020, after a robust and competitive procurement process that lasted more than twenty seven (27) months, the Partnership Committee (the “**Partnership Committee**”) established by the Puerto Rico Public-Private Partnership Authority (the “**P3 Authority**”) pursuant to Section 8 of the Public-Private Partnership Authority Act, Act No. 29-2009, as amended (“**Act No. 29**” or the “**P3 Act**”), determined to recommend to the boards of directors of each of the P3 Authority and the Puerto Rico and Island Municipalities Maritime Transport Authority (“**MTA**”), and to the Governor of Puerto Rico, that a Maritime Transport Operation and Maintenance Agreement (the “**Operation and Maintenance Agreement**” or “**OMA**” or “**O&M Agreement**”) be executed with HMS Ferries Inc. (“**HMSI**”) and its wholly owned subsidiary, HMS Ferries – Puerto Rico LLC (the “**Operator**” or “**HMS LLC**”) for the exclusive right to operate and maintain MTA’s Ferry System, develop and implement a new ticketing system, and engage in other ancillary commercial activities (collectively, the “**Project**”). As described in more detail below, this Partnership Committee Report (the “**Report**”) has been prepared pursuant to Articles 8(b)(vii) and 9(g)(i) of Act No. 29 and is being submitted in connection with making such recommendation.

## 1.2 MTA and HMSI

MTA was created by Act. No. 1-2000, as amended, known as the Puerto Rico and Island Municipalities Maritime Transport Authority Act (the “**MTA Act**”). The MTA Act established MTA as a public corporation responsible for the administration, operation and maintenance of the assets of the ferry services (the “**Ferry Services**”) that currently serve the Municipalities of Ceiba, Culebra and Vieques (“**Island Service**”) and the Municipalities of San Juan and Cataño (“**Metro Service**”) (such assets, collectively, the “**Ferry System**”).

HMSI is a subsidiary of HMS Global Maritime Inc. (“**HMS Global**”), a global marine management and operations company that began as Hornblower Marine Service in 1994.

HMS Global is the largest operator of high-speed car/passenger ferries in the U.S. and the first operator in the U.S. to operate vessels under the IMO High-Speed Craft Code. HMS Global provides operation management and solutions to its clients through its four divisions: HMSI, Seaward Services, HMS Consulting & Technical, and American Queen Steamboat Company. HMS Global manages a fleet of over 200 vessels and ferries and carried over 30 million passengers in 2019.

HMSI is headquartered in Bainbridge, Washington and represents the ferries division of HMS Global. Ferry services were originally the core services offered by HMS Global. With 20 years of experience, HMSI offers knowledge and expertise in transporting passengers, vehicles and other cargo safely across inland and coastal waterways. HMSI offers vessel management and maintenance services, as well as operational support, including onshore and onboard customer service. HMSI currently provides ferry services pursuant to nine (9) active ferry contracts throughout the United States, including operations in Florida, Alabama, Washington, and New York. In 2018, HMSI transported over 3 million passenger and 1 million vehicles aboard the 16 ferry vessels it operated throughout the United States.

HMSI is led by a management team composed of individuals who started their maritime careers as crew members and worked their way through the ranks, thereby developing experience throughout the entire operating process. The management team is supported by experienced crews and personnel, and safety is a core tenet of HMSI’s operations and a priority in all of its contracts. The Proposal submitted by HMSI in response to the Request for Proposal for the Project demonstrated that HMSI would bring to bear to the operation of the Ferry System (i) extensive experience and expertise relevant to the Project, (ii) a staff experienced in vessel maintenance and safety, and (iii) a structured process to deliver Ferry Services with increased operational efficiency and better service levels.

<sup>1</sup> Appendix 1 contains a list of defined terms and abbreviations used throughout this Report.

### 1.3 Background and Description of the Procurement Process

The Partnership Committee's decision to award the Project to HMSI and HMS LLC is the culmination of the implementation of the Government of Puerto Rico's (the "**Government**") objective of optimizing Ferry Service operations to improve the services offered to the residents of Puerto Rico, principally the residents of Culebra and Vieques. The Project, represents a key element of the initiatives for achieving sustained economic growth in Puerto Rico in the aftermath of the destruction wrought by Hurricanes Irma and Maria in September 2017 and the earthquakes of January 2020, which destruction has only been compounded since March 2020 by the global public health and economic effects of COVID-19. The approval of a public-private partnership ("**PPP**") for the Ferry System amidst the unprecedented challenges facing Puerto Rico and the impact of COVID-19 demonstrates the Government's resilience and its determined focus on building a better future for the people of Puerto Rico.

Prior to the impact of Hurricanes Irma and María, MTA faced significant financial and operating challenges that had a negative impact on the Ferry System's reliability, ridership, customer service, and travel time. In addition, given MTA's fiscal constraints and its major maintenance backlogs, the assets of the Ferry System had deteriorated significantly. To address these challenges, MTA and the P3 Authority, the entity responsible for the implementation of PPPs in Puerto Rico, decided to undertake the procurement of a twenty-three (23) year agreement for the operation and maintenance of the Ferry System, including its Maintenance Facility in Isla Grande (the "**Maintenance Facility**").

The goal of establishing a PPP for the Ferry System was to bring to bear private sector innovation and expertise to provide a more effective and reliable Ferry Service that better addresses the needs of the residents of the

main island, Culebra and Vieques, ensures the safety of employees and passengers, increases revenues, and reduces costs. In addition, transforming the Ferry Service as contemplated is expected to ultimately result in a reduction in the amount of public funding required for its efficient operation and maintenance.

The first stage of the PPP procurement process was initiated in 2017 with a market outreach that sought expressions of interest in the Project, followed in April 2018 by the publication of a Desirability and Convenience Study (the "**D&C Study**"), a copy of which is attached as **Appendix 2**. The D&C Study analyzed the viability and feasibility of the Project under multiple procurement scenarios in order to determine the best alternative for both the Government and the customers of the Ferry Services. On June 2018, the P3 Authority issued the Request for Qualifications (the "**RFQ**") for the Project. On July 2018, five (5) experienced and reputable private sector parties (including HMSI) (each, a "**Respondent**") submitted Statements of Qualifications ("**SOQs**") in response to the RFQ.

In accordance with the qualification process established in the RFQ (the "**RFQ Process**"), the Partnership Committee selected all five (5) Respondents to participate in the next phase of the procurement process and these Respondents were so notified by the P3 Authority on September 27, 2018.

On December 21, 2018, the P3 Authority issued the Request for Proposals (the "**RFP**") for the Project. In May 2019, two (2) of the five (5) Respondents who were qualified to participate in the procurement process conducted pursuant to the RFP (the "**RFP Process**"), HMSI and Puerto Rico Fast Ferries ("**PRFF**") (each, a "**Proposer**"), submitted proposals in response to the RFP.

The RFP required that each Proposer submit a Proposal (the “**Proposal(s)**”) including the following two (2) elements:

- a technical proposal (the “**Technical Proposal**”) reflecting each Proposer’s approach to performing the Ferry Services required under the OMA, including the following:

i. Provision of safe and reliable ferry services for the Metro and Islands Services;
ii. Maintenance of the ferry fleet and facilities;
iii. Quality management throughout the term of the OMA;
iv. Coordination with MTA and its stakeholders;
v. Addressing public information and communications for the Project;
vi. Addressing environmental sensitivity with operating ferry assets;
vii. Overall improvements to the Ferry Service;
viii. Safety program; and
ix. Good faith efforts to achieve Disadvantaged Business Enterprise (“ <b>DBE</b> ”) participation for the Project; and, a financial proposal (the “ <b>Financial Proposal</b> ”) including the following: <ul style="list-style-type: none"> <li>i. security to backstop the Proposer’s obligations under the terms and conditions of the RFP (“<b>Proposal Security</b>”);</li> <li>ii. financial statements to demonstrate the Proposer’s profitability, liquidity, solvency, and other financial capabilities to support its ongoing obligations in delivering the requirements of the OMA;</li> <li>iii. an annual fixed subsidy amount for (i) the development and implementation of a ticketing system during the Phase 1 transition, and (ii) for the operation and maintenance of the Ferry Service during Phase 2 (collectively “<b>Phase 2 Fixed Fee</b>”); and,</li> <li>iv. a description of the Proposer’s experience with securing federal funding for projects of similar scope.</li> </ul>

Following a detailed review and analysis of the Proposals submitted by HMSI and PRFF, in July 2019 the Partnership Committee selected HMSI as the Preferred Proposer with which to negotiate the OMA on an exclusive basis. The negotiations were completed at the end of September 2020 when the parties reached an agreement as to the final definitive terms of the OMA.

Throughout this procurement process, MTA consulted with counsel to the Federal Transit Administration (“**FTA**”) Region IV regarding compliance of the RFQ, the RFP and the draft OMA with multiple federal transit requirements, including but not limited to: FTA’s Third Party Contracting Circular; FTA’s Award Management Requirements Circular; FTA’s procedures for reimbursement of eligible costs; FTA’s requirements for allowing incidental use of FTA-assisted assets; FTA’s DBE requirements; and matters relating to transit fare escalation.

#### 1.4 Partnership Committee Recommendation

As discussed in greater detail below, the Partnership Committee is recommending that HMSI be awarded the Project based on the fact that, of the two (2) Proposals submitted in response to the RFP, HMSI's Proposal (i) reflected a more thorough, detailed and tailored approach to each of the technical and financial components of the RFP, (ii) contained the most favorable terms to the Government and the people of Puerto Rico with respect to the Technical and Financial Proposals, and (iii) presented the best path forward to achieving the Government's objectives.

HMSI's Technical Proposal reflected extensive experience gained by operating nineteen (19) ferries under contract to nine (9) public sector clients over more than twenty (20) years since 1997. Highlights of the Technical Proposal included (i) the use of a Safety Management System that is certified by the American Bureau of Shipping to comply with the International Safety Management (ISM) Code; (ii) the implementation of a formal Quality Management System (QMS) designed to serve the unique needs of the Ferry System and shipyard operations; and (iii) the development of a robust ticketing and rider communication system built on current practices and modified to be more effective.

HMSI's Financial Proposal was most closely aligned to the requirements of the RFP and demonstrated the best value to the Government based on the amount of the Phase 2 Fixed Fee proposed. HMSI's Phase 2 Fixed Fee proposal ranged from \$30 million to \$34 million per year and represented, on a present value basis, a cost savings for the Government of \$107 million over the term of the OMA. In addition, HMSI's Financial Proposal accepted the transfer of revenue and expense risk during Phase 2, thus providing more budget certainty to MTA and the Government with respect to the amount of annual subsidy required to provide MTA's Ferry Services. The other Proponent did not accept the transfer of revenue risk and required a true-up and true-down mechanism in clear violation of one of the key requirements of the RFP. The other Proponent did not provide details on the proposed structure of the true-up and true-down mechanism included in its Proposal, but rather only indicated that such a mechanism would be required. Finally, HMSI's willingness to comply with performance requirements to be included in the OMA indicated its commitment to delivering the Project at a high level of performance.



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## 2. INTRODUCTION



This Report has been prepared pursuant to:

- Articles 8(b)(vii) and 9(g)(i) of Act No. 29; and
- Section 8.1 of Regulation No. 8968 of May 4, 2017, also known as the Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Participatory Public-Private Partnership Contracts (the “**Regulation**”).

Pursuant to Article 8 of Act No. 29 and Resolution No. 2018-23 of the P3 Authority Board, on April 4, 2018, the P3 Authority established a Partnership Committee to oversee the process for the procurement of a PPP with MTA for the operation and maintenance of the Ferry System. On September 28, 2020, following a robust and transparent twenty-seven (27)-month process, the Partnership Committee decided to recommend the Project be awarded to HMSI and its wholly-owned subsidiary that will act as the initial Operator<sup>2</sup>, HMS LLC.

As required by Section 9(g) of Act No. 29, the Partnership Committee has prepared this Report to describe the procurement process for the award of the Project and the OMA and the reasons for its recommendation. In particular, pursuant to Section 9(g) of Act No. 29, this Report describes the following:

- the public policy and social welfare objectives that the P3 Authority seeks to address through the implementation of the Project;
- the process leading to the recommended award of the Project, including the RFQ Process, the RFP Process and the evaluation of Proposals;
- the Partnership Committee’s selection of HMSI as the Proposer with which to engage in exclusive discussions and negotiations with the P3 Authority in connection with the OMA (the “**Preferred Proposer**”), and, following such exclusive negotiations, the determination that HMSI’s Proposal is the most advantageous to the Government and the people of Puerto Rico;

- the Partnership Committee’s rationale for recommending to the P3 Authority Board that the Project be awarded to HMSI; and,
- the core elements and key provisions of the OMA.

This Report and the OMA are being submitted for approval to the Board of Directors of the P3 Authority, the Board of Directors of MTA, the Secretary of Transportation and Public Works<sup>3</sup> and the Governor of the Commonwealth of Puerto Rico or her delegate. In addition, MTA’s authority to execute the OMA negotiated by the Partnership Committee with the Preferred Proposer is subject to the consent of the Financial Oversight and Management Board for Puerto Rico (the “**FOMB**”) pursuant to the FOMB’s policy established pursuant to Section 204(b)(2) of PROMESA, which requires FOMB approval before execution of all local Puerto Rico contracts with an aggregate expected value of \$10 million or more.

Upon receipt of the required approvals, this Report will be filed with the Office of the Clerk of the House of Representatives and of the Senate of the Commonwealth of Puerto Rico, as required by the Act, and the OMA will be filed with the Office of the Comptroller. The Report will also be published on the P3 Authority website ([www.p3.gov.pr](http://www.p3.gov.pr)) and on the website of the Government of Puerto Rico. Throughout the procurement process for the Project, the P3 Authority and the Partnership Committee received advice from various consultants.<sup>4</sup>

This Report is divided into six (6) main sections:

- Section 1 – Executive Summary
- Section 2 – Introduction
- Section 3 – Project Background and Objectives
- Section 4 – Procurement Process
- Section 5 – Recommended Award
- Section 6 – Conclusion

<sup>2</sup> HMSI requested, and the Partnership Committee agreed, that it be permitted to conduct operations through a wholly owned Puerto Rico limited liability company.

<sup>3</sup> The Secretary of Transportation and Public Works is the officer to whom the MTA Act delegates the authority to “control” the activities of MTA.

<sup>4</sup> CPM P.R. LLC (“**CPM**”), Hunton Andrews Kurth LLP (“**Hunton**”), KPFF Consulting Engineers (“**KPFF**”), KPMG, LLP (“**KPMG**”), Pietrantoní Méndez & Álvarez LLC (“**PMA**”), and Steer Davies & Gleave Limited (“**SDG**”) were consultants to the Authority. CPM provided advice on the procurement process. Hunton provided advice on federal transit law. KPMG provided financial advice. PMA provided legal advice. SDG and KPFF provided technical advice. Finally, certain other consultants provided advice from time to time on various specific elements of the Project.

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# 3. PROJECT BACKGROUND AND OBJECTIVES



### 3.1 Background of Puerto Rico's PPP Program

For several years, Puerto Rico has been one of the few U.S. jurisdictions with an organized PPP program. The Government enacted the P3 Act and promulgated the Regulation in order to provide a framework for the development of infrastructure projects and multiple public services.

By providing clarity, uniformity and certainty with respect to PPP selection and contracting, the P3 Act and the Regulation represent one of the most robust legal frameworks for PPPs in the Americas. In particular, Puerto Rico's PPP program is guided by the following five key components of a successful PPP program, as identified by the World Bank Group: clear public policy, strong legal framework, clear processes and institutional responsibility, responsible financial management and good governance arrangements, each of which is described in more detail below.<sup>5</sup>

**Clear Public Policy** – Puerto Rico's PPP program clearly articulates (i) the Government's intent to use PPPs to deliver public services, and (ii) the objectives, scope and implementing principles of the PPP program.

**Strong Legal Framework** – Puerto Rico's PPP program is grounded in a strong legal framework that sets the rules and boundaries for how PPPs are implemented.

**Clear Processes and Institutional Responsibility** – Puerto Rico's PPP program provides a detailed, clear and consistent process by which PPP projects are identified, developed, appraised, implemented and managed, and sets forth the roles of different entities involved in that process.

**Responsible Financial Management** – Puerto Rico's PPP program requires responsible public financial management that ensures PPPs provide value without placing undue burden on future generations.

**Good Governance Arrangements** – Puerto Rico's PPP program provides for governance arrangements that allow other entities, such as auditing entities, the Legislature and the public, to participate in PPP projects.

The P3 Act provides that the public policy with respect to PPPs must be to maintain such controls as are necessary to protect the public interest, yet balance this need for controls with the profit-making purpose of any private operation. The P3 Authority is designated as the sole government entity authorized and responsible for implementing the Government's public policy on PPPs and for determining the functions, services or facilities for which PPPs are to be established.<sup>6</sup>

The P3 Act recognizes the need for PPPs to allow for the development of infrastructure and other projects by delegating the risks inherent to such development or service to the party that

<sup>5</sup> See World Bank Group; Private Infrastructure Advisory Facility; Asian Development Bank; Inter- American Development Bank; Multilateral Investment Fund. Public-Private Partnerships Reference Guide, version 3, 2017.

<sup>6</sup> In addition, the P3 Act expressly states that it is the public policy of the Government to favor and promote the establishment of PPPs and further authorizes all departments, agencies, public corporations, and instrumentalities, as well as municipalities and the legislative and judicial branches of

is best capable of assessing and managing such risks, improving services, creating new jobs and developing Puerto Rico’s economy and competitiveness. In addition, these partnerships enable the Government to make infrastructure projects feasible when the funds needed to complete a project are not available in the public treasury.

Furthermore, to ensure that PPPs provide value without placing an undue burden on future generations, the P3 Act provides that all revenue received by the Government from a PPP contract may only be employed for the following uses:

- to pay debts of any kind of the public entity entering into the PPP contract;
- to pay debts of any kind of the Government;
- to create a capital investment fund for the capital improvement program of the public entity entering into the PPP or the Government;
- to create a fund to repay any line of credit that may have been granted by the Government Development Bank of Puerto Rico to the public entity entering into the PPP contract; and
- to contribute to the government retirement systems.

Over the past decade, the Government has had success in bringing to bear best industry practices, expertise, experience and know-how to its infrastructure projects by entering into PPPs with private sector participants in certain sectors pursuant to the framework set forth in the P3 Act. These include the long-term concession of toll roads PR-22 and PR-5 that was awarded in 2011 (the “**Toll Roads Project**”) and the long-term lease agreement for the Luis Muñoz Marín International Airport that was awarded in 2013 (the “**LMM Airport Project**”). In each of these projects, the Government sought to strike a balance between government and private sector participation through a mutually beneficial contractual relationship that resulted in an

efficient, effective and affordable delivery of public goods and services to all citizens of Puerto Rico. The robustness of the P3 Act framework is evidenced by the success of both the Toll Roads Project and the LMM Airport Project, described below.

### 3.1.1 The Toll Roads Project

The Toll Roads Project was structured as a 40-year concession agreement (the “**Toll Roads Agreement**”) between Autopistas Metropolitanas de Puerto Rico LLC, a consortium composed by Goldman Sachs Infrastructure Partners and Abertis Infraestructuras (“**Metropistas**”), and the Puerto Rico Highway and Transportation Authority (“**PRHTA**”) for the maintenance and operation of two highways, PR-22 and PR-5. Pursuant to the Toll Roads Agreement, Metropistas made an up-front payment to PRHTA in the amount of \$1.08 billion and committed to make certain investments to upgrade toll roads PR-22 and PR-5 and bring these highways to world-class standards. The Toll Roads Agreement provides that remaining revenues generated by the toll roads belong to Metropistas. The Toll Roads Project was the first concession of its type successfully achieved in Puerto Rico and was internationally recognized as a successful PPP project, winning both Project Finance International’s (“**PFI’s**”) deal of the year in the Americas award and the American Road and Transportation Builders Association’s project of the year award in 2011.

### 3.1.2 The LMM Airport Project

The LMM Airport Project was structured as a 40-year lease agreement (the “**LMM Airport Agreement**”) between the Puerto Rico Ports Authority (“**PRPA**”) and Aerostar Airport Holdings LLC, a partnership between Grupo Aeroportuario de Sureste S.A.B. de C.V. and Highstar Capital IV, L.P. (“**Aerostar**”), to operate the Luis Muñoz Marín International Airport, the busiest airport in the Caribbean and has the largest air cargo operation in Puerto Rico. Pursuant to the LMM Airport Agreement, Aerostar made an up-front payment to PRPA in the amount of \$615 million and committed to make annual payments equal to a percentage of airport

the Government, to use the establishment of PPPs in accordance with the process specified therein. The P3 Act also prohibits the Government from legislating to limit the powers or rights granted to the P3 Authority and partnering government entities under the P3 Act until the obligations under an executed PPP contract are satisfied.



revenues and certain investments to upgrade the airport facilities. Like in the Toll Roads Project, the LMM Airport Agreement provides that all other revenues belong to Aerostar. The LMM Airport Project was the first PPP completed for an international airport under the Federal Aviation Administration Pilot Program and was also internationally recognized as a successful PPP project, winning PFI's deal of the year award in 2013.

### 3.2. Reasons for Establishing MTA's Public-Private Partnership

For a number of years, MTA has been unable to provide the level of consistent and reliable ferry service required by its customers and, most importantly, required and deserved by the residents of Culebra and Vieques. One of the main reasons for this is the frequent unavailability of Ferry System vessels due to their state of disrepair as a result of MTA's inability to implement an adequate maintenance program. Given the combination of funding limitations, frequent management turnover and lack of long-term planning for facility usage and replacement, facilities and vessels remain in operation beyond their typical service life, which has led to increased maintenance costs, poor quality of service, poor physical conditions, and safety concerns. The new MTA administration recognized that the poor quality and level of service was linked to the inexistence of a cohesive and robust operating and funding plan and the lack of management continuity and innovation. With this in mind, MTA undertook the procurement of the Project in

order to improve the Ferry System utilizing a long-term operation and maintenance model with a private operator.

### 3.3 Project Objectives

The Project consists of the operation and maintenance of the Island Service and the Metro Service of the Ferry System, the execution of certain ticketing system capital improvements, the operation and maintenance of the Isla Grande Maintenance Facility, and the conduct of certain ancillary commercial activities. The Metro Service consists of the operation of the route between Old San Juan and Cataño in the San Juan Bay. The Island Service consists of the operation of the route between Ceiba and the Municipalities of Culebra and Vieques.

The selected Operator will be required to perform ferry operations, vessel and terminal maintenance, and ticketing system capital improvements related to the Ferry System. The services will be performed under the OMA, a 23-year contract divided in two (2) phases ("**Phase 1**" and "**Phase 2**"). Phase 1 will commence after the Commercial Closing Date (upon the satisfaction of certain conditions precedent) (the "**Commercial Closing Date**" or "**Commercial Closing Deadline**") and will continue until the third anniversary thereof. Phase 2 will commence at the end of Phase 1 (upon satisfaction of certain conditions precedent) and continue until the 23rd anniversary of the commencement of Phase 1. **Appendix B** to the OMA describes the Project's scope of

work. The scope of the services provided by the Operator and the economic aspects of each Phase of the contract are discussed in the summary of the OMA attached as **Appendix 3** to this Report.

The objective of the Government in conducting the procurement process for this Project has been to achieve the following key social welfare and economic goals:

- Improve the quality and reliability of service;
- Provide greater budget certainty to the Government over the life of the Project, given the current financial crisis;
- Decrease the amount of public funding required to operate the Project;
- Maintain customer and crew safety;
- Modernize public services and build a stronger and more resilient infrastructure.
- Increase resources for vessel and terminal maintenance;
- Streamline workforce to provide an efficient number of employees;
- Allocate project risks and responsibilities to the party best able to manage them;
- Increase revenue by introducing and improving ancillary revenue sources; and
- Reduce costs through private sector experience and innovation.

The PPP being created pursuant to the OMA will endeavor to achieve these objectives by means of the following:

- HMSI and the Operator bringing to the Project world-class ferry operation and maintenance expertise, having provided similar ferry services globally;
- HMSI and the Operator being required to comply with detailed performance standards that reflect best practices and subject to monetary penalties for failure to comply;
- Major operational risks previously assumed by MTA being transferred to HMSI and the Operator during the term of the OMA, including risks related to operations and maintenance of the Ferry System, demand for services and revenue levels (during Phase 2), as well as risks related to other commercial activities;
- MTA anticipating that it will be able to reduce and fix the amount of the subsidy

it currently receives from the Government in connection with the Ferry System, thus providing greater budget certainty during the life of the Project; and,

- HMSI and the Operator being responsible for compliance with all applicable safety and regulatory requirements, including those imposed by the United States Coast Guard and the FTA.



### 3.4 Operating Data of Other Comparable Ferry Systems in the United States

The tables below compare MTA's Ferry System with other ferry systems in the United States in terms of fares relative to travel time and subsidy per trip.

**Table 1: Fare Per Minute of Travel Time and Subsidy**

Ferry System	Fare	Discounted Fare	Travel Time	Fare Cost per Minute
Golden Gate Ferries (Sausalito - San Francisco)	\$6.45	\$3.20	25	\$0.26
Blue & Gold (Sausalito - San Francisco)	\$8.50	\$4.50	30	\$0.28
Golden Gate Ferries (Larkspur - San Francisco)	\$6.45	\$3.20	30	\$0.22
Golden Gate Ferries (Tiburon - San Francisco)	\$6.45	\$3.20	30	\$0.22
Washington State Ferries	\$6.10	\$3.00	40	\$0.15
Cross Sound Ferry, CT (New London - Oregon Point)	\$15.50	\$5.00	90	\$0.17
Rhode Island (Providence to Newport)	\$8.00	\$6.00	60	\$0.13
Maine State Ferries (Rockland to North Haven)	\$4.25	\$2.25	20	\$0.21
Ceiba-Culebra	\$2.25	\$1.00	90	\$0.025
Ceiba-Vieques	\$2.00	\$1.00	40	\$0.05

**Table 2: Ridership, Operating Expenses, Revenues and Subsidy Per Trip for Comparable Public Ferry Systems**

	Annual Ridership	Operating Expenses	Operating Revenues	Recovery Ratio	Subsidy per Trip
Golden Gate Ferry	2,523,077	\$31,138,174	\$20,320,630	65%	\$4.29
New Orleans Ferry	1,071,102	\$12,296,264	\$1,717,822	14%	\$9.88
NYC Ferry	5,670,849	\$69,596,000	\$16,646,000	24%	\$9.34
San Francisco Bay Ferry	2,609,411	\$30,014,627	\$18,453,395	61%	\$4.43
Washington State Ferries	24,239,866	\$241,245,546	\$187,681,000	78%	\$2.21
MTA (FY 2016)	1,128,727	\$41,845,433	\$4,471,552	10%	\$33.11
MTA (FY 2017)	998,416	\$41,768,271	\$2,601,210	6%	\$39.22

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# 4. PROCUREMENT PROCESS



#### 4.1 Partnership Committee

Pursuant to Section 8 of Act No. 29, the P3 Authority must designate a Partnership Committee to evaluate and select qualified Proposers and to establish and negotiate the terms of the O&M Agreement. Section 8 of Act No. 29 requires that the Partnership Committee be composed of:

- The Executive Director of the Fiscal Agency and Financial Advisory Authority or his/her delegate;
- The officer of the Partnering Government Entity with direct inherence in the project or his/her delegate;
- One member of the Board of Directors of the Partnering Government Entity (or Secretary); and
- Two officials from any Government Entity chosen by the PPP Authority for their experience with similar projects.

As of the date of this Report, and pursuant to the requirements summarized in the paragraph above, the Partnership Committee was comprised of the following individuals:<sup>7</sup>

- Julian Bayne Hernández, Esq., Chief Financial Officer of the Puerto Rico FAFAA, as representative or delegate of the Executive Director of the FAFAA.
- Miguel A. Betancourt Burgos, Esq., as the representative or delegate of the Executive Director of the Partnering Government Entity (MTA).
- Carlos M. Contreras Aponte, PE., Secretary of the Department of Transportation and Public Works, as member of the Board of Directors of the Partnering Government Entity (MTA).
- Noelia García Bardales, Executive Director of the Puerto Rico Convention Center District Authority, for her knowledge and experience in the type of partnership project under consideration.
- Romel Pedraza, PE, Assistant Executive Director for Planning, Engineering and Construction of PRPA, for his knowledge and experience in the type of partnership project under consideration.

Pursuant to Section 8 of Act No. 29, the Partnership Committee is responsible for the overall management of the procurement process for the Project and for determining the Recommended Award, including:

- Approving documents required by the RFQ/RFP;
- Evaluating the potential participants and pre-qualifying Proposers;
- Evaluating the Proposals submitted and selecting the one most favorable to the Government and people of Puerto Rico;
- Engaging in or supervising the negotiation of the terms and conditions of the Partnership Contract;
- Contracting advisors, experts or consultants on behalf of the P3 Authority;
- Maintaining a book of minutes of the Partnership Committee’s meetings;
- Preparing a report on the entire procedure leading up to the establishment of a PPP;
- Overseeing proper compliance with regulations and procedures;
- Establishing technical evaluation committees; and,
- Carrying out any additional task related to the selection, negotiation and award procedure contained the Regulation.

#### 4.2 Market Outreach

On October 16, 2017, the P3 Authority published a draft RFQ for the Project as a Request for Expression of Interest, pursuant to Section 5.3 of the Regulation, for the sole purpose of soliciting information and gathering industry comments. Interested firms were given the opportunity to provide feedback on a list of project development items and risks, including respondents’:

- Acceptance of exposure to Puerto Rico’s payment risk over the long-term;
- Interest in an upfront payment in lieu of annual payments;

<sup>7</sup> During the course of the procurement process, several prior members of the Partnership Committee left office or were relocated from one public corporation to another, thus requiring that they be substituted in the Partnership Committee. Of the current members only Julian Bayne Hernández and Noelia García Bardales have remained as members since the initial phases of the procurement process. Carlos Contreras Aponte became a member of the Partnership Committee on November 20, 2019, replacing Anthony O. Maceira Zayas who left public office. Other members who were substituted were Mara Pérez (who became Executive Director of MTA), Sheila Torres (who was relocated from MTA to the P3 Authority and was replaced by Miguel A. Betancourt Burgos, Esq.), Alejandro Camporreale Mundo, Maida Hernández, and Juan Maldonado, the last three of which have since left public office.

- Ideas for improving the maintenance performance, and service levels;
- Acceptance of revenue and operational risks over a long term;
- Interest in aking capital improvements, acquiring new vessels, and refurbishing and reusing current vessels;
- Views on increasing ridership and exploring other ancillary revenue; and,
- Views on implementing operational efficiencies.

The feedback received was taken into account by the P3 Authority in developing the RFQ.

#### 4.3 Desirability and Convenience Study

As required by Act No. 29, the P3 Authority, with the support of MTA, conducted the D&C Study to analyze the fiscal viability and feasibility of the Project under multiple procurement scenarios in order to determine the best alternative for the Government and for the people of Puerto Rico. The D&C Study evaluated the feasibility of procuring the Project as a public-private partnership as, compared to the existing operating model utilized by the Government. The D&C Study aimed to determine service needs, analyze options to address these needs, and select the most efficient and feasible alternative among such options. The D&C Study was published for public review on April 5, 2018, and was made available to the public on the P3 Authority’s website at <http://www.p3.pr.gov/>

The D&C Study aimed to address the following issues that MTA and the Government were experiencing (as outlined in Section 2.1 – Statement of Need of the D&C Study):

- *Public Funding:* Faced with deep fiscal adjustments as a result of the ongoing financial crisis, the Government began taking steps to reduce its financial obligations and increase budget certainty for ongoing expenditures.
- *Poor Levels of Service:* MTA’s level of service was unreliable and inefficient, resulting in uncertain and likely higher required funding requirements. In

addition, reduced vessel reliability and increasing maintenance backlogs were affecting service levels, leading to a higher number of unscheduled trips and unstable operating costs. Finally, the service was priced at below-market levels that resulted in higher demand that could not be met by the service schedule, and the lack of a ticketing system resulted in long lines and uncertain capacity, making the system completely unreliable.

- *Limited Ability to Improve the Service:* MTA had not implemented many improvements to the service in a number of years. For instance, (i) fares had not increased consistent with inflation or other costs recovery measures since 1987, and were estimated to cover less than 6% of operating expenses, (ii) there was no consolidated ticketing system for users to purchase tickets, (iii) no ancillary revenue opportunities had been explored, (iv) long overdue capital improvements had been postponed, and (v) marketing to promote the service had been inadequate and ineffective.
- *Assets in Need of Repair:* Deferred maintenance backlogs and limited funding resulted in a situation where assets were in need of significant repair to maintain operability and safety for users. Hurricanes Irma and María damaged existing on-shore facilities – which further deteriorated service levels and reliability of the system.



To address these issues, the D&C Study targeted the following objectives for the procurement of the Project:

Improve the quality and reliability of service;
Provide greater budget certainty to the Government over the life of the Project, given the current financial crisis;
Decrease the amount of public funding required to operate the Project;
Maintain customer and crew safety;
Modernize public services and build a stronger and more resilient infrastructure;
Increase resources for vessel and terminal maintenance;
Streamline workforce to provide an efficient number of employees;
Allocate project risks and responsibilities to the party best able to manage them;
Increase revenue by introducing and improving ancillary revenue sources; and
Reduce costs through private sector experience and innovation.

The P3 Authority prepared a comparative cost/benefit analysis (including the impact on public finances) of, on the one hand, allowing MTA to retain responsibility for continuing operations, maintenance and improving the Ferry System versus, on the other hand, contracting through a PPP for the operation, maintenance and improvement of the Ferry System by a private operator. The D&C Study analyzed the benefits and drawbacks of both options in light of the procurement objectives and historical challenges of the Ferry System. The D&C Study concluded that it was not economically viable for MTA to continue operating the Ferry System, and that the Project objectives would best be achieved through a PPP that would leverage private sector expertise and business innovation and continuity. The analysis indicated that a PPP would be most beneficial to the Government given the ability to shift a combination of risks to the private sector, which shift is expected to ultimately lead to (i) reduced costs and increased budget certainty for the Government, (ii) more stable and efficient service, (iii) improvements to the Ferry System, and (iv) improved quality and reliability of service and better maintenance.

The PPP was evaluated as a “revenue risk” proposal pursuant to which the private operator would be entitled to the revenues generated by the Project, but would retain the risks associated with the sufficiency of the revenues to continually operate and maintain the Ferry System. MTA would assign its right to receive service and other revenues to the private operator, and would limit its obligation for covering the cost of the Ferry Services to a fixed payment to the private operator. The structure also contemplates shifting to the private operator the risks of operating the Ferry System, implementing lifecycle improvements, and maintaining the Ferry System. This is achieved by including in the OMA certain key performance indicators that the private operator must meet and allowing for the exploration and implementation of additional ancillary revenue streams. Shifting the risks associated with operating and maintain the Ferry System to the party best able to manage them was determined to maximize value, accelerate improvements to the service, and result in a safer and more efficient operation.

In the D&C Study’s Public Notice period, the P3 Authority announced the public’s right to submit comments. The comments received were analyzed and taken into consideration in determining the scope of the procurement process.

#### 4.4 Qualification Process

The RFQ was published on June 13, 2018, and later amended on June 29, 2018. The amended RFQ required responses by Respondents by no later than 5:00 p.m. AST on July 30, 2018. The RFQ was made available to all prospective Respondents who desired to participate in the Project.

Section 6 of the RFQ required that Respondents demonstrate, among other requirements:

- Entity and personnel experience with the design, construction, operation, maintenance, and improvement of similar maritime transit operations government-sponsored or owned infrastructure
- Experience with acquiring and/or financing new ferry vessels
- Experience operating vessels including history of past “on time” service performance
- Experience maintaining vessels including fleet sizes and type/size of vessels maintained, including history of missed trips
- Experience with customer service and ticketing system development and operation
- Evidence complying with local, governmental, federal, and international labor standards and fair wage laws
- Experience with maintaining responsible environmental practices and regulatory compliance
- A demonstrated understanding of the Project approach and ability to articulate how the Respondent would approach delivery of the Project
- Ability and experience to access necessary financial resources to finance portions of the Project if needed

As set forth in Section 2.3 of the RFQ, the RFQ contemplated that MTA would enter into a long-term PPP contract with a private partner that would assume all rights and responsibilities related to the operation, maintenance, improvement and management of the Ferry System, which was expected to include:

- Operation and maintenance of the Ferry Services during Phase 1 at MTA’s cost in accordance with performance requirements to be set forth in the OMA
- Acquisition of new vessels<sup>8</sup>
- Improvements and development of Pier 2<sup>8</sup>
- Upgrades to the Maintenance Facility<sup>8</sup>
- Additional capital improvements<sup>8</sup>
- Operation and maintenance of the Ferry Services during Phase 2 (at the private partner’s own cost and risk) in accordance with performance standards to be set forth in the OMA

<sup>8</sup> These requirements were ultimately eliminated during the RFP Process.

Section 2.4 of the RFQ described the expected structure of payments to the private partner for the scope of service. The payment structure for Phase 1 was a service payment for costs reasonably incurred to operate the Ferry Service. The payment structure for Phase 2 consisted of a fixed payment from MTA for operating and maintaining the Ferry Service and the right to collect and retain user fees. The Phase 2 Fixed Fee was an amount to be proposed by the private partner in its Proposal during the RFP Process.

On July 9, 2018, after the RFQ was issued, the P3 Authority conducted a Pre-Submittal Conference Call to provide a comprehensive summary of the Project and the requirements to be followed by Respondents. Respondents, as well as the general public were able to connect to the video-call and hear the Project presentation, and also had the opportunity to submit questions to the P3 Authority as part of the request for clarification process established in Section 5.4 of the Regulation.

The P3 Authority issued the first Addendum to the RFQ on July 17, 2018. This Addendum provided answers to the questions submitted by Respondents during the Pre-Submittal Conference Call, as well as answers to Request for Clarifications (“RFCs”) received by the P3 Authority in accordance with the process established in the P3 Act, the Regulation and the RFQ communications protocol. On July 23, 2018, the P3 Authority issued a second Addendum to the RFQ in response to additional RFCs submitted by Respondents. The RFCs responses are available in P3 Authority’s website ([www.p3.gov.pr](http://www.p3.gov.pr)).

The P3 Authority received five (5) Statement of Qualifications (“SOQ”) from the following Respondents:

- **Balearia Caribbean Inc. (“Balearia”)**
- **HMS Ferries, Inc. (“HMSI”)**
- **Priority Roro Services, Inc. (“Roro”)**
- **Puerto Rico Fast Ferries, LLC (“PRFF” or the “Other Proposer”)**
- **Seastreak, LLC (“Seastreak”)**

Pursuant to Section 8(b) of the P3 Act and Section 3.4 of the Regulation, the Partnership Committee evaluated each SOQ based on the requirements set forth in the RFQ, principally those specified in Section 6 and Appendix 1 of the RFQ. Specifically, the Partnership Committee performed their evaluation based on (i) the extent to which each Respondent satisfied the “Pass/Fail” criteria set forth in Section 6.2 of the RFQ, and (ii) the qualitative evaluation criteria set forth in Section 6.3 of the RFQ.

The RFQ provided clear advice to the Respondents as to the rules that would govern the qualification and evaluation process, including the exercise of the Partnership Committee’s discretion in such evaluation process. Accordingly, the Partnership Committee evaluated all Respondents based upon the information provided in the SOQs, and scored each Respondent by using qualitative and weighting criteria. This process allowed the Partnership Committee to arrive at an aggregate score and ranking for each Respondent.

The Partnership Committee met to analyze and discuss the information contained in the SOQs and discuss the evaluation made by the Partnership Committee members.<sup>9</sup> After careful consideration and discussion, the Partnership Committee decided to shortlist all five (5) Respondents (the “**Qualified Respondents**”). It should be noted that the P3 Act and the Regulation confer on the Partnership Committee the authority to qualify all of the Respondents in order for them to participate in the next stage of the procurement process. A report on the qualification process is attached as **Appendix 4**.

During the evaluation process, it came to the attention of the Partnership Committee that PRFF could have a potential conflict of interest or unfair advantage in the process as a result of: (i) its participation in a committee in connection with the transition of the operations of MTA to Pier 2 at the Roosevelt Roads Naval Base in Ceiba (the “**Committee**”).

<sup>9</sup> Refer to Table 1: Partnership Committee Meetings appearing in Section 4.8 of this Report for information about the topics covered at the meetings conducted by the Partnership Committee.

for the Transition of Ferries to Ceiba”), and (ii) the execution of an agreement pursuant to which PRFF would charter vessels to MTA for the operation of ferries between the main island and the municipalities of Culebra and Vieques for a short period of time. To address the potential conflict or unfair advantage, the Partnership Committee notified all Respondents by letter dated September 27, 2018, that PRFF had been shortlisted in the list of Qualified Respondents subject to the following conditions: (a) PRFF disclose to every Qualified Respondent all the work product produced by PRFF as part of their working relationship with MTA, (b) PRFF provide to every Qualified Respondent all of the information that is available to PRFF as part of their working relationship with MTA, and (c) that PRFF President Rick Newman not participate in the Committee for the Transition of Ferries to Ceiba.<sup>10</sup> The letter further stated that in the event PRFF did not comply with all of the conditions set forth above, the Partnership Committee would have to disqualify PRFF from the procurement process.

On October 18, 2018, PRFF responded to the Partnership Committee notification letter raising multiple objections to the conditions imposed on PRFF for their continued participation in the procurement process.<sup>11</sup> In an effort to eliminate any unfair competitive advantage from any particular Respondent, the Partnership Committee approved the Guidelines to Address Potential Unfair

Advantages in the Procurement of the Puerto Rico Maritime Transportation Services Project (the “Guidelines”). The Guidelines aimed to ensure that all participants had access to the same information when preparing their proposals. On December 6, 2018, the P3 Authority shared the Guidelines with all Qualified Respondents. The Guidelines are attached as **Appendix 5**.

**4.5 Request for Proposals**

**4.5.1 RFP and RFP Addenda**

On December 21, 2018, the P3 Authority issued the RFP to all Qualified Respondents pursuant to Article 3 of Act No. 29. The RFP Process sought Proposals from the five (5) Qualified Respondents. The objective of the RFP Process was to enable the Partnership Committee to determine the Proposer best qualified to enter into the OMA, based on the Proposals received.

During the RFP Process, the P3 Authority issued seventeen (17) addenda to the RFP to (i) update the timeline of the RFP Process and the period that Proposals remain in effect after the Proposal Submission Deadline (the “**Proposal Validity Period**”), and (ii) provide responses to Request for Clarifications submitted.

Throughout the RFP process, the Qualified Respondents were provided the opportunity to conduct due diligence on the Ferry System.



<sup>10</sup> PRFF later clarified that Mr. Newman did not have knowledge and was not a member of the Committee for the Transition of Ferries to Ceiba.  
<sup>11</sup> PRFF stated that its relationship with the MTA did not present a potential conflict of interest or unfair advantage in the process and that the conditions imposed defeated the Partnership Committee’s stated goal of creating a fair basis for the procurement.

#### 4.5.2 Data Room

Subject to having signed confidentiality agreements, on December 21, 2018, the Qualified Respondents were given access to a virtual data room that contained information and key documents related to the Project (the “Data Room”). Documents related to the operation and maintenance of the Ferry System were uploaded to the Data Room, including the following:

- administrative documents including MTA, interagency, municipalities, and concessions agreements;
- human resources documents and records, including documents related to MTA staffing, employee manual, and organizational structure;
- finance and accounting records, including MTA’s audited financial statements, monthly operating reports, fleet federal interest;
- fleet certificates of inspections (COI), fleet management plan, and fleet and facilities status provided by U.S. Coast Guard;
- terminal inventory assessment reports, terminal condition assessments, drawings, and permits;
- ferry operation records, including ridership reports, monthly services breakdown, and itineraries; and,
- litigation documents and records.



#### 4.5.3 Pre-Proposal General Meeting and Site Visits

Qualified Respondents were given the opportunity to visit MTA facilities through coordinated “site visits” that took place on January 29 and 30, 2019. The site visits agenda is attached as **Appendix 6**. Key personnel from the MTA, including the Executive Director of MTA, together with

certain advisors and representatives of the P3 Authority, participated in these visits. The site visits included the following MTA facilities:

- Isla Grande Maintenance Base
- Old San Juan Terminal at Pier 2
- Cataño Terminal
- Ceiba Terminal at Roosevelt Roads Naval Base
- Isabel II Terminal at Vieques
- Mosquito Bay Terminal at Vieques
- Sardinias Terminal at Culebra
- San Ildefonso Terminal at Culebra

On January 31, 2019, the P3 Authority held a general meeting at the Puerto Rico Convention Center in which P3 Authority personnel, MTA Executive Director, and advisors participated to discuss the Project and answer questions from the Qualified Respondents. This meeting and subsequent conference calls to which all Qualified Respondents were invited were intended to comply with the procurement process requirements imposed by the FTA. The presentation made to the Qualified Respondents at this meeting is attached as **Appendix 7**.

On April 8 and 12, 2019, the P3 Authority coordinated meetings via conference calls to discuss and answer additional queries presented by the Qualified Respondents.

#### 4.5.4 RFP Requests for Clarification

The Qualified Respondents were permitted to submit any RFCs they had with respect to the contents of the RFP, the information available in the Data Room, the Ferry System, and other matters related to the Project (each such RFC, an “RFP-RFC”) to the P3 Authority by 11:59:59 PM AST on May 20, 2019, the deadline for submission of the Proposals (the “**Proposal Submission Deadline**”).

The RFP designated an email: RFQ-FerrySystem@p3.pr.gov, to communicate with Qualified Respondents on behalf of the P3 Authority during the procurement. The P3 Authority answered RFP-RFCs in writing as RFP addendums, all of which were made available in the Data Room to all Qualified Respondents.

**4.5.5 Term Sheet**

As part of the RFP documents, the Qualified Respondents had access to the Project’s proposed Term Sheet, which summarized the main terms and conditions being proposed for the OMA. The RFP offered Qualified Respondents the opportunity to submit their comments and propose modifications to the Term Sheet. The Term Sheet indicated that its terms would be subject to discussion as part of the process of negotiating the OMA with the Preferred Proposer. None of the Qualified Respondents submitted comments to the Term Sheet.

**4.6 Submission of Proposals**

The Qualified Respondents were required to submit their Proposals by the Proposal Submission Deadline. Each of HMSI and PRFF timely submitted their Proposals. On or before the submission deadline, the P3 Authority received formal notifications from Balearia Caribbean Inc. and Priority Roro Services, Inc. indicating their withdrawal from the procurement process. The fifth (5th) Respondent, Seastreak, LLC did not submit a Proposal.

On May 31, 2019 the P3 Authority circulated a list of questions and comments to each of the Proposers regarding their respective Proposals and each Proposer provided responses. Following receipt of the responses submitted, the Partnership Committee began its deliberative process, as described in Section 5.1 below.

**4.7 Background Information of the Proposers**

The following is a brief description of the two (2) Proposers, based on the information submitted in their respective Proposals:

**4.7.1 HMSI**

**A. Overview**

- HMSI is a passenger vessel operations company in the United States with twenty (20) years of experience.

- HMSI currently provides ferry services pursuant to nine (9) active ferry contracts throughout the United States, including Florida, Alabama, Washington, and New York.
- HMSI plays a leadership role in several maritime industry organizations, including the Passenger Vessel Association, the Ship Operations Cooperative Program, the U.S. Coast Guard Area Maritime Security Committees, and the State Maritime Federations, among others.

**B. Technical Experience**

- HMSI served over three (3) million passengers in 2018, and twenty seven (27) million passengers when including its holding and affiliated companies.
- HMSI operates the Governors Island ferry, which includes multiple vessels that service both passengers and vehicle cargo and operates 365 days a year. The ferry provides the only scheduled vehicle service to Governors Island and carries up to 1,200 passenger per day on weekends.
- HMSI is currently operating the first all-electric vehicle and passenger ferry in the United States, the Gees Bend ferry in Alabama. This ferry carries approximately 10,000 vehicles and 20,000 passengers annually. HMSI has operated the Gees Bend ferry for the past thirteen (13) years. The operation utilizes the client’s in-house ticketing system.
- HMSI is the only domestic United States passenger vessel company to have received an American Bureau of Shipping certification for its Safety Management System, which system HMSI intends to implement if selected for the Project.

**C. Financial Strength**

- HMSI provided a letter certified by the President of HMSI indicating that the company had not experienced any material changes in its financial condition since the submittal of its financial information during the RFQ stage.
- Based on the review of its SOQ, HMSI was deemed to exhibit the financial strength to undertake the Project as evidenced by revenue of \$12 million and \$4 million in cash on its balance sheet in 2017.
- HMSI has been involved in federal grant management processes with the Alabama Department of Transportation with respect to an Environmental Protection Agency grant for the electric conversion of a ferry.

**4.7.2 Puerto Rico Fast Ferries (“PRFF”)**

**A. Overview**

- PRFF is an enterprise that combines United States and local ownership with technical experience in the start-up and operation of ferry services throughout Puerto Rico and the Northeast United States that spans decades. Details of its experience in the Northeast United States was not provided.
- PRFF’s executive management team also has experience in ferry operations in New York and New England

**B. Technical Experience**

- During the term of the PRFF emergency services contract discussed below, PRFF carried over 750,000 passengers and over 50,000 vehicles on the Fajardo-Culebra-Vieques routes to supplement the few vessels MTA was able to keep operating.
- PRFF supported MTA on the Fajardo-Culebra-Vieques routes, pursuant to an emergency service contract with the Puerto Rico Highway Transportation Authority, also known as Master Time Charter Agreement, (ATM-18-19-5-004).
- PRFF also provided ferry services under a similar contract from 2012-2014.

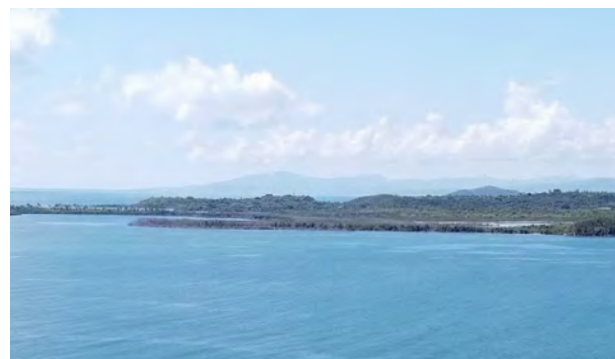
**C. Financial Strength**

- PRFF provided a letter certified by the managing member of PRFF indicating that the company had not experienced any material changes in its financial condition since the submittal of its financial information during the RFQ stage.
- During the RFQ stage, annual financial statements were not be provided for PRFF outside of the years in which it operated under the contracts described above.
- During those years, PRFF generated roughly \$7 million in revenue for the year ended October 31, 2012 and held roughly \$380k in cash on its balance sheet.
- Financial statements were not provided in full for 2013 and 2014.
- PRFF did not have any experience with grant management procedures and indicated that it would seek the services of an outside consultant in this regard.

**4.8 Meetings and Referendums of the Partnership Committee**

In accordance with the requirements of the P3 Act and the Regulation, the Partnership Committee held several meetings in which P3 Authority management team participated. In addition, the Partnership Committee approved certain procurement process documents by unanimous written referendum.

Table 3 below provides a summary of the subject matters addressed at each Partnership Committee meeting throughout the procurement process.



**Table 3: Partnership Committee Meetings**

DATE	SUBJECT OF PARTNERSHIP COMMITTEE MEETING
May 11, 2018	Approval of the proposed RFQ subject to some modifications discussed during the meeting
August 22, 2018	(i) Discussion of the SOQ and related documents submitted by Respondents; (ii) analysis of the SOQs; and (iii) evaluation and grading of each Respondent in accordance with the evaluation criteria set forth in the RFQ
September 10, 2018	Review of the SOQs evaluation results and analysis and selection of Qualified Respondents
December 19, 2018	Approval of the first draft of the RFP
June 11, 2019	Discussion and evaluation of Proposals received and discussion of first draft of the Operation and Maintenance Agreement <sup>12</sup>
August 23, 2019	Discussion of proposed modifications to the draft of the Operation and Maintenance Agreement, 2018
November 7, 2019	Discussion of proposed modifications to the draft of the Operation and Maintenance Agreement and approval of RFP Addendum 10 to extend the Proposal Validity Period
January 22, 2020	Discussion of proposed Payment Bond
February 26, 2020	Discussion of a new version of the OMA and Approval of RFP Addendum 12 to extend deadlines described in Addenda 9, 10 & 11, update certain dates detailed in Table 1-1 of the RFP and extend the Proposal Validity Period
February 28, 2020	Discussion of open issues relating to the OMA
June 10, 2020	Discussion of latest proposed changes to the OMA
September 28, 2020	Discussion of latest proposed changes to the OMA and approval of the OMA, approval of the Partnership Report, and approval of RFP Addendum 17 to extend the Proposal Validity Period and the Estimated Date for Commercial Closing

<sup>12</sup> Selection of Preferred Proposer was made via referendum on June 14, 2019.

Table 4 below provides a summary of the subject matter covered by each referendum conducted by the members of the Partnership Committee.

**Table 4: Partnership Committee Referendums**

DATE	SUBJECT OF PARTNERSHIP COMMITTEE REFERENDUM
September 18, 2018	Discussion of Possible Conflict of Interest of a Proposer
December 4, 2018	Approval of Guidelines to Address Potential Unfair Advantages in the Puerto Rico Maritime Transportation Services Project
January 8, 2019	Approval of RFP Addendum 1 – Modification of RFP Section 1.6 - Procurement Schedule, Table 1-1: RFP Schedule
January 15, 2019	Approval of Term Sheet
January 21, 2019	Approval of RFP Addendum 2 – Modification of RFP Section 1.6 - Procurement Schedule, Table 1-1: RFP Schedule to include General Meeting with Proposers instead of One-on-One Meetings, to comply with FTA procurement process requirements
March 13, 2019	Approval of RFP Addendum 3 – RFP Schedule Modification
March 18, 2019	Approval of Second Draft of the RFP
March 28, 2019	Approval of Third Draft of the RFP and Term Sheet
April 23, 2019	Approval of Fourth Draft of the RFP and Term Sheet
April 28, 2019	Approval of Final Draft of the RFP
June 14, 2019	Evaluation of Proposals and Selection of Preferred Proposer
June 21, 2019	Approval of First Draft of the OMA
July 29, 2019	Approval of RFP Addendum 8 – to update certain dates set forth in the RFP <sup>13</sup>
August 29, 2019	Approval of new draft of the OMA
October 9, 2019	Approval of new draft of the OMA
October 23, 2019	Approval of RFP Addendum 9 – to extend deadlines described in Addendum 8 and negotiations period and update certain dates set forth in the RFP
December 6, 2019	Approval of new draft of the OMA
February 4, 2020	Approval of RFP Addendum 11 –to update certain dates detailed in Table 1-1 of the RFP and extend the Proposal Validity Period set forth in Section 1.8
March 25, 2020	Approval of RFP Addendum 13 – to update the estimated date for commercial closing set forth in Table 1-1 of the RFP and extend the Proposal Validity Period set forth in Section 1.8
June 24, 2020	Approval of RFP Addendum 14 – to update the estimated date for commercial closing set forth in Table 1-1 of the RFP and to extend the proposal validity period set forth in Section 1.18
July 27, 2020	Approval of RFP Addendum 15 – to update the estimated date for commercial closing set forth in Table 1-1 of the RFP and to extend the proposal validity period set forth in Section 1.8
August 28, 2020	Approval of RFP Addendum 16 – to update the estimated date for commercial closing set forth in Table 1-1 of the RFP and to extend the proposal validity

<sup>13</sup> Addendums 4, 5 and 7 contained responses to Request for Clarifications. Addendum 6 was a notification of documents being published and placed in the Data Room.

#### 4.9 Key Milestones in RFP Process

Table 5 below summarizes the key milestones of the RFP Process.

**Table 5: RFP Key Milestones**

DATE	KEY MILESTONES
<b>December 21, 2018</b>	1st Draft of RFP issued to Qualified Respondents
<b>January 29-30, 2019</b>	Site Visits
<b>January 31, 2019</b>	Pre-proposal Conference Meeting
<b>March 19, 2019</b>	2nd Draft of RFP issued to Qualified Respondents
<b>March 29, 2019</b>	3rd Draft of RFP issued to Qualified Respondents
<b>April 8, 2019</b>	General Meeting Call with Qualified Respondents at 2:00 pm (AST)
<b>April 12, 2019</b>	2nd General Meeting Call with Qualified Respondents at 2:00 pm (AST)
<b>April 24, 2019</b>	4th Draft of RFP issued to Qualified Respondents
<b>April 30, 2019</b>	Final RFP issued to Qualified Respondents
<b>May 20, 2019</b>	Due date for submission of Proposals to P3 Authority no later than 5:00 p.m. (AST) (Proposal Due Date)
<b>June 14, 2019</b>	Selection of Preferred Proposer
<b>July 1, 2019</b>	Notification of Preferred Proposer / Start of Negotiations Period
<b>July 29, 2019</b>	Approval of RFP Addendum 8 - to extend Commercial Closing Deadline (Originally scheduled for August 13, 2019 changed to November 16, 2019)
<b>October 23, 2019</b>	Approval of RFP Addendum 9 - to extend Commercial Closing Deadline (from November 16, 2019 to November 25, 2019)
<b>November 7, 2019</b>	Approval of RFP Addendum 10 - to extend the Proposal Validity Period (from 180 days to 270 days after the Proposal Due Date) (February 14, 2020)
<b>January 31, 2020</b>	Approval of RFP Addendum 11 - to extend the Proposal Validity and Estimated Date for Commercial Closing to February 29, 2020
<b>February 26, 2020</b>	Approval of changes to the OMA and RFP Addendum 12 - to extend the Proposal Validity Period and Estimated Date for Commercial Closing to March 31, 2020
<b>March 25, 2020</b>	Approval of Addendum 13 - to extend the Proposal Validity Period and Estimated Date for Commercial Closing Deadline to June 30, 2020
<b>June 24, 2020</b>	Approval of RFP Addendum 14 - to extend Proposal Validity Period and the Estimated Date for Commercial Closing to July 31, 2020
<b>July 27, 2020</b>	Approval of RFP Addendum 15 - to extend the Proposal Validity Period, Negotiations with Preferred Proposer, and the Estimated Date for Commercial Closing to August 31, 2020
<b>August 28, 2020</b>	Approval of RFP Addendum 16 - to extend the Proposal Validity Period, Negotiations with Preferred Proposer, and the Estimated Date for Commercial Closing to September 30, 2020
<b>September 28, 2020</b>	Approval of the OMA, Partnership Report, and Addendum 17 to extend the Proposal Validity Period and the Estimated Date for Commercial Closing to October 31, 2020
<b>October 31, 2020</b>	Commercial Closing Deadline

**4.10 Violations of Communications Protocol**

In order to preserve the transparency and integrity of the procurement processes, the P3 Authority had established rules and regulations that govern the procurement of public-private partnership contracts, including those set forth in the RFP itself. These include clear prohibitions against unauthorized direct or indirect communications with any Government official in relation to the referenced project, as provided in Section 1.16.3 of the RFP. This provision is a key element of the legal and regulatory framework that aims to enhance and protect the transparency, fairness and rigor of public procurement processes. Furthermore, as part of the submission of its Proposal, PRFF signed a Proposer Certification (provided in Form C of Appendix 5 of the RFP) pursuant to which it certified that PRFF and its team members would not:

“[A]ttempt to communicate in relation to the RFP, directly or indirectly, with any representative of the Authority, MTA, the Partnership Committee, AAFAF, the Government, the FOMB or any public agency of Puerto Rico, including any Restricted Parties, or any director, officer, employee, agent, advisor, staff member, counsel, consultant, or representative of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of: (a) commenting on or attempting to influence views on the merits of the Proposer’s and Team Members’ Proposal, or in relation to their Proposal; (b) influencing, or attempting to influence, the outcome of the RFP Process, or the competitive selection process, including the review and evaluation of Proposals or the selection of the Preferred Proposer; (c) promoting the Proposer and Team Members or their interests in the Project, including in preference to that of other Proposers or Team Members; (d) commenting on or criticizing aspects of the RFP, the competitive selection process, or the Project, including in a manner which may give the Proposer or its Team Members a competitive or other advantage over other Qualified Respondents or their respective

Team Members; and (e) criticizing the Proposals of other Proposers.”

As discussed in more detail below, by letter dated July 1, 2019, the Partnership Committee notified PRFF that it had not been selected as the Preferred Proposer. Following receipt of this notification letter, and notwithstanding that it had expressly agreed in writing to abide by all the terms and conditions of the RFP and the rules and regulations that govern the procurement process, PRFF sent the following communications to the P3 Authority and other government instrumentalities and officers contrary to the communication protocols established in the RFP.

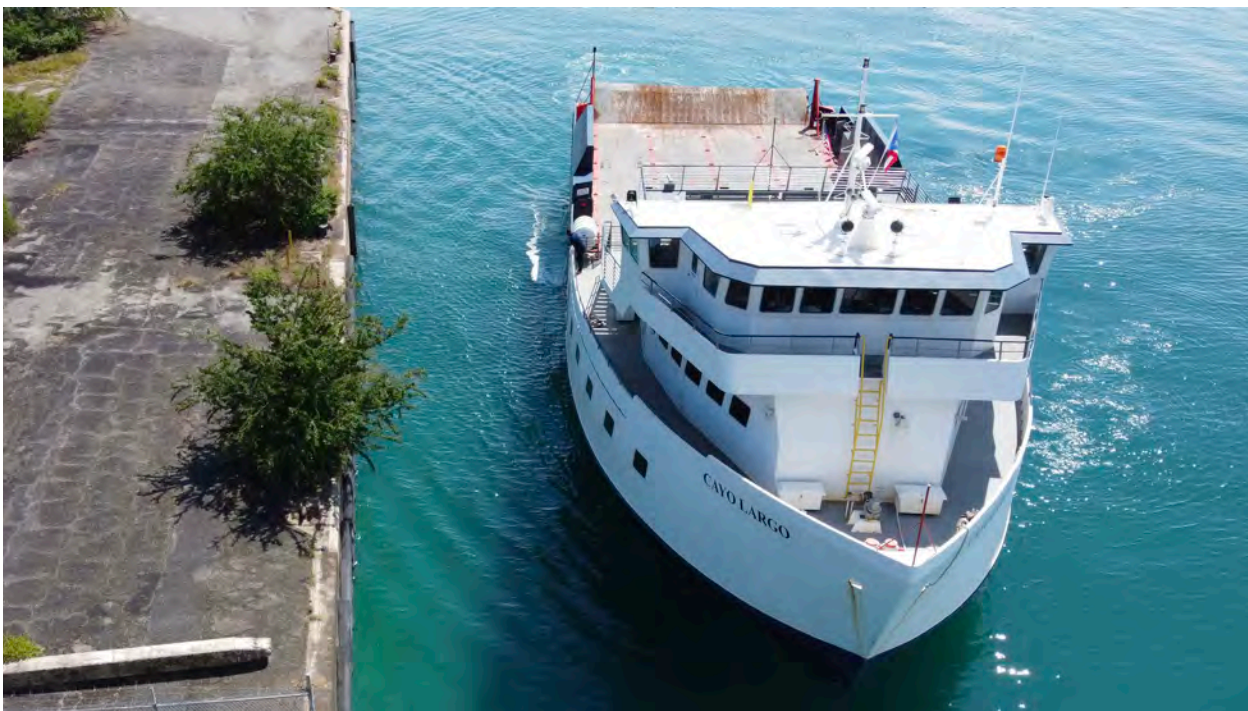
1. July 28, 2019 – PRFF Letter to the Partnership Committee requesting that the process being undertaken with the selected proponent be reevaluated to ensure that PRFF was not disadvantaged during the evaluation of proposals to the point that a less favorable proposal and proponent were chosen. The Partnership Committee responded to this letter on October 31, 2019 indicating that the Project procurement process remained ongoing and reminded PRFF of the RFP communications protocol.
2. November 5, 2019 – PRFF Letter in response to Partnership Committee Letter, dated October 31, 2019, reiterating on the reevaluation request referenced above. The Governor, Chief of Staff and Executive Directors of the P3 Authority and MTA were copied in the letter.
3. April 23, 2020 – PRFF Letter to the Department of Transportation and Public Works and MTA requesting a copy of the RFP that was published for the 6-month consulting contract that was the subject of a Request for Reallocation to the FOMB. On April 27, 2020, MTA responded to this letter clarifying that it had not proposed or contemplated a consulting contract for the operation and management of MTA.

On July 13, 27, and 29, 2020, PRFF sent a series of communications to the P3 Authority seeking access to what –at the time– were confidential files and documents related to the ongoing RFP process. PRFF improperly invoked access to public documents under Act No. 141-2019, as amended (“**Act 141**”), in a clear effort to subvert the confidentiality provisions of Act 29-2009 and the Regulation (which had been acknowledged in writing by– PRFF). The following are descriptions of these improper communications:

1. July 13, 2020 – Letter to the P3 Authority and MTA requesting access to the RFP’s administrative file including, but not limited to, HMSI’s Proposal, the evaluations and reports prepared by the Partnership Committee or third-party consultants and any other communications or documents prepared by the P3 Authority and MTA related to the selection of HMSI, pursuant to Act 141.
2. July 27, 2020 – Letter to the P3 Authority and MTA reiterating the request for the confidential information described above and seeking to unilaterally schedule an appointment in the P3 Authority’s offices to examine such documents. On July 28, 2020, the P3 Authority responded to this letter informing PRFF that the requested information, at that time, was non-public and confidential.
3. July 29, 2020 – Letter to the P3 Authority and MTA again requesting access to the confidential information.

Lastly, in connection with the improper communications described above, on August 14, 2020, PRFF filed a complaint against the P3 Authority before the Puerto Rico Court of First Instance seeking access to the confidential information regarding the RFP process, pursuant to Act 141.

Although these communications and legal actions taken by PRFF reflect poorly on its willingness to abide by the rules of the procurement process and could be considered violations of the Act, the Regulation and the communications and confidentiality provisions of the RFP, which would have justified a decision by the Partnership Committee to disqualify PRFF, the Partnership Committee nevertheless determined not disqualify PRFF while the procurement process was ongoing in order to maintain the benefit of having two participants involved in the process.



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# 5. RECOMMENDED AWARD

## 5.1 Process for Recommended Award

### 5.1.1 Evaluation Criteria

Pursuant to the Act and the Regulation, the Partnership Committee approved the following criteria (published in Section 5 of the RFP) for the evaluation and scoring of the proposals (the “**Evaluation Criteria**”):

- The Proposals must be submitted in two separate parts; the Technical Proposal and the Financial Proposal. The Technical Proposal and Financial Proposal will be evaluated by the PPP Committee on the basis of the Pass/Fail Evaluation and Qualitative Evaluation identified in the RFP. The Proposals submitted must also include the certification included in **Appendix 5** – Form C and must comply with any additional requirements set forth in Article 9(a) of the Act. The P3 Authority reserves the right to award a PPP Agreement, to reject any or all Proposals, or to advertise for new Proposals, if in the judgment of the P3 Authority the best interests of the public will be promoted thereby.

- **Best Value Determination**

The determination of apparent best value will be computed using the following formula:

$$\text{Total Proposal Score} = \text{Technical Score} + \text{Financial Score}$$

- **Technical Score**

The Technical Score (maximum of 30 points) will be the score determined for the Technical Proposal by the PPP Committee.

- **Financial Score**

The Financial Score (maximum of 70 points) will be the score determined for the Financial Proposal by the PPP Committee.

- **Proposal Responsiveness**

An initial responsiveness review of the Proposal will be performed prior to any evaluation in order to determine that all information requested in this RFP is

provided and is provided in the format specified in **Appendix 2** – Technical Proposal Instructions and **Appendix 3**

– Financial Proposal Instructions. Each Proposal must achieve a rating of pass on responsiveness to receive further consideration. Failure to achieve a pass rating after any clarifications may result in the Proposal being declared non-responsive.

- **Technical Proposal Evaluation**

The Technical Evaluation will be evaluated on a pass/fail basis and a qualitative basis. A Proposal must receive a pass on all Pass/Fail Evaluation items for the Proposal to be further evaluated and rated based on the Qualitative Evaluation.

- **Technical Pass/Fail Requirements**

All vessel captains and the Operations Manager must have current USCG licenses for vessels of the tonnage for which they will be responsible.

- **Qualitative Evaluation**

Proposer’s Technical Proposal should demonstrate the following:

**Factor 1: Ridership and Revenues (5 points)**

- a. Proposers should demonstrate an understanding of the price-responsiveness and growth potential for the following market segmentation:
  - i. Commuter versus leisure passengers,
  - ii. Municipal Island residents, non-Municipal Island residents, San Juan residents, and non-Puerto Rico residents.
- b. Proposers must demonstrate an understanding of the price responsiveness of the above-mentioned market segments.
- c. Proposers should have demonstrated experience with non-farebox revenue initiatives (concessions, advertising/branding, or charters).

**Factor 2: Proposed Approach to Providing Ferry Services (15 points)**

**Service Objective:** The Private Operator will provide high-quality necessary and appropriate services for all customers of the Metro and Islands services in a safe and responsible manner. Though there are many factors that are important in meeting this objective, the Proposal should focus on the following areas:

- Quality Professional Service
- Type and Quality of Vessel(s)
- Reservations, Ticketing, and Customer Information

**Subfactor 2(a): Vessels and Vessel Maintenance (5 Points)**

The Private Operator will be required to ensure vessels are available to provide the scheduled service. The vessels in service should have vehicle/cargo and passenger capacities equal to or greater than the vessels currently in service. If additional vessels are proposed to be added to the existing fleet, they should be described using the Vessel Specification Form.

**Subfactor 2(b): Delivery of Vehicle/Cargo and Passenger Services (5 points):**

The Private Operator will be required to manage vessel and terminal operations in a safe, efficient, and courteous manner. The Operations Plan will provide details of the processes and procedures to be followed to ensure safety and efficiency.

**Subfactor 2(c): Reservations, Ticketing, and Marketing (2 points):**

It is important that the Private Operator implements an efficient reservation and ticketing system to improve customer service and service efficiency.

**Subfactor 2(d): Federal Grant Management (3 points):**

The MTA will assist in pursuing grant funding to support capital

improvements. The Private Operator will be responsible for executing those improvements and ensuring compliance will all associated regulations.

**Factor 3: Past Experience and Related Background (10 points)**

**Service Objective:** The Private Operator will have extensive experience providing vehicle/cargo and passenger ferry services and will provide a team of experienced professionals to lead the Metro and Islands Services.

**Subfactor 3(a): Operational Experience (4 points)**

**Subfactor 3(b): Qualifications and Employee Training (2 points)**

The Private Operator will demonstrate the use of effective employee training and certification programs.

**Subfactor 3(c): Offeror’s Marine Casualty History (3 points)**

The Private Operator will demonstrate a commitment to safety and learning from past experience. The safety of an Offeror’s vessel(s) and operations is of paramount importance. This subfactor addresses an operator’s history and is intended to elicit information to assist in evaluating operational safety. Please note: The Government may verify any information you provide in response to this subfactor through, among other sources, the U.S. Coast Guard (USCG), e.g., by consulting the following website: <http://cgmix.uscg.mil/PSIX/Default.aspx>.

**Subfactor 3(d): Grant Management (1 point)**

The Grant Manager proposed by the Private Operator should have significant experience delivering public sector procurement programs using federal and other capital grants.

### • Financial Proposal Evaluation

The PPP Committee will evaluate the Financial Proposal to determine the responsiveness of each Financial Proposal to determine whether the Financial Proposal meets all of the pass/fail criteria set forth below. The PPP Committee will then determine the Financial Score of each responsive Financial Proposal in accordance with Section 5.5.2 below.

#### • Pass/Fail Criteria for Financial Proposals

Financial Proposals will be evaluated based on the following pass/fail criteria:

##### **Proposal Security**

Proposer has delivered Proposal Security in the form of a complete, properly executed proposal bond that complies with the requirements of Section 4.3.

##### **Completeness of Financial Proposal**

The Financial Proposal includes each of the submittals required by the **Appendix 3 - Financial Proposal Instructions**, in the format required by **Appendix 3 - Financial Proposal Instructions** and in accordance with the applicable provisions of this RFP. The Financial Proposal also includes any referenced Forms as required in **Appendix 3 - Financial Proposal Instructions**.

##### **Financial Plan**

The Financial Plan required by Appendix 3 - Financial Proposal Instructions should:

##### a. Financial Assumptions

- Include enough level of clarity and detail to demonstrate the reasonableness of costs and revenues assumptions
- Demonstrate the ability to facilitate meeting the Project's objectives, including a credible financial plan minimizing financial contributions from the MTA

##### b. Experience Securing Federal and/or Public Funds

- Evidence a demonstrated history with securing Federal and/or other public funding sources for projects similar to the scope of this Project

### • Financial Score

The Financial Score will be evaluated using Form I – Public Funds Amount in **Appendix 5**. The Financial Score included in the Proposer's Public Funds Amount present value calculation will be included in the following formula used to each Proposer's Financial Score:

**Proposer's Financial Score = Present Value of Lowest Proposer's Public Funds Amount / Present Value of Proposer's Public Funds Amount**

For purposes of determining the Financial Score, the present value of the Public Funds Amount will be discounted at 5%.

### 5.1.2 Initial Responsiveness Review

Following submission of the Proposals, the P3 Authority and its advisors performed an initial high-level review of each Proposal to assess responsiveness to the RFP. This initial review was intended to determine if the Proposals contained all of the information required by the RFP and to ensure that all materials submitted were compliant with the requirements of the RFP. The P3 Authority and its advisors did not identify any material deficiencies in the Proposals<sup>14</sup> in terms of general "responsiveness," and thus, proceeded to make a detailed evaluation of the specific terms of each Proposal.

<sup>14</sup> Certain identified deficiencies were addressed through RFCs.

### 5.1.3 Evaluation Support Team Review

A more detailed review of the specific terms of the Proposals and the materials submitted in connection therewith was subsequently carried out by the P3 Authority and its advisors. The evaluation support team included MTA and P3 Authority professionals supported by advisors with legal, technical, federal funding and financial backgrounds. Each group reviewed the Proposals in detail, and prepared individual draft evaluation worksheets that included notes on their review of each section of the Proposal. Each group provided their perspective on the Proposals to the Partnership Committee.



During the review of the Proposals, the P3 Authority evaluation team found that PRFF's Technical Proposal was compliant with the Technical Criteria and, therefore, it was assigned a score. PRFF's Financial Proposal, however, was non-compliant because it presented the following two deficiencies.

- First, PRFF's Proposal deviated from the requirements of the RFP because it contemplated that there would be a true up/or true down adjustment to its service fee at the end of each year during Phase 2, based on the rationale that: (i) the true cost of MTA's operations was too difficult to predict, (ii) the vessel fleet was not 100% operational, (iii) revenue from local Government has been decreasing and federal funding was not certain, and (iv) it would be difficult to increase fares without significantly affecting ridership. PRFF did not elaborate on the structure of the true-up and true-down mechanism that was part of its Proposal and only indicated that such a mechanism would be required. Ultimately, PRFF was not willing to accept the risk associated with decreases in revenue/demand or increases in operating costs, and conditioned its

proposal on this risk being borne by MTA. Thus, PRFF's proposal transferred the entire economic risk of operating and maintaining the Ferry System to MTA. This transfer of risk was a clear deviation from the requirements of the RFP and undermined three key objectives of the procurement process: (i) reduction in Government spending and greater budget certainty, (ii) reliance on private sector expertise to develop ancillary sources of revenue, and (iii) allocation of risk to the party best suited to bear such risk. In essence, PRFF had accepted the benefits of the proposed compensation structure but not the risks associated with such structure.

- Second, PRFF's Financial Proposal was non-compliant with Section 4.3 of the RFP because (i) the Proposal Security was not from an "Eligible Letter of Credit Issuer" (as defined in the RFP), and (ii) the security amount was lower than the amount required by the RFP. The RFP required that the letter of credit issuer be rated at least "A-" by S&P Global Ratings or Fitch Ratings or A3 by Moody's Investor Service in order to qualify as an "Eligible Letter of Credit Issuer, and that the amount of the letter of credit not be less than \$5 million. The letter of credit submitted by PRFF was issued by a bank whose credit rating at the time of submission was "BB/BB+/B1" by Fitch, S&P and Moody's, respectively, and the amount of the letter of credit was only \$50,000 or 1% of the required amount.

The evaluation team determined that HMSI's Proposal satisfied both the Technical and Financial Criteria of the RFP. In particular, HMSI accepted that the Operator would bear the revenue, operation and maintenance risk during Phase 2 and that its service fee would be fixed. HMSI's Proposal was subject to the following contingencies: (i) the successful negotiation of a payment and performance security, (ii) the transfer of assets from MTA to HMSI in proper working conditions and complete working order, and (iii) mutually agreeable force majeure provisions. HMSI had provided a Proposal Security in the required amount of \$5 million from an Eligible Letter of Credit Issuer.

On June 11, 2019, the P3 Authority and its advisors provided the Partnership Committee with an oral and written presentation that discussed: (i) the relevant aspects of the Project, (ii) the process followed during the procurement stage, (iii) an overview of the Proposers, and (iv) a summary of the Proposals received.

During the meeting, the P3 Authority informed the Partnership Committee that: (i) PRFF's Financial Proposal did not meet the financial requirements of the RFP because PRFF conditioned its Proposal on a "true up/true down adjustment to its service fee during Phase 2," (ii) PRFF did not submit an adequate amount of Proposal Security as required by the RFP; and (iii) PRFF's Proposal Security was not from an Eligible Letter of Credit issuer.

#### 5.1.4 Partnership Committee Evaluation of Proposals

The Partnership Committee received the findings and supporting documentation compiled by the evaluation support team during the review described in Section 5.1.3 above. The Partnership Committee members proceeded to conduct their own detailed review and scoring of the Proposals. Each Partnership Committee member reviewed both Proposals for adherence to the requirements of the RFP from a legal, technical, and financial perspective.

Following the Partnership Committee's evaluation of the Proposals and consideration of the recommendations from the evaluation support team, the Partnership Committee decided to hold a referendum on June 14, 2019 to decide the following two matters:

- First, whether to (i) evaluate PRFF's proposal despite it not complying with the requirements of the RFP, or to (ii) not evaluate PRFF's proposal because it did not comply with the requirements of the RFP; and
- Second, whether to (i) select the proposal of HMSI, (ii) select the proposal of PRFF, subject to PRFF complying with the RFP

requirements, including the presentation of a security or insurance that comply with the requirements of the RFP, or (iii) not select a proposal.

Pursuant to the discretion conferred to the Partnership Committee by the P3 Act and the Regulation, the Partnership Committee unanimously voted in the referendum to waive the Proposal Security pass/fail requirement and allow the evaluation of the proposal submitted by PRFF to be considered despite the fact that PRFF had not submitted a Proposal Security that complied with the Financial Evaluation Criteria. The Partnership Committee determined that if the Proposal submitted by PRFF were selected, PRFF would then be required to provide a Proposal Security that satisfied the RFP requirement. The Partnership Committee made this decision in order to preserve the benefit of having two (2) Proposers competing in the process, which was expected to produce a more favorable result for MTA.

The evaluation by the Partnership Committee members of the Proposals submitted by the two (2) Proposers was based on the extent to which each Proposal satisfied the Evaluation Criteria set forth in Section 5 and related Appendices of the RFP.<sup>15</sup> The scores submitted by the Partnership Committee members were combined to determine an average aggregate score for each Proposal. The Partnership Committee gave HMSI a higher average score on the Technical Proposal and a higher average score overall.

The following is an overview of the results of the evaluation performed by the Partnership Committee:

##### 5.1.4.1 Proposal Submitted by HMSI

###### a. Technical Proposal

###### i. Compliance with Technical Requirements

HMSI demonstrated compliance with the RFP's technical requirements and demonstrated that it is qualified to fulfill the needs of the Ferry System.

<sup>15</sup> At the time of making the evaluations, the Partnership Committee realized that there was a discrepancy in the weighting used in the Technical Score point distribution appearing in Section 5 of the RFP and in Appendix 2 of the RFP. To ensure a fair and transparent evaluation process given this discrepancy, the Partnership Committee evaluated Technical Proposals in accordance with both the point distribution weighting in Section 5 and in Appendix 2 of the RFP. The Partnership Committee determined that the discrepancy in weighting for the Technical Proposal was not material enough to result in a difference in the selection of the Preferred Proposer, and thus proceeded using the Technical Score point distribution weighting of Section 5.

**ii. Experience Providing Similar Ferry Services**

HMSI has twenty (20) years of experience operating ferry services across the United States in a similar capacity as the Project. With nineteen (19) ferries currently operating under contract with nine public clients, HMSI carried over three (3) million passengers and one million vehicles in 2018. The following chart outlines HMSI current ferry experience:

Name	Location	Type	Additional Information*
<b>Gees Bend Ferry</b>	Camden, AL	Project and vessel management	149 pax/15 vehicles
<b>Governors Island Ferry</b>	Governors Island, NY	Project and vessel management	1291 pax/38 vehicles
<b>St. Johns River Ferry</b>	Jacksonville, FL	Project and vessel management	204 pax/38 vehicles
<b>Mobile Bay Ferry</b>	Dauphin Island, AL	Project and vessel management	298 pax/46 vehicles
<b>Oklahoma River Cruises</b>	Oklahoma City, OK	Project and vessel management	141 pax
<b>Pierce County Ferry</b>	Steilacoom, WA	Project and vessel management	503 pax/108 vehicles
<b>RiverLink Ferry System</b>	Philadelphia, PA	Project and vessel management	512 pax
<b>Cross Bay Ferry</b>	St. Petersburg, FL	Project management and oversight	149 pax

\*Numbers in thousands.

In its Proposal, HMSI demonstrated an understanding of pricing strategy to segment riders into various pricing categories and also increase revenues with non-farebox revenues such as concessions, advertisements, and private events, having had prior experience doing so in St. Petersburg, Oklahoma City, and Philadelphia.

Further, HMSI demonstrated its experience with safety matters with only three (3) reportable incidents during its 2018 operations period. Finally, HMSI plans to deploy a vice president of operations with over ten (10) years of marine management experience and other experienced personnel. The management team includes personnel that will undergo HMSI’s established corporate training programs.

**iii. Approach to Delivering the Project**

HMSI demonstrated a structured process to delivering ferry services with increased operational efficiency and service levels based on its extensive prior experience. The HMSI approach incorporates structured vessel maintenance, safety focused and experienced staff, efficient ticketing, and increasing non-farebox revenues. HMSI’s structured plan aims to address:

- Maintenance and service of vessels including record keeping of maintenance activities
- Efficient passenger/cargo/vehicle boarding, manifest validation, and screening

- Tracking of customer complaints and resolution
- Improved ticketing process and experience with mobile ticketing, retail, and kiosk
- Grant management with a grant manager with over five (5) years of grant writing experience

#### iv. Proposal Deviations from RFP

HMSI's Technical Proposal did not deviate materially from the RFP. In instances where the Proposal was unclear or contained minor non-conformities, the Partnership Committee issued RFCs, which HMSI responded to within the time period required. Certain minor immaterial non-conformities were accounted for in the Proposer's Technical Score or disregarded by the Partnership Committee.

HMSI's Proposal included the following requirements to be discussed during negotiations of the OMA:

- MTA would have to transfer the ferry assets in full and complete working order;
- MTA would be in absolute compliance with applicable rules, laws, permits, and regulations; and
- The parties would negotiate mutually agreeable force majeure provisions.

HMSI's Proposal requirements were deemed reasonable and accepted by the Partnership Committee during its evaluation, in light of the Proposal's substantial compliance with the requirements of the RFP.



<sup>16</sup> The financial of statements made available were those of HMS Global. During the RFQ stage, HMSI had indicated that its obligation would be guaranteed by HMS Global. During the negotiation of the OMA the Partnership Committee determined that HMSI's financial position coupled with the required Payment Bond provided adequate security to MTA without the need to have the guarantee of HMS Global.

## b. Financial Proposal

### i. Compliance with Financial Requirements

HMSI provided sufficient information in its Financial Proposal including a detailed first year cash flow schedule and financial assumptions explaining its forecasted revenue and costs for categories including maintenance, operations, and major replacement costs. HMSI provided documentation as requested in the RFP to satisfy the Financial Pass/Fail requirement, including Forms I and I-2.

### ii. Financial Strengths/Weaknesses

Financial statements of HMSI's parent company, HMS Global, for its three (3) most recent years were provided during the RFQ stage<sup>16</sup>, which were analyzed and deemed acceptable. During the Financial Proposal evaluation, HMSI submitted a letter indicating that HMSI entities had not experienced any material changes in financial condition since the RFQ submission. In addition, HMSI provided information that satisfied the remaining financial requirements in the RFP.

### iii. Proposal Deviations from RFP

HMSI's Financial Proposal did not deviate materially from the RFP. In instances where the Proposal was unclear or contained minor non-conformities, the Partnership Committee issued RFCs, which HMSI responded to within the time period required.

HMSI's Financial Proposal was contingent on negotiation of an adequate payment/performance security during the negotiation period.

HMSI's Financial Proposal contingencies were deemed reasonable and accepted by the Partnership Committee during its evaluation, in light of the Proposal's substantial compliance with the requirements of the RFP.

**5.1.4.2 Proposal Submitted by PRFF**

**a. Technical Proposal**

**i. Compliance with Financial Requirements**

PRFF’s Technical Proposal was generally compliant with the technical requirements of the RFP. Although its Technical Proposal had some immaterial non-conformities, the Partnership Committee decided to waive such non-conformities.

**ii. Experience Providing Similar Ferry Services**

PRFF has experience providing ferry service as a result of various emergency services contracts with MTA. During 2012-2014, PRFF carried over 750,000 passengers and 52,000 vehicles to and from Culebra and Vieques. PRFF has since resumed supplementary service for MTA. The following chart outlines PRFF’s current ferry experience:

Name	Location	Type	Additional Information
MTA Ferry	Puerto Rico	Project and vessel management	Personnel within the PRFF team have experience with ferry operations in New York and New England.

PRFF did not provide any experience other than its limited background with providing ferry service during emergency services contracts. PRFF’s prior experience did not include experience with any of the other many facets of operating MTA’s Ferry Service, such as general management, oversight of maintenance facility, supervision of personnel and procurement. Other experience and history was lacking or not provided, thus many portions of the Evaluation Criteria on technical experience remained incomplete and were scored as such. PRFF included experience of its key personnel.

Outside of revenue and ridership, PRFF’s approach to providing the Ferry Services was lacking in terms of content specific to the requirements of the RFP. PRFF either did not provide or did not adequately explain its approach to:

- Vessel equipment, hull, and furnishings maintenance and quality control; and
- Delivery of vehicle/cargo and passenger services

Further, PRFF did not demonstrate a process to deliver Ferry Services with increased operational efficiency and service levels based on its prior experience. These items were accounted for in the Technical Proposal Score.

**iii. Approach to Delivering the Project**

PRFF demonstrated an understanding of the history of resistance to fare increases by both outlying island residents and main island residents. PRFF intends to provide efficient and reliable service and believes that it will increase ridership and ultimately reduce subsidy. PRFF included plans to promote the Ferry Service and generate additional non-farebox revenue.

**iv. Proposal Deviations from RFP**

PRFF’s Technical Proposal did not deviate materially from the Technical RFP requirements. In instances where the Proposal was unclear or contained minor non-conformities, the Partnership Committee issued RFCs, which PRFF responded to within the time period required. Other minor non-conformities

were either disregarded by the Partnership Committee, or accounted for in the Proposer's Technical Score.

PRFF's Technical Proposal included technical contingencies to be met during negotiations of the OMA. PRFF submitted its Proposal contingent on:

- All MTA vessels being operationally functional;
- All USCG documentation being current;
- All deficiencies found in marine surveys having been resolved;
- The Isla Grande Shipyard Synchrolift being repaired or a Travelift being provided; and
- Completion of the new facilities and resolution of the environmental conditions at the Ceiba terminal having occurred.

PRFF's Technical Proposal contingencies were considered reasonable by the Partnership Committee.

## b. Financial Proposal

### i. Compliance with Financial Requirements

PRFF provided information in its Financial Proposal including a first-year cash flow schedule and financial assumptions explaining its first year forecasted revenue and costs for categories including maintenance, operations, and major replacement costs. PRFF provided Form I and Form I-2 and financial statements (where available) and documentation as requested. PRFF did not provide a Proposal Security in an amount sufficient to satisfy the requirements of the RFP or from an Eligible Letter of Credit issuer. Finally, PRFF's Proposal was conditioned upon the following:

- During Phase 1, PRFF would receive a management fee in lieu of a percentage of costs payment mechanism, with a percentage based on sharing of upside performance; and

- During Phase 2, PRFF would be entitled to a true up/down adjustment to its compensation. The details of how the true-up/down mechanism would work were not specified.

### ii. Financial Strengths/Weaknesses

See discussion in Section 5.1.5 below.

### iii. Proposal Deviations from RFP

See discussion in Section 5.1.5 below.

Table 6 below presents a summary of the principal characteristics of the proposals received from HMSI and PRFF. Items highlighted in green exceed the requirements of the RFP, items highlighted in light green met the requirements of the RFP, and items highlighted in red are non-compliant with the requirements of the RFP.



**Table 6: Evaluation of Proposals**

Component	HMSI	PRFF
<b>General information about Proponents</b>	HMSI has twenty (20) years of experience operating ferry services across the United States in a similar capacity as the Project. HMSI currently provides ferry services pursuant to nine (9) active ferry contracts throughout the United States, including operations in Florida, Alabama, Washington, and New York.	PRFF has experience providing ferry service as a result of various emergency service contracts with MTA. PRFF has since resumed supplementary service for MTA. PRFF did not provide any experience other than its limited background with providing ferry service during emergency services contracts.
<b>Compliance with RFP requirements</b>	Both technical and financial proposals met the RFP requirements.	Only the technical proposal met the RFP requirements. The Financial Proposal was non-compliant because: <ol style="list-style-type: none"> <li>i. the Proposal Security was not from an “Eligible Letter of Credit Issuer”</li> <li>ii. the security amount was lower than the amount required by the RFP</li> <li>iii. the Proposal was based on a “true up/true down adjustment to its service fee during Phase 2,” which was not consistent with the financial requirements of the RFP</li> </ol>
<b>Technical Proposals</b>	<p style="text-align: center;"><u>Users and Revenues</u></p> <p>HMSI proposed a multiple payment system with the goal of reducing fare rates to residents. It also included previous experiences on three successful plans to increase revenues.</p>	<p style="text-align: center;"><u>Users and Revenues</u></p> <p>PRFF’s proposal included various alternatives to generate additional income such as parking, food and beverage concessions, vehicle rentals and excursions, as well as additional trips.</p>
	<p style="text-align: center;"><u>Operational Experience</u></p> <p>HMSI included 8 examples of specific projects with a detailed description of the services provided, scope of the contracts, description of routes, operational information, vessel size, ticket system, and customer service satisfaction.</p>	<p style="text-align: center;"><u>Operational Experience</u></p> <p>PRFF provided information of the ferry services it currently provides in Puerto Rico. Although it mentioned another ferry service in the northeastern part of the United States, it did not offer any details.</p>
	<p style="text-align: center;"><u>Marine Casualty History</u></p> <p>HMSI uses ABS-Approved safety protocols in all their operations. HMSI provided Coast Guard 835 Form.</p>	<p style="text-align: center;"><u>Marine Casualty History</u></p> <p>PRFF provided minimum reporting procedures. The Proposal provided a general statement on the steps that they would take to avoid accidents. PRFF provided general information of vessel accidents although it did not include information on vessels operated by PRFF.</p>
	<p style="text-align: center;"><u>Vessel Maintenance</u></p> <p>HMSI proposed the use of their ABS-Certified modern online system to implement their maintenance program. HMSI’s proposal included a messaging system that alerts their employees of upcoming and overdue maintenance tasks. HMSI will use a maintenance planning and monitoring procedure that is similar to that used by HMSI on their vessels.</p>	<p style="text-align: center;"><u>Vessel Maintenance</u></p> <p>PRFF included details of schedules, locations and vessel cleaning. PRFF’s proposal described the importance of a system to control fuel consumption without going into more detail. The proposal mentioned the maintenance of the vessels without offering details.</p>

	<p><u>Cargo and Passenger Services</u> HMSI included sufficient detail for validation and customer support. The proposal included a system for monitoring and addressing user complaints.</p>	<p><u>Cargo and Passenger Services</u> PRFF did not provide details.</p>
	<p><u>Reservations, Ticketing, and Marketing</u> The Proposal provided a detailed online ticketing system description, with alerts to users, service updates and trip planning. HMSI also mentioned their platform's success in other projects. HMSI also provided feedback on the security measures and capabilities that will be implemented on their system. HMSI's proposal also included several marketing initiatives using different media outlets.</p>	<p><u>Ticketing System</u> PRFF's proposal included information regarding the requirements, objectives and security measures of the ticketing system but it did not identify a specific system. The proposal included information about promotions and advertisements through social media but no other type of marketing was mentioned.</p>
<p><b>Financial Proposals</b></p>	<p>The present value of HMSI's aggregate public funds request is \$351,429,158.</p>	<p>The present value of PRFF's aggregate public funds request is \$328,890,000. However, PRFF's proposal conditioned the amount to a series of contingencies related to certain critical risks that MTA could not accept. Had PRFF assumed these risks, this figure would have been significantly higher. PRFF proposed a reconciliation mechanism on an agreed budget for 23 years. This proposal did not assume the risks of operations and demand and refused to provide a fixed annual payment for Phase 2.</p>

**5.1.5 Treatment of PRFF’s Non-Compliant Financial Proposal**

Following an in-depth evaluation of PRFF's Financial Proposal, the Partnership Committee determined that the Financial Proposal submitted by PRFF was non-compliant with the requirements of the RFP, because PRFF had conditioned its Proposal on a “true up/down adjustment to the service fee during Phase 2. It was unclear how the true-up/down mechanism would work, and it was not aligned with a fundamental requirement of the RFP for the reasons explained in Section 5.1.3. PRFF’s Financial Proposal would leave MTA with the full economic risk of operating and maintaining the Ferry System. By shifting the full financial risk to the Government, it eviscerated various key objectives of the procurement process, including (i) reduction in Government spending and greater budget certainty, (ii) reliance on private sector expertise to develop ancillary sources of revenue and (iii) allocating risk to the party

best suited to bear such risk. In its proposal, PRFF had accepted the benefits of the proposed compensation structure but not the risks associated with such structure.

The RFP indicated that a Proposer’s Financial Score would be determined by taking the present value of the lowest Proposer’s Public Funds Amount and dividing it by the Present Value of each individual Proposer’s Public Funds Amount. The “Public Funds Amount” was the aggregate amount of public funds (i.e., subsidy) that the Proposer was asking for in each year during the term of the OMA, discounted to present value using a discount factor of five percent (5%). The present value of HMSI’s aggregate public funds request was \$351,429,158 and that of PRFF was \$328,890,000. Although PRFF’s Financial Proposal, on its face, appeared to be lower than HMSI’s Financial Proposal, the open ended nature of the possible true-up/down adjustments required by PRFF through the term of the OMA (as a result of lower revenues or higher operation and maintenance costs

incurred), made it impossible to effectively compare the two (2) Proposals. As a result, the Partnership Committee determined that PRFF's Financial Proposal could not be assigned a Financial Score.

### 5.1.6 Summary of Evaluation Worksheets

The evaluation worksheets prepared by the Partnership Committee, including findings and supporting documentation, were utilized to arrive at an average score, as reflected in Table 7 below.

The table below breaks down each Proposer's aggregate score for each criterion (numbers on the right represent the maximum score and numbers on the left reflect the score given to each Proposer for each category):

**Table 7: Partnership Committee Aggregate Score**

CRITERIA ITEM		PRFF
Financial Components		
Proposal Security, Completeness of Financial Proposal, Financial Plan	70 / 70	N/A
Technical Components		
Approach to Ridership and Revenues, Providing Ferry Services, Past Experience and Related Background	25 / 30	15 / 30
<b>Total Score</b>	<b>95 / 100</b>	<b>N/A</b>

An "N/A" was given to PRFF's Financial Proposal given that, its Financial Proposal could not be scored, as explained above.

## 5.2 Partnership Committee Decision

### 5.2.1 Determination of Preferred Proposer

The Partnership Committee concluded that HMSI had satisfied all of the RFP's pass/fail criteria and submitted the best Proposal in terms of value to the Government of Puerto Rico, considering its significant experience with operating ferry services of similar size and scope throughout the United States and its willingness to assume the principal financial and operating risks required by the RFP.

On June 14, 2019, the Partnership Committee voted to designate HMSI as the Preferred Proposer with which the P3 Authority would engage in exclusive negotiations of the OMA. Pursuant to the requirements of the Act, the Partnership Committee notified Proposers of its selection through a notification letter dated July 1, 2019.

### 5.2.2 Negotiation of the OMA

The first draft of the OMA was approved by the Partnership Committee on June 21, 2019 and was made available to the Preferred Proposer in accordance with the notification process of the P3 Authority. The OMA was drafted taking into account the concerns of and feedback from the Proposer, MTA, the P3 Authority, and their advisors with respect to the Ferry System, the regulatory framework, FTA requirements, the Term Sheet that had been sent to Proponents, and other conditions unique to the Project.

On July 11, 2019, the P3 Authority conducted a pre-negotiation meeting during which the structure and schedule of the negotiation meetings were agreed. Following that, the first negotiation meeting took place on July 24 and 25, 2019, the second on September 19 and 20, 2019, and the third from October 23 to 25, 2019.

Following these in person meetings, the P3 Authority conducted multiple negotiation sessions via teleconference between November 2019 and June 2020, in which the Proposer, its legal advisors, as well as the P3 Authority, MTA, and their legal and financial advisors all participated. The final version of the OMA reflects the outcome of several months of negotiations with the Preferred Proposer.

A summary of the Operations and Maintenance Agreement is attached as **Appendix 3**.

### 5.2.3 Consultation with the FTA

In addition to MTA's consultations with FTA during the RFQ and RFP stage of the procurement process (see discussion in Section 1.3), during the process of negotiating the OMA, the Special Counsel to the P3 Authority on FTA matters vetted certain concepts with respect to the income-sharing provisions of the OMA with FTA Region IV. The Special Counsel also requested and received comments from FTA on an early draft of the OMA and included such comments in the OMA. In addition, in consultation with FTA, the Special Counsel prepared applications to FTA for its approval of incidental uses of the Project permitted by the OMA. In order to ensure that the non-transit use of FTA funded property was an acceptable use that did not affect the property's transit capacity, the incidental use requests were discussed in depth with FTA in meetings held on May 12 and August 11, 2020. The P3 Authority, MTA, and their legal and financial advisors all participated in these meetings.

Throughout the procurement process, MTA worked closely with FTA to ensure the OMA complied with FTA's regulations and oversight requirements. In fact, the Project was a topic of discussion in all of MTA and FTA's bi-weekly, monthly and quarterly meetings throughout 2019 and 2020.

### 5.2.4 Compliance with Objectives of Puerto Rico's Fiscal Plan

Besides achieving the Project Objectives discussed in Section 3.3 above, the award of the Project to HMSI accomplishes the core objectives set forth in the Government's Fiscal Plan, as certified on May 27, 2020 (the "**Fiscal Plan**"), for the modernization of government functions to provide better and more resilient services to the people of Puerto Rico.

The Fiscal Plan provides a roadmap for Puerto Rico to address recent financial challenges and alter its trajectory toward fiscal and economic sustainability. To achieve this goal, the Fiscal Plan contemplates a series of reform measures across various Government sectors with a view toward these sectors becoming better organized and fiscally sound. Specific to infrastructure reform, Chapter 12 of the Fiscal Plan provides key initiatives and goals that aim to, among others, (i) "prioritize projects with the highest long-term benefit-cost ratios taking into account monetizable and non-monetizable benefits," and (ii) "systematically leverage private sector capabilities to improve overall public outcomes." The OMA is structured in a manner that delivers value to Puerto Rico and is in line with these initiatives. The OMA seeks to (i) address historical issues that have plagued the Ferry System, (ii) increase revenues and reduce costs through private sector innovation and expertise, thereby reducing the Government's risk of operating the service, and (iii) provide the Government with more budget certainty.

Chapter 12.3 of the Fiscal Plan highlights the poor historical performance of transit systems in Puerto Rico, resulting in increased congestion and stifled economic development. Through the use of KPI's and other operational incentives, the OMA promotes compliance with requirements

that result in timely operations, higher quality vessels and facilities through an innovative maintenance program, and a more efficient and reliable service. Private sector efficiency and innovation to be provided by the Operator is expected to address operational issues that have historically affected MTA and the ferry service, including maintenance backlogs, untimely and unreliable operations, safety issues, and poor performance.

Chapter 12.3 of the Fiscal Plan also outlines a series of initiatives related to the transit systems with the overall goal of increasing ridership, and ultimately revenue generated by the transit systems thereby reducing dependence on the FTA and the Government for public subsidies. While most ferry operations in the United States require a subsidy, MTA has an opportunity to reduce its reliance on such subsidies, by (i) shifting the majority of operating risks and responsibility to the private sector and (ii) incentivizing HMSI to promote and invest in revenue-generating ancillary activities. Although MTA has transferred its right to receive future revenue from the system, it is also no longer responsible for the bulk of the costs associated with operating and maintaining the Ferry System, or burdened with the risks of generating revenue sufficient to offset project operations.

## 5.2.5 Benefits to MTA of Executing the OMA with a Private Sector Operator

### 5.2.5.1 Operational Savings

To determine the amount of savings that the Government could realize throughout the term of the OMA, the P3 Authority and MTA analyzed the amount of subsidy that MTA would have required from the Central Government to operate the Ferry System and compared this with the Phase 2 Fixed Fee that will be required to be paid to HMSI under the OMA. In this analysis, the P3 Authority and MTA assumed the following:

#### **Revenue**

The revenue estimate for the Phase 2 period for MTA is equal to HMSI's revenue estimate, less revenue from Ancillary Activities (as MTA is unlikely to implement such activities). In other words, the only difference in terms of the revenue projections assumed are the revenues HMSI expects to derive from the Ancillary Activities.

The revenue estimate was utilized for the Phase 2 term to provide a proxy for MTA's ability to generate similar revenue (though it likely overestimates revenue generation given what has historically been realized by MTA) from an increase in fares. This fare increase is expected to take place in 2021, well before the commencement of Phase 2. The fares that are expected to be implemented essentially represent a revenue-maximizing fare - a level where further increases will not generate additional revenue, and where revenues may actually decline. Therefore, in the revenue projections during Phase 2, MTA is receiving the benefit of future fares that HMSI will generate, as well as the same level of demand, as the projections assume HMSI will not have the ability to generate additional demand over what MTA can generate.

HMSI is receiving the benefit of implementation of Ancillary Activities that are already contemplated in the OMA. HMSI's revenue estimate does not include other Ancillary Activities that it is permitted to implement, which will be negotiated at the time of their implementation. Through these Ancillary Activities, HMSI will be able to generate additional revenue that MTA has historically been unable to generate, which will result in a reduction in the required subsidy. Any additional Ancillary Activities implemented throughout the term of the OMA may result in additional declines in the subsidy.

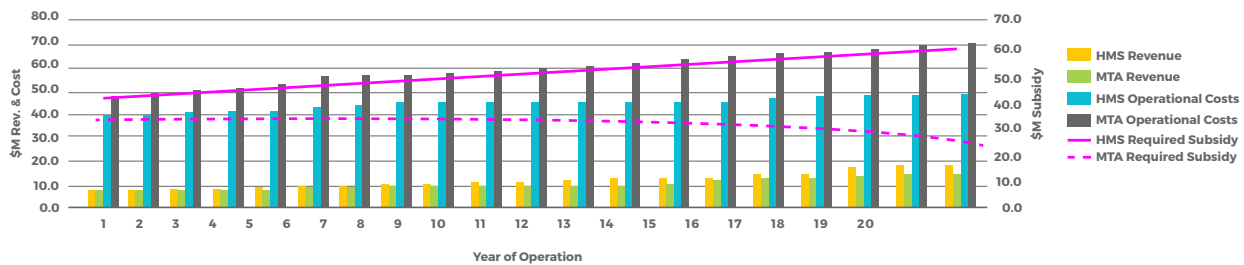
<sup>17</sup> The projections were based on FY 2016 operational expenses because that was the last year in which MTA provided all the vessels used in the Ferry System. After FY 2016 MTA contracted vessels and crew from PRFF.

**Expenses**

MTA’s operational costs have been calculated by projecting MTA’s FY2016<sup>17</sup> operational costs over the 20 years of Phase 2. MTA’s actual operating expenses in FY2016<sup>17</sup> were escalated annually beginning in FY2017 and thereafter through the Phase 2 term to derive an estimate for MTA’s ability to operate the service. FY2016 operating expenses were used as FY2016 represents the last fiscal period in which MTA’s service level and operations were similar to the service level and operations required of HMSI under the OMA. MTA’s operation between FY2017 and FY2020 were performed with a lower number and frequency of trips and with different routes as the ones being required for the Project, making the operational expenses figures for this period not appropriate for this comparison. HMSI’s proposal includes reductions in labor costs (when comparing MTA’s historical costs), as well as other expense savings associated with operating efficiencies, maintenance efficiencies, and increased reliability of the service, given their expertise with ferry operations in the United States and ability to generate these savings. These savings, coupled with increased revenue through Ancillary Activities, have resulted in a lower subsidy during Phase 2 than what MTA has historically required.

**Calculation methodology**

Using the revenue and expense estimates, the present value of the difference in the estimated MTA subsidy and the Phase 2 Fixed Fee was compared to understand the magnitude of the savings that HMSI is providing over what MTA would have required if it operated the service. The present value calculation is as of January 1, 2020 and uses a discount rate consistent with the cost of debt for a recent transaction executed in Puerto Rico. The calculation extends to the end of the Phase 2 term. The present value of the difference in the subsidy that MTA would require to operate the service during the duration of the Phase 2 and HMSI’s Phase 2 Fixed Fee totals \$107 million (roughly \$354 million on a nominal basis). The \$354 million is the difference in the total amount of dollars between the subsidy requested by HMSI and the subsidy MTA would require to operate during the duration of the Phase 2. The \$107 million is equal to \$354 million discounted back to a present day figure. The following chart provides this comparison on an annual basis.



**5.2.5.2 Additional Cost to MTA of Meeting Performance Requirements in the Absence of a Private Operator**

The OMA sets forth a series of performance requirements with which HMSI must comply throughout the term of the OMA, which are expected to result in enhanced service reliability and efficiency. These requirements are coupled with financial deductions in HMSI’s compensation for failure to achieve to such performance standards. In addition to the present value analysis described above, the P3 Authority and MTA conducted an analysis to estimate the amount of funding that would be needed if MTA were to operate the service (without private sector

assistance) under the same requirements imposed on HMSI under the OMA. In order to perform the service in compliance with the service requirements imposed on HMSI, MTA believes it would have to reorganize and restructure its organization, and significantly increase efficiency, innovation, and the consistency of its operations, all of which would result in an increased cost over what is required under the Phase 2 Fixed Fee payable to HMSI.

MTA has estimated that its organizational restructuring, training, and the costs associated with innovation and efficiency would cost approximately \$3 million on an annual basis throughout the term of the OMA for a total of \$79 million in nominal dollars. The estimate is based on a conservative appraisal of the positions, changes, and requirements needed to meet the same standard of service being imposed on HMSI.

To create the financial scenario in which MTA would be operating under the same performance standards as the OMA requires, the P3 Authority and MTA included approximately \$3 million in additional annual costs to the analysis described in Section 5.2.5.1 and conservatively escalated it for inflation throughout the term. Including these additional costs, the present value difference between the Fixed Fee and the subsidy that MTA would require to operate the service under the same performance requirements totals \$134 million (on approximately \$432 million on a nominal basis).

#### **5.2.5.3 Other Benefits of Contracting a Private Sector Operator**

As described in this Section 5.2.5, it is estimated that contracting with a private operator to deliver the Project will result in overall savings to the Government of approximately \$107 million on a present value basis over the Project's Phase 2 term. Based on historical performance, it is not expected that MTA would be able to achieve this level of savings without contracting with a private sector operator, as the private operator brings significant experience and efficiencies of operating ferry assets throughout the United

States. MTA has historically struggled to achieve consistent operations. In addition, there are numerous other quantitative and qualitative benefits to contracting with a private operator, as described below:

#### ***Risk Transfer and Budget Certainty***

Shifting project related risks associated with the operation, maintenance, and improvement of the ferry assets in Puerto Rico was a key goal for the development of the Project and procurement of the OMA. By structuring the deal to include a fixed fee to cover costs associated with operating and maintaining the service, MTA has shifted a substantial majority of project related risks to the private sector – the party best positioned to handle them. MTA is no longer responsible for risks that have historically resulted in operational and financial deficiencies, such as major maintenance backlogs, uncertain ridership and revenue, cost overruns, and lack of service improvements. Any operational or maintenance related issues that arise during the normal course of operations will be the responsibility of the Operator. Further, it is the Operator's responsibility to ensure its revenue projections allow it to be profitable during operations, and ensure costs are in-line with expectations. Any increase in costs or reductions in revenue may erode the Operator's financial profile. This is expected to incentivize the Operator to operate and maintain the service at an optimal level.

A key result of transferring a significant level of risk to the private sector is the ability for the Treasury Department to achieve budget certainty. The OMA calls for a fixed fee payment from MTA to the Operator during Phase 2, which was intentionally included to provide the Government of Puerto Rico with greater certainty in its budget process. The idea was to eliminate the annual budget uncertainty and fluctuations with which the Treasury Department and MTA have historically grappled in light of the major maintenance, service repairs, and reliability issues of the Ferry Service. Although there are limited circumstances under the OMA where the Operator can seek funds beyond the Phase 2 Fixed Fee, including extraordinary repairs, the cost of fuel and insurance above

established thresholds, and discretionary capital improvements, the vast majority of the responsibility for operating, maintaining, and funding the Ferry System has been transferred to the Operator through the fixed fee mechanism. In addition, any costs that may arise outside of the fixed fee are expected to be substantially covered through federal funding earmarked for this purpose.

### ***Service Quality and Reliability***

MTA has historically been unable to provide efficient and effective, on-time, and reliable service for users of the Ferry System. This is due, in part, to vessels operating well beyond their service life and inefficient and delayed maintenance, which were exacerbated by Hurricanes Irma and Maria. MTA will make certain investments in the vessels and facilities to ensure the assets are safe, reliable and available for use for the residents and non-residents of Puerto Rico. MTA intends to make these investments irrespective of whether the Project is implemented given the essential nature of the Ferry Service and the critical need for such investment.

Once the assets are accepted by the Operator, the OMA requires that major maintenance be performed by the Operator to keep the quality and reliability of the service at high levels. The Operator brings significant experience in extending the service life of vessels through regular maintenance programs. Maintenance is an important aspect of the Operator's ability to reduce costs throughout the term of the OMA. The Operator is also required to meet certain performance standards associated with service reliability. Given the Operator's incentive to operate efficiently, it is expected that the Operator will operate the service at an optimal level. Lacking a profit incentive, MTA has been unable to operate at an optimal level.

### ***Performance Improvements***

Quality and reliability of the service provided by the Operator will be measured through certain Key Performance Indicators (KPI). Under the OMA, the Operator must meet

certain time requirements for pick-up and drop off passengers and cargo at each destination, or risk monetary deductions to its payments. In addition, with regard to maintenance, vessels have to operate a certain percentage of the time, and meet certain safety, cleanliness, and other standards.

Including such KPI's in the OMA incentivizes the Operator to ensure that the quality and reliability is maintained at a high level. This mechanism has worked in other similar contracts to ensure a contract is delivered to its highest standard. MTA does not currently have any incentives to ensure operations are conducted at a high level. Further, currently MTA does not have the capacity and experience to operate the service at the performance level required in the OMA at a cost equal or less than the payment to be made to the Operator. Through the use of the Phase 2 Fixed Fee, the Operator is also incentivized to reduce its costs, while avoiding penalties from not meeting the KPIs in the OMA, as doing so will enable it to avoid a reduction of its profits.

An additional performance improvement that is expected to benefit the quality and reliability of the service is management continuity. With a private operator, the operation and maintenance of the service is managed by the same entity over the life of the contract. Given that MTA is a governmental entity, its management team generally changes relatively frequently with each election cycle. With frequent changes in leadership, MTA cannot in the long-term implement a cohesive vision for the operation and maintenance of the Ferry System as a private operator will be able to implement.

### ***Risk Transfer***

#### **Other Potential Economic Benefits**

MTA believes that a reliable and efficient service that allows for the safe movement of goods and services between Puerto Rico and its neighboring islands municipalities will serve as a catalyst to promote economic growth and opportunity in the region.

Without a cost effective and reliable service, users turn to competing travel services, or choose not to travel to Culebra and Vieques at all. This not only reduces the value of the ferry services owned by the Government but also potentially affects the Puerto Rican economy more broadly if it fails to promote tourism. With investment in the ferry services that ensures a reliable and efficient service, tourism and economic development in Culebra and Vieques will increase as additional visitors travel to the areas serviced by the Ferry System to vacation, live, and work. With increased travelers to the area, business owners and entrepreneurs may find a more attractive environment to invest and develop businesses. Given the essential nature of the Ferry Service to the residents of Culebra and Vieques, having an unreliable and inefficient service reduces their ability to travel for work, seek medical or other needs, and ultimately promote economic growth for that area.

#### **5.2.6 Recommendation to Award the O&M Agreement**

For all the reasons described in this Report, on September 28, 2020, the Partnership Committee met and voted unanimously to approve the OMA and to recommend to the P3 Authority Board and the MTA Board that the OMA be executed with HMSI and HMS LLC.



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# 6. CONCLUSION

The image shows the interior of a ferry boat, viewed from the back of the cabin looking forward. The cabin is filled with rows of light-colored, padded seats. Several passengers are visible, some sitting and some standing near the windows. The windows offer a view of the water and distant land. The ceiling is white with several circular recessed lights. The floor is a light-colored, polished material. The entire image is overlaid with a semi-transparent green color.

MTA carries more than one million passengers annually. MTA is the government entity responsible for the control, administration, operation and maintenance of the maritime transportation service and related assets in Puerto Rico. MTA services are critical to the residents of Culebra and Vieques. In the years leading up to Hurricanes Irma and María, the ferry service had been plagued by major maintenance backlogs and inefficient and unreliable service. Important maintenance and expansion projects were deferred for several reasons, including, among others, (i) lack of fare increases since 1987, resulting in fares covering less than 6% of annual operating expenses, (ii) lack of a consolidated ticket system, (iii) no exploitation of ancillary revenue sources, (iv) inadequate and ineffective marketing; and (v) lack of funds to acquire new vessels. Many of the vessels that are used to transport passengers are well beyond their useful lives. Without adequate transportation via a ferry service, passengers and residents have no access to the vital services they need.

In light of these challenges, MTA's objective with the Project was to achieve the following Government goals for the benefit of the people of Puerto Rico: maintaining customer and crew safety; improving the quality and reliability of service; increasing available resources for vessel and terminal maintenance; streamlining the workforce to provide more efficient operation; increasing revenue by introducing and improving ancillary revenue sources; reducing costs through innovation and private sector experience; decreasing the amount of public funding required to operate the Project by pricing the service to better reflect operating costs; modernizing public services and building a stronger and more resilient infrastructure; and, allocating project risks to the party best able to manage them.

In 2017, the P3 Authority commenced the process of conceptualizing and designing the financial and technical structure of the Project. On June 2018, the P3 Authority commenced the process of identifying suitable candidates for the project and launched the RFQ/RFP procurement process. On May 20, 2019, the Partnership Committee received two (2) Proposals from two Qualified Respondents. Pursuant to the RFP, the Proposal received was comprised of two (2) main components, a Technical Proposal and a Financial Proposal.

In June 2019, after nearly a month of extensive review and evaluation of the two (2) Proposals received, based on the evaluation criteria designed to meet the Government's objectives with respect to the Project, the Partnership Committee voted to designate HMSI as the Preferred Proposer. HMSI's Proposal not only complied with the requirements of Act No. 29 and the Regulation and the RFP, but also met the objectives of the Project. In that regard, HMSI demonstrated in its Proposal that it has:

- i. the experience to improve the quality and reliability of the Ferry Service;
- ii. strategies to optimize revenues;
- iii. experience operating ferry systems under governmental administrations;
- iv. experience with safety and security practices; and
- v. sufficient financial capability. Accordingly, the Partnership Committee determined that HMSI Proposal represented the best alternative to achieve the Government's stated goal of transforming MTA's ferry services for the benefit of the people of Puerto Rico, in particular for the benefit of the residents of Culebra and Vieques.

The Partnership Committee considers that the PPP process carried out by the P3 Authority, MTA, and the Partnership Committee complied fully with the requirements of the P3 Act, the Regulation and the RFP, both in form and substance. The process was carried out in a fair transparent manner affording to each Proposer the opportunity to participate fully.

In conclusion, the robust and competitive PPP process for the Project, which lasted over the course of more than twenty seven (27) months, involved (i) extensive due diligence of MTA's assets, (ii) multiple opportunities for comment and discussion of the O&M Agreement, (iii) an extensive and in-depth assessment and analysis of the Proposals by the Consultants and the Partnership Committee, and (iv) the scoring of the Proposals by the Partnership Committee based on clearly-articulated evaluation criteria to achieve the Government's objectives for the Project. Awarding the Project to HMSI will allow MTA to (A) allocate the risks and responsibilities of operating the Ferry Systems to HMSI; and (B) leverage innovation and experience, which will improve the quality and reliability of the Ferry System.

In light of all of the above, the Partnership Committee unanimously recommends to the Board of Directors of the P3 Authority and MTA that HMSI and HMS LLC, its wholly owned subsidiary that will act as the initial operator of the Project, be awarded the Project and the Operation and Maintenance Agreement.



**Approved and received by the Partnership Committee Members:**



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**Julian Bayne Hernández**  
*Chief Financial Officer*  
Financial Advisory Authority and Fiscal Agency of  
Puerto Rico



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**Miguel A. Betancourt Burgos**  
*Deputy Director*  
Puerto Rico and Island Municipalities Maritime  
Transport Authority



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**Carlos M. Contreras Aponte**  
*Secretary*  
Department of Transportation and Public Works



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**Noelia García Bardales**  
*Executive Director*  
Puerto Rico Convention Center District Authority



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**Romel Pedraza**  
*Assistant Executive Director for Planning,  
Engineering and Construction*  
Puerto Rico Ports Authority

# APPENDIX 1



## DEFINITION OF KEY TERMS and ABBREVIATIONS

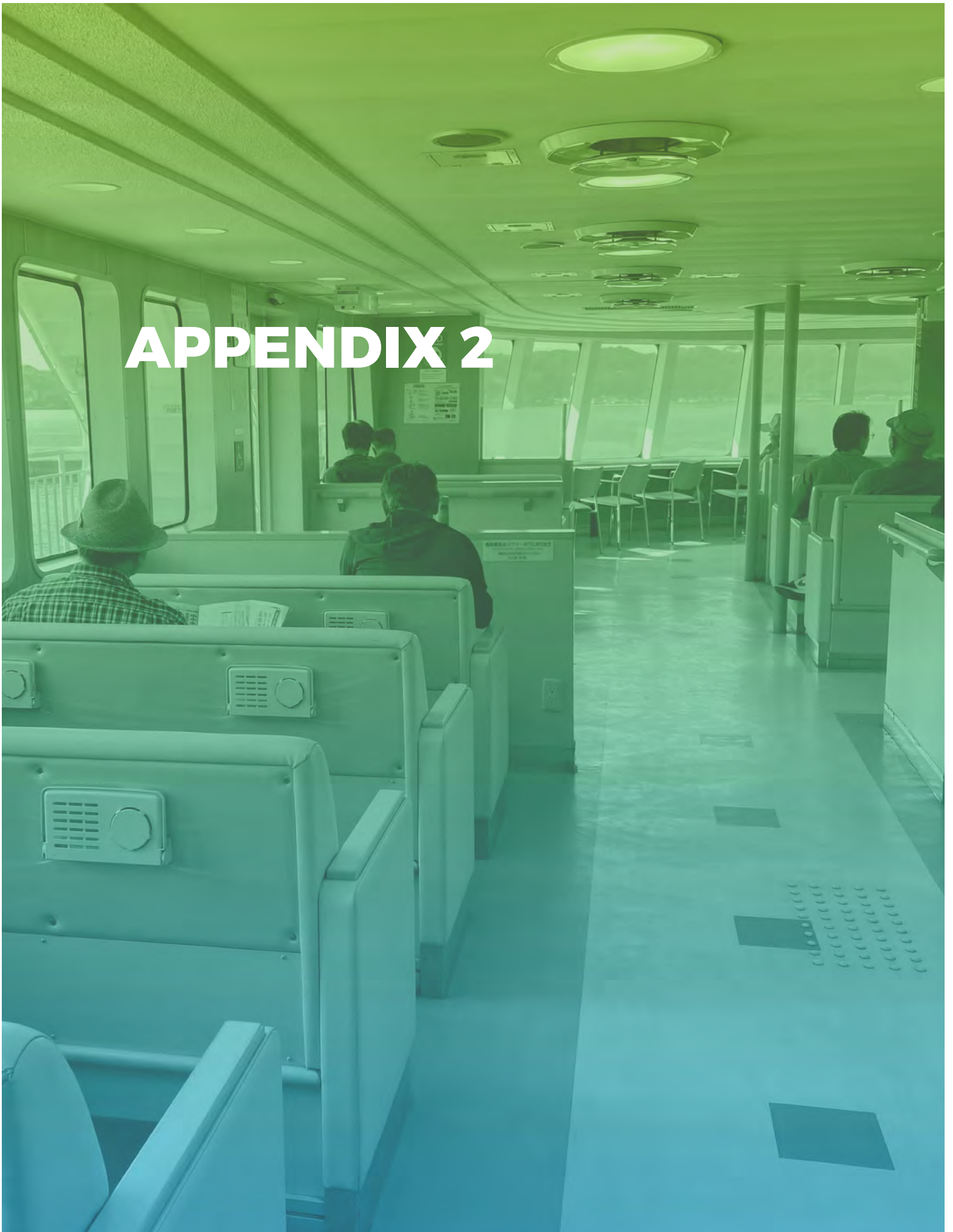
Below are the definitions of the key terms and abbreviations used throughout the Report and the sections of the Report where each of the terms and abbreviations first appear.

Term & Definition	Section
“ <b>Act No. 29</b> ” or “ <b>P3 Act</b> ” means the Public-Private Partnership Authority Act, Act No. 29-2009, as amended.	1.1
“ <b>Act 141</b> ” means Act No. 141-2019, also known as the Transparency and Expedited Access to Public Information Act.	4.10
“ <b>Commercial Closing Date</b> ” or “ <b>Commercial Closing Deadline</b> ” means the date by which the OMA must be executed.	3.3
“ <b>Committee for the Transition of Ferries to Ceiba</b> ” means the committee created in connection with the transition of the operations of MTA to Pier 2 at the Roosevelt Roads Naval Base in Ceiba.	4.4
“ <b>DBE</b> ” means Disadvantaged Business Enterprise.	1.3
“ <b>D&amp;C Study</b> ” means the Desirability & Convenience Study carried out in connection with the Project.	1.3
“ <b>Data Room</b> ” means the area accessible by Proposers that contains all data pertinent to the RFP and the RFP Process.	4.5.2
“ <b>Evaluation Criteria</b> ” means criteria for the evaluation and scoring of the Proposals.	5.1.1
“ <b>Ferry Services</b> ” means collectively the Island Service and the Metro Service.	1.2
“ <b>Ferry System</b> ” means the assets utilized in connection with the operation of Ferry Services, including but not limited to all vessels, facilities, docks, equipment, and the Maintenance Facility.	1.2
“ <b>Financial Proposal</b> ” means the financial portion of a Proposal.	1.3
“ <b>Fiscal Plan</b> ” means the Government’s Fiscal Plan, as certified on May 27, 2020 by the FOMB.	5.2.4
“ <b>FOMB</b> ” means the Financial Oversight and Management Board.	2
“ <b>FTA</b> ” means the Federal Transit Administration.	1.3
“ <b>Government</b> ” means the Government of Puerto Rico.	1.3
“ <b>Guidelines</b> ” means the Guidelines to Address Potential Unfair Advantages in the Procurement of the Puerto Rico Maritime Transportation Services Project approved by the Partnership Committee.	4.4
“ <b>HMS Global</b> ” means HMS Global Maritime Inc.	1.2
“ <b>HMS LLC</b> ” or “ <b>Operator</b> ” means HMS Ferries – Puerto Rico LLC.	1.1
“ <b>HMSI</b> ” means HMS Ferries, Inc.	1.1
“ <b>Island Service</b> ” means the operation of ferry services in the route between Ceiba and the Municipalities of Vieques and Culebra.	1.2
“ <b>Maintenance Facility</b> ” means the MTA’s maintenance facility located in Isla Grande.	1.3
“ <b>Metro Service</b> ” means the operation of ferry services in the route between Old San Juan and Cataño in the San Juan Bay.	1.2
“ <b>MTA</b> ” means the Puerto Rico and Island Municipalities Maritime Transport Authority.	1.1
“ <b>MTA Act</b> ” means Act No. 1-2000.	1.2

<b>“Operation and Maintenance Agreement” or “OMA” or “O&amp;M Agreement”</b> means the Maritime Transport Operation and Maintenance Agreement.	1.1
<b>“P3 Authority” or “PPPA”</b> means the Puerto Rico Public-Private Partnerships Authority.	1.1
<b>“Partnership Committee”</b> means the committee responsible for (1) the qualification, evaluation and selection processes of the proposed PPP; (2) establishing the terms and conditions of the OMA, and (3) reporting on the procedures followed.	1.1
<b>“Phase 1”</b> means the initial operating period following the Commercial Closing Deadline and continuing to the third anniversary thereof.	3.3
<b>“Phase 2”</b> means the operating period following Phase 1 of the Project’s term and continuing to the 23 <sup>rd</sup> anniversary of the commencement of Phase 1.	3.3
<b>“Phase 2 Fixed Fee”</b> means the annual fixed subsidy request included in Proposals for (i) the development and implementation of a ticketing system during the Phase 1 transition, and, (ii) to cover the cost of operating and maintaining the Ferry System during the Phase 2 period.	1.3
<b>“PPP or P3”</b> means a public-private partnership.	1.3
<b>“Preferred Proposer”</b> means the Proposer selected to engage in exclusive negotiations of the OMA with MTA.	2
<b>“PRFF” or “Other Proposer”</b> means Puerto Rico Fast Ferries, LLC.	1.3; 4.4
<b>“Project”</b> means the operation and maintenance of the Ferry System, the development and implementation of a new ticketing system, and the conduct of other ancillary commercial activities.	1.1
<b>“Proposal(s)”</b> means a response submitted by Proposers pursuant to the RFP.	1.3
<b>“Proposal Security”</b> means the security required to be provided by Proposers to secure obligations under the terms and conditions of the RFP.	1.3
<b>“Proposal Submission Deadline”</b> means May 20, 2019, the deadline for submission of Proposals.	4.5.4
<b>“Proposal Validity Period”</b> means the period that Proposals remain in effect after the Proposal Submission Deadline.	4.5.1
<b>“Proposer”</b> means an entity that submits a Proposal pursuant to the RFP.	1.3
<b>“PRPA”</b> means the Puerto Rico Ports Authority.	3.1.2
<b>“Qualified Respondent”</b> means the Respondents shortlisted by the Partnership Committee to participate in the next stage of the P3 procurement process.	4.4
<b>“Recommended Award”</b> means the Partnership Committee’s recommendation to the P3 Authority Board that the OMA be awarded to HMSI.	4.1
<b>“Regulation”</b> means Regulation No. 8968 of May 4, 2017 known as the Regulation for the Procurement Evaluation, Selection, Negotiation and Award of Participatory Public-Private Partnership Contracts.	2
<b>“Report”</b> means this Partnership Committee Report.	1.1
<b>“Respondent”</b> means an entity that submitted a response to the RFQ.	1.3
<b>“RFC”</b> means a Request for Clarifications.	4.4
<b>“RFP Process”</b> means the procurement process conducted pursuant to the RFP.	1.3
<b>“RFP”</b> means the Request for Proposals.	1.3
<b>“RFP-RFC”</b> means RFCs in connection with the Request for Proposals.	4.5.4
<b>“RFQ Process”</b> means the qualification process conducted pursuant to the RFQ.	1.3
<b>“RFQ”</b> means Request for Qualifications.	1.3
<b>“SOQ”</b> means Statement of Qualifications.	1.3; 4.4
<b>“Technical Proposal”</b> means the Technical portion of a Proposal.	1.3

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# APPENDIX 2



Puerto Rico Public-Private Partnerships Authority

# Desirability and Convenience Study for the Puerto Rico Maritime Transportation Services Project

[www.P3.PR.GOV](http://www.P3.PR.GOV)  
April 2018



## General Disclosure

This Desirability and Convenience Study (the “Study”) has been prepared pursuant to the requirements of Act No. 29-2009, as amended, also known as the Puerto Rico Public-Private Partnerships Act (“Act”) and the Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Participatory Public-Private Partnership Contracts under Act No. 29-2009, as amended (“Regulation”). This Study seeks to determine whether it is advisable and convenient for the Government of Puerto Rico (“Government”) to procure a Public-Private Partnership (“P3” or “PPP”) that consists of the operation and maintenance of the public maritime transportation services currently provided by the Puerto Rico and Island Municipalities Maritime Transportation Authority (“MTA”) within the San Juan Bay (“Metro Service”) and between the Municipality of Ceiba and the Municipal Islands of Vieques and Culebra (“Island Service”) and the operation of the maintenance facility located in Isla Grande, San Juan (collectively, the “Project”).

The Study was formulated in accordance to Section 7(b) of the Act and the different sections of the Regulation regarding the Desirability and Convenience Study of the Puerto Rico Public-Private Partnerships Authority (“Authority”). This Study was commissioned under the supervision of the Authority and in consultation with its technical advisors, Steer Davies Gleave (“SDG”) and KPFF Consulting Engineers (“KPFF”), legal counsels Pietrantonio, Mendez & Alvarez LLC (“PMA”) and Hunton and Williams (“H&W”), and procurement and financial advisor, KPMG LLP (“KPMG”) (collectively, the “Advisors”).

This Study contains the results of KPMG’s analysis of SDG and KPFF’s technical inputs. KPMG also reviewed SDG and KPFF’s inputs, assumptions and estimates contained herein,

and provided recommendations to the Authority for delivery and structure of the Project.

This Study is based on information provided by the MTA, the Authority, and market information obtained from sources believed to be reliable, and estimates and assumptions made by SDG, KPFF, and KPMG. Actual results may vary from those anticipated in this Study. Changes in local, state and federal laws, or shifts in the overall economic condition of Puerto Rico may occur that can alter the assumptions and conclusions presented in this Study. It is recommended that further analysis and due diligence be conducted in subsequent phases of the Project.

In order to gauge industry interest in the Project, the Authority is asking for comments in connection with the Study. The comments must be submitted in writing to the following email: [rfq-ferrysystem@p3.pr.gov](mailto:rfq-ferrysystem@p3.pr.gov). The Authority will acknowledge receipt of those comments submitted by email within two (2) business days of receipt. The Authority may also, but will not be obliged to, respond or ask follow-up questions regarding the comments received. **The deadline for submitting comments is Friday, May 5, 2018 on or before 5:00 p.m. (AST).**

As new information becomes available, the Authority will continue to evaluate and analyze the desirability and convenience of the Project as a P3. The Authority does not make any representation or warranty whatsoever, including representations or warranties as to the accuracy or completeness of the information contained herein, including estimates, forecasts, or extrapolations. In addition, the Study includes certain projections and forward-looking statements with respect to future performance that reflect certain assumptions and are subject to significant business, economic and competitive uncertainties and contingencies, many of which are beyond the control of the

Authority and the MTA. Accordingly, there can be no assurance that such projections and forward-looking statements will materialize. The actual results may vary from the anticipated results and such variations may be material. The Authority, the MTA, and the Advisors expressly disclaim any liability for any representations or warranties, expressed or implied, contained herein or for any omissions from this Study or any related matters.

The Act and the Authority's regulation, as well as all applicable Puerto Rico and federal laws and regulations, will govern the dissemination of this Study.

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## Executive Summary

### Introduction

In order to provide a safe, reliable, and continuous ferry transportation service to the citizens and visitors of Puerto Rico, there is a need to revitalize MTA assets and increase the efficiency of the current service, as the majority of MTA vessels and facilities have approached the end of their service life. In order to achieve the desired objectives of the Project, the Authority is considering a P3 delivery method. This Study aims to determine the feasibility of the Project by comparing the traditional business as usual (as defined in Section 4) (“Business as Usual”) method with an innovative P3 delivery approach.

The Advisors have facilitated the development of this Study at the request of the Authority, acting on behalf of the Government and the MTA.

### Objectives of the Study

The purpose of this Study is to help evaluate the feasibility of procuring the Project through a P3 as an alternative to the existing operating model utilized by the Government.

This Study describes the need and objectives for delivering the Project, assesses and compares the value of various delivery model options, describes the key assumptions behind the inputs utilized to develop a quantitative analysis, and quantitatively evaluates the preferred delivery models. Based on these items, the Study aims to discuss the preferred delivery approach for the Authority in procuring the Project.

To address the major needs of revitalizing Puerto Rico’s maritime transportation infrastructure and addressing the current conditions faced by the MTA, the Authority plans to achieve a

number of objectives through the procurement of the Project, including one of the major hurdles in procurement of an infrastructure project in Puerto Rico- the island’s current fiscal and economic condition. The Authority’s objectives include navigating these risks and procuring the Project in light of this situation by mitigating or transferring the majority of Project risks, and reducing exposure to Government funding.

Given the deteriorating asset conditions of the MTA ferry service, which has been plagued by major maintenance backlogs and unreliable service, the Authority expects to enhance service reliability and ensure safety of employees and customers, increase and optimize revenue, and reduce costs through private sector innovation and expertise. Ultimately, the Project’s procurement is expected to reduce the amount of public funding required to efficiently operate the service. By shifting the risks of the Project to a party who is best able to manage them, the Authority can seek to deliver one of the first P3 projects in Puerto Rico following the financial crisis.

### Project Need

The MTA has been challenged by the task of maintaining the ferry operation in a state of good repair and providing consistent and reliable service desired by the people of Puerto Rico and its visitors. Current facilities and vessels are in operation beyond their typical service life, given the inefficiency of the public sector and the uncertainty of available funding – both of which have led to increased maintenance costs, service issues, poor ferry conditions, and safety concerns.

Further, given the reliance of the MTA on Government subsidies, it is important that the Authority procure the Project with a delivery method that limits credit exposure to the

Government. As historical results suggest, it remains inefficient and costly to maintain the Project under the Business as Usual method. As the Project aims to become one of the first P3 projects to be delivered while in the midst of the Puerto Rico financial crisis, the delivery method will need to adapt to current economic and fiscal circumstances while contributing to achieve a real incremental effect on long-term growth for the island.

Implementation of the Project will address the structural issues of terminals and other facilities, and fund the acquisition of new vessels dependent on available Government and U.S. Federal Transit Administration (“FTA”) funding. Further, procuring the Project is expected to introduce additional commercial activities as well as efficiencies that will drive down costs and ultimately reduce the public subsidy required by the Government.

### Qualitative Assessment

This Study evaluates the delivery models that may be available to the Government as procurement options for the Project. These include both the traditional Business as Usual delivery model that the Government currently employs to provide the ferry service through the MTA, as well as alternative delivery P3 options, including but not limited to the following: (1) a demand risk option, where a private party assumes the risks associated with collection of revenue; and (2) an availability payment option, where the Government assumes the risks associated with collection of revenue.

Under both P3 delivery models, the private party will be responsible for the operation, maintenance, improvement, and management of the Project, with the Government retaining ownership of the Project’s assets. The three

models reflect a range of alternatives along a spectrum of risk transfer solutions.

When evaluating the Availability Payment P3 (as defined in Section 4), it was determined that the drawback of this structure is a private party’s unwillingness to assume the ongoing credit risks associated with exposure to Puerto Rico’s current fiscal situation, as well as the uncertainty of funds available to the MTA to pay a continuous availability payment to a private party.

Therefore, following qualitative analysis of the various delivery models, the traditional Business as Usual model and the operation, maintenance, improvement, and management structure where a private party is responsible for farebox and other revenue (“Demand Risk P3”) were selected for further quantitative evaluation.

### Quantitative Analysis

The overall results of the analysis demonstrate that the Demand Risk P3 approach is estimated to provide the greatest reduction in the public subsidy required to continue to operate the ferry service. The Demand Risk P3 approach is estimated to require a subsidy of \$261 million over the life of the Project on a present value basis, compared to \$487 million if the Project remains under operation by the Government, resulting in \$227 million savings over the life of the Project. The Demand Risk P3 approach further provides the additional advantages of spurring innovation and delivering a more efficient and reliable operation and management of the ferry service.

### Conclusion

Although the Business as Usual option offers familiarity, it does little to fulfill many of the Authority’s and the MTA’s procurement



objectives such as risk allocation, cost reduction, or expanding resources available for critical capital investment. Alternatively, procuring the Project as a Demand Risk P3 introduces private sector experience and expertise, resulting in reduced cost exposure, increased revenue, and the transfer of substantial risk from the MTA to the private sector. Partnering with a private party is further supported by Puerto Rico's current economic and fiscal environment and is expected to result in a public subsidy that is \$227 million less than that required under the Business as Usual model on a present value basis, inclusive of the foregone revenue associated with the Business as Usual case. In addition to this direct monetary benefit, utilizing a Demand Risk P3 will result in the Project being more efficient, innovative, and better positioned to serve the needs of the ferry's riders.

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# Section 1 – Objectives of the Study & Procurement



## Section 1 – Objectives of the Study & Procurement

### 1.1 Study Objectives

The Study was requested by the Authority in order to determine and evaluate the feasibility of delivering the Project through an innovative method such as a P3 option, compared to the Business as Usual method currently implemented by the MTA. This Study aims to assess and compare the feasibility of different Project delivery models, analyze the benefits of each delivery model, and identify the preferred method for the Authority to consider in delivering a Project that meets the MTA's and the Authority's objectives and goals.

The steps taken in this Study to achieve the MTA's and the Authority's objectives are as follows:

- Identify the objectives and need for the Authority and the MTA to procure a private party to enhance the Project's service, reliability, safety, and ultimately reduce the need for public funding support
- Assess the value that each delivery model brings and select the models that best meet the Authority's and MTA's objectives for further quantitative analysis
- Describe the input values utilized to compare each of the selected models
- Quantitatively evaluate through a Value for Money ("VfM") analysis the selected delivery models based on input values
- Convey the results of the VfM analysis highlighting the preferred delivery model based on the quantitative analysis and the Authority's and the MTA's objectives.

### 1.2 Procurement Objectives

Discussion between the Government, the Authority, the MTA and the Advisors has resulted in the following goals to be achieved through the procurement of the Project. The objectives listed below ensure consistency in the focus of the analysis presented in this Study, and the selected procurement method should reflect the objectives listed herein. The delivery options for the Project analyzed in this Study will be evaluated against the procurement objectives listed below in identifying the preferred method of Project delivery. The procurement objectives for the Project are as follows:

#### *Procurement Objectives*

- Maintain customer and crew safety
- Improve the quality of service and reliability
- Increase resources for vessel and terminal maintenance
- Streamline workforce to provide an efficient amount of employees
- Allocate project risks and responsibilities to the party best able to manage them
- Increase revenue by introducing and improving ancillary revenue sources
- Reduce costs through innovation and private sector experience
- Decrease the amount of public funding required to operate the Project by pricing the service to better reflect operating costs
- Reduce exposure to the current fiscal situation in Puerto Rico
- Modernize public services and build a stronger and more resilient infrastructure
- Become the first P3 project to be delivered while in the midst of the financial crisis and adapt to current economic and fiscal circumstances

### 1.3 Study Participants

The Government, through the Authority and the MTA, has assembled as a team to evaluate the feasibility of delivering the Project as a P3. The participants in the Study and procurement of the Project and their respective roles are described in more detail as follows:

#### ***Department of Transportation and Public Works***

Puerto Rico Department of Transportation and Public Works (“DTOP”) is the executive department responsible for the regulation of transportation and public works in Puerto Rico. DTOP will oversee the Project as an essential component of the Government’s long-term transportation initiatives, which will be implemented, in this case, by the MTA.

#### ***Puerto Rico and Island Municipalities Maritime Transportation Authority***

The MTA was pursuant to Act No. 1-2000, as amended, otherwise known as the Puerto Rico and Island Municipalities Maritime Transport Authority Act (the “MTA Act”). The MTA Act established the MTA as a public corporation which owns ferry assets currently used to provide maritime services to Fajardo, Vieques, Culebra, San Juan, and Cataño. MTA’s purpose is to control, administer, operate and maintain the maritime transportation service and related assets in Puerto Rico.

#### ***Puerto Rico Public-Private Partnerships Authority***

The Authority is the sole entity responsible for the implementation of P3s in Puerto Rico. The Authority promotes an ongoing collaboration between the public and private sector to promote sustainable economic development

and establish Puerto Rico as a global competitor in the industry of goods and services. The Authority is leading the procurement of the Project along with the MTA.

The Advisors were appointed by the Authority who commissioned this Study, and provided insight and advised the Authority on the procurement of the Project.

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## Section 2 – Statement of Need & Project Overview



## Section 2 – Statement of Need & Project Overview

### 2.1 Statement of Need

The Government recognizes that the quality and level of service for maritime transportation is linked to the stability and sustainability of a cohesive and robust operating and funding plan. For various reasons, the MTA has been challenged by the task of maintaining the ferry operation in a state of good repair and providing consistent and reliable service desired by the people of Puerto Rico and its visitors. The MTA is facing a fundamental challenge as it looks to remain financially sustainable over the long-term. There are critical and inter-related elements of this challenge:

- the Government's General Fund is under financial pressure
- the ferry system is currently operating under a poor level of service
- there is limited capability to promote and improve the level of service
- assets are in need of repair, introducing safety concerns for users of the ferry system

#### *Public Funding*

The Government, its agencies, public corporations and instrumentalities are currently in the midst of profound fiscal adjustments as a result of ongoing financial crisis. Since the crisis and amid fiscal oversight, the Government has taken steps to reduce its obligations, which includes optimizing the amount of public support that it provides for services such as the MTA. Uncertainty in the availability of future funds is a key concern to properly operating, maintaining, and investing in the MTA to ensure a safe and reliable service for residents of Puerto Rico and its visitors.

#### *Poor Level of Service*

The MTA aims to provide and maintain a reliable, efficient ferry system; however, the current level of service remains inefficient and unreliable, which increases the amount of public support required to operate the service. Currently, reduced vessel reliability and a high level of unscheduled trips have both disrupted service, and contributed to unsustainable operating costs. The service is currently priced at levels that are generating demand levels that are frequently unmet by current sailings. In addition, the lack of a consolidated ticket collection system has resulted in long lines and uncertain capacity, resulting in unreliability to the service.

#### *Limited Ability to Improve the Service*

Current operations of the ferry suggest limited ability for the MTA to improve the service. Improvements that have not been made, for different reasons, include:

- Lack of fare increases since 1987, which only cover less than 6% of operating expenses
- Lack of consolidated ticket system
- No exploration of ancillary revenue sources
- Inadequate and ineffective marketing
- Lack of funds to acquire new vessels

#### *Assets are in Need of Repair*

As costs increase without a commensurate increase in revenue, the lack of funding creates deferred maintenance backlogs and further increases in costs, reductions in service, and uncertainty surrounding passenger safety. For instance, the main Fajardo terminal facilities were closed due to structural problems and following hurricanes Maria and Irma, the existing facilities suffered serious damage affecting overall services. Many of the vessels that are used to transport passengers are also well



beyond their useful lives. Without adequate transportation via a ferry service, passengers have no access to the vital services needed on each island.

Given that MTA services are a catalyst for tourism and economic development, as well as highly essential to the residents of Puerto Rico and its visitors, there is a profound need to enhance the services of the MTA by addressing operational issues, increasing costs, and reductions in revenue.

## 2.2 Current MTA Operations

The current services provided by the MTA are described below:

### *Operations*

The residents in the Island Municipalities have no other options provided by the Government to reach the main island. In order to effectively develop both islands to their social and economic potential, a reliable ferry service must be provided to link residents, businesses, and tourists to the offshore islands, connect island residents to the essential services (i.e., health, education, and commercial services) that are provided in the main island, and safely transport island residents in the event of a storm or emergency event.

Currently, the MTA operates three scheduled ferry services with 13 vessels in 5 terminals, running 7 days per week. The services are split into two main categories: Metro Services and Island Services.

### **Metro Service**

The Metro Service operates between the Metropolitan Region of San Juan (comprised of the municipalities of Bayamón, Cataño,

Guaynabo, San Juan, and Carolina). The following map shows the services provided between San Juan and Cataño.



### **Island Service**

The Island Service connects the islands of Vieques and Culebra to Fajardo on the main island. The following map shows the services provided which link Vieques and Culebra to Fajardo.



In addition to passenger services, the MTA also provides cargo and fuel transportation to the islands of Vieques and Culebra, as well as transportation for special events. MTA also operates a maintenance facility in Isla Grande, San Juan.

### *Passenger Demographics*

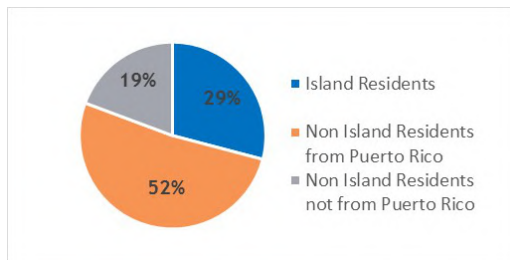
The Metro Service is primarily used by commuters to Old San Juan and by visitors to Old San Juan for leisure purposes. The Island Service serves two distinct markets: the first is island residents, for whom the ferries provide the only affordable travel option (\$2.00 and \$2.25 for Vieques and Culebra each way, respectively) to



the main island of Puerto Rico. The other market served is visitors, primarily, but not exclusively, from the main island of Puerto Rico.

An extensive survey was conducted to better understand the passenger market using the Vieques and Culebra (“Municipal Islands”) services. Surveys were carried out between August 3, 2015 and August 10, 2015, yielding 1,200 completed surveys. The survey results suggest that Municipal Island residents account for less than one-third of passengers.

**Island Service Passenger Demographics**



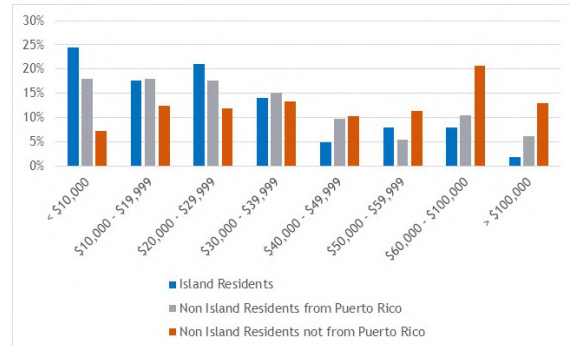
The survey results also suggested that 77% of non-residents traveling to the Municipal Islands are primarily doing so for vacation. Residents of the Municipal Islands traveling to the Puerto Rico mainland have varying reasons for doing so, including work, visiting relatives or friends, shopping, or personal business.

Overall, 77% of respondents identified themselves as Puerto Ricans, while 44% of the respondents were visitors living in the continental United States.

**Household Income of Island Service Passengers**

Household income for respondents who are visitors from outside Puerto Rico is significantly higher than for residents of the Municipal Islands. For such visitors, 45% have a household income over \$50,000, while only 18% of residents do. In comparison, 63% of residents

have household incomes below \$30,000, while only 31% of visitors from outside Puerto Rico have incomes in this range. The Island Service passengers who are residents of Puerto Rico, but not of the Municipal Islands, have income levels between those of these two groups, as shown in the chart below.



Travelers flying between the Municipal Islands and the main island of Puerto Rico were also surveyed for comparison. The air travel market was found to be quite distinct from ferry users. They generally have higher income levels than those using the ferries, with perhaps the most striking difference being where these users reside. Results of the sample of non-ferry users were overwhelming indicating that users are from outside of Puerto Rico.

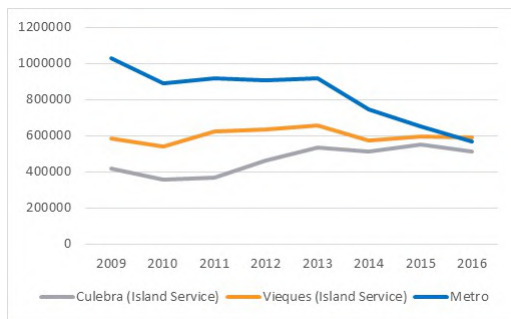
Based on the results of the survey, the following can be concluded regarding the current operations of Metro and Island Services:

- Most travelers are Puerto Rico residents traveling for leisure purposes with slightly higher income than residents of the Municipal Islands
- Municipal Island residents have lower income than other users of the service and cannot afford other means of transportation
- Ridership may increase if service attracts non-residents on vacation or leisure

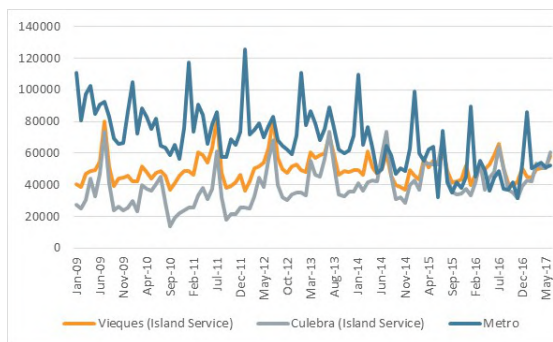
**Ridership**

The charts below show annual and monthly ridership for the Island and Metro Services. For the Island Service, ridership displays a strong seasonal pattern related to tourism activity, with large peaks in July. From 2009 to 2016, ridership on the Vieques and Culebra service has been fairly constant. Metro ridership peaks in January of each year. However, overall ridership has decreased following a reduction of service in early 2014 and subsequent intermittent service.

**MTA Annual Historical Ridership**



**MTA Monthly Historical Ridership**



**Current Vessels**

<sup>1</sup> In dry dock, USCG Certificate of Operation pending, as of 30 January 2018

**Metro Service Vessels**

The current Metro Service fleet consists of the following vessels:

Name	Year Built	# Passengers
Amelia	1989	146
Covadonga	1990	146
La Decima	2009	46
La Princesa	2009	146

Of these vessels, the Covadonga and Amelia are past their expected service life and should be replaced with new vessels having similar passenger capacity. La Decima is a viable backup vessel but does not have the passenger capacity to serve as a primary vessel on this route. La Princesa has adequate passenger capacity but does not have the speed necessary to provide the level of service that may be required during peak demand periods.

**Island Service Vessels**

The Islands Service fleet currently consists of the following vessels:

Name	Year Built	# of Passengers
<b>Passenger-Only Vessels</b>		
Caribeña <sup>1</sup>	2004	236
Cayo Blanco <sup>2</sup>	2009	600
Fajardo II <sup>2</sup>	1996	272
Vieques II <sup>2</sup>	1996	523
<b>Passenger + Cargo Vessels</b>		
Cayo Largo <sup>1</sup>	2008	300
Cayo Norte <sup>2</sup>	1995	198
Isla Bonita <sup>1</sup>	2012	355
Isleño <sup>1</sup>	2004	204
Santa Maria <sup>1</sup>	1990	137

The MTA is currently in the process of conducting a complete survey of the Metro and Island Service vessels to determine the current

<sup>2</sup> In service as of 30 January 2018

conditions of the fleet, as suggested in the MTA's 2017-2026 Fleet Maintenance Plan.

### ***Current Facilities***

#### **Metro Service Terminals**

The Metro Service connects terminals in Old San Juan and in Cataño. The terminals provide two operating slips, passenger waiting areas, ticket booths, and spaces available to rent for concessionaires. The terminal in Cataño also provides an overnight moorage/maintenance slip and a small maintenance shop for general maintenance and light repairs.

#### **Island Service Terminals**

##### *Fajardo*

The primary terminal for the Island Service is currently in Fajardo and it includes two vehicle loading ramps, three slip for loading passengers, a vehicle holding and freight staging area, ticket booths, a passenger waiting area, and several administration, maintenance and storage buildings.

The primary terminal for the Island Service will move to a new terminal within the former Naval Station Roosevelt Roads in Ceiba. This new terminal will include two combination freight and passenger operating slips, two passenger-only operating slips at Pier 2 and a moorage / maintenance area.

##### *Culebra and Vieques*

The terminals in Culebra and Vieques provide loading facilities for both passengers and vehicles as well as ticket booths and administrative offices. The terminal in Vieques provides spaces available to rent for concessionaires.

##### *Isla Grande Maintenance Facility*

The maintenance facility in Isla Grande includes a Synchrolift™ ship lift that can handle most of the vessels in the MTA fleet for hull inspections, cleaning, maintenance and repairs as well as a series of transfer rails that allow multiple vessels to be served at the same time. Other yard equipment includes cranes, forklifts, trucks and miscellaneous portable equipment. The maintenance facility also includes an office building, warehouse, and shops building. The shops building includes facilities for welding, pipe fitting, carpentry, sheet metal work, and electrical repairs.

##### *Ticketing*

The current ticketing system requires customers to purchase tickets in-person at the terminal in Fajardo, resulting in long lines and leaving some passengers unable to make their desired sailing. The service would greatly benefit from an online system that allows for reservations ahead of time, and electronically publishes the number of tickets that are available at a given moment in time.

Given the need to upgrade current vessels and facilities to provide a reliable, safe, and efficient service, the Authority expects to procure the Project and achieve the goals and benefits discussed herein. An overview of the Project is discussed in the section below.

##### ***Current Subsidy Levels***

Given the poor level of service of the MTA, the lack of ability to improve operations, and the inability to generate sufficient farebox revenue to cover its' obligations, the MTA has historically relied on a subsidy from the Government to continue to operate the ferry service, and account for significant losses that the MTA's

operation assumes. This subsidy has totaled roughly \$26 million, \$29 million, and \$17 million in fiscal years 2014, 2015, and 2016, respectively. Further, in fiscal 2016, the MTA received \$13 million in cigarette excise tax revenue. The MTA is expected to receive \$16 million in fiscal year 2017 from the General Fund. In the past, the Highways and Transportation Authority and Puerto Rico Ports Authority have also been sources of funds to cover the MTA's operating cash shortfall.

The subsidy provided to the MTA has been minimal as it relates to the overall needs of the MTA to sufficiently operate the ferry service. In past years, the MTA has requested significantly higher amounts from the Government and due to fiscal constraints has not been allocated the total requested funds. The continued shortfall in requested funds has resulted in the current unreliable levels of service despite the MTA's intent to operate in an efficient manner.

Certain transit-related expenses incurred by the MTA are eligible for federal grants and other fund reimbursements. These grants have been received historically and are expected to fund portions of the Project's investments, capital improvement and maintenance costs. Under both the Business as Usual and Demand Risk P3 approach, the Authority also plans to use these funds to pay for certain terminal enhancements, vessel acquisition and maintenance costs.

The federal grants that the Authority has proposed to be available to the Project consist of Section 5307, 5337, and 5311 funds, which will likely total between \$39 million and \$89 million. The Authority has also identified available funding included in the Statewide Transportation Improvement Program ("STIP") No. 2, which is currently programmed for certain MTA facility improvements, operations and service initiatives related to the Project.

Available funding included in the STIP totals around \$55.8 million.

### 2.3 Project Overview

In order to improve the service of MTA's ferry system, the Authority, acting in collaboration and as an agent of the MTA, is contemplating the establishment of a P3 for the management, operation, maintenance, and improvement of the Project, which includes Metro and Island Services, and the maintenance facility located in Isla Grande, San Juan. Collectively, the enhancements are expected to provide additional revenue streams such as cargo, concessions, and parking. In light of recent developments in the Caribbean as a result of Hurricanes Irma and Maria, the Authority and the MTA are also interested in assessing the potential feasibility of providing maritime services (which may include any combination of transportation, docking, and engineering etc.) and developing additional routes to nearby Caribbean islands and/or developing a port hub for other regional maritime transportation providers. The development and establishment of a regional port hub and additional routes to the Caribbean islands in close proximity to Puerto Rico represent a significant opportunity to increase ridership and enhance the potential revenue generated from the operation of the Project.

The Project takes place and focuses on existing MTA operations and the development of a new ferry route from the Municipality of Ceiba (former Naval Station Roosevelt Roads). The scope of work comprises the rehabilitation and remodeling of existing facilities at the Fajardo terminal, improvements to the Vieques and Culebra terminals and the remodeling of existing structure and new docks at the Ceiba location. It also contemplates the replacement of vessels. The Authority also plans to use the



aforementioned funds to pay for such enhancements, vessel acquisition and maintenance costs.

The main components of the Project are described in the following sections.

### ***Fajardo Operation Facilities***

The main terminal facilities were closed due to structural problems, and thus services have been accommodated in alternate areas as a temporary solution. After hurricanes Irma and Maria, the existing facilities suffered serious damage, affecting overall services, availability of trips, and timely schedule keeping. As a result, a new terminal will be constructed in Pier 2 at the former Naval Station Roosevelt Road at Ceiba. A private party will have the right to operate the service out of the Ceiba Terminal once complete.

### **Proposed Ceiba Terminal Facilities**

The proposed Project contemplates the construction of new terminal and support buildings at Pier 2 as part of the Roosevelt Roads Redevelopment effort. Existing buildings will be re-purposed where possible and new operating slips will be built along with new parking areas and a new truck/freight queuing area. A new overnight moorage and light maintenance facility will be constructed at Pier 2. The Pier 2 facilities will be able to accommodate 6 of the 7 vessels in the Islands Service fleet.

The ferry service will continue to be operated out of the Fajardo terminal while the Ceiba terminal is under construction. The Ceiba terminal and associated facilities are expected to be paid for by the Government, either from appropriated funds, FTA grants, and other sources of federal funds.

### ***Vieques Terminal***

Vieques main terminal is located in the area known as Isabel II. The terminal facility has been operating for almost seventy five years. The construction of the canopy area was completed in 2004, and the last dredging occurred in 1998. Operational facilities are located in a two-story building which is currently not being utilized, and the first floor being used for administrative purposes. The second floor is not used in its maximum capacity and is in need of a general upgrade, remodeling and redistribution of spaces.



The proposed scope of work is organized in two main areas:

- Design or reconfigure and build new sidewalks and other paved existing areas in compliance with the Americans with Disabilities Act.
- General improvements and remodeling of the main Terminal building, including the reconfiguring of principal elements of passengers circulation, new control and checkpoint areas, interior remodeling of administrative offices with infirmary, employees' resting area, and kitchen,

storage and bathrooms spaces, for a total of 1,600 sq. ft.

The Authority expects to continue discussions with the USDA as the Project procurement progresses.

## 2.4 Available Project Funding

Funding the Project under both procurement scenarios presents a considerable challenge to the MTA and the Authority given the lack and uncertainty of available future funds, as well as fiscal oversight, among other challenges. Considering the ongoing need for public support, the Government will likely need to appropriate general revenue funds or other monies to finance an annual gap created by a lack of farebox and other revenue in covering the Project's obligations. Historically, the funds appropriated to the MTA by the Government to cover the shortfall have been insufficient and have resulted in maintenance backlogs, reduced service quality, and increased costs. Under the Business as Usual procurement approach, it is unlikely funds will be sufficient to operate the Project in an efficient and effective manner that eliminates the ferry's current issues.

To mitigate the credit risks associated with Puerto Rico's ability to fund this ongoing subsidy payment under the Demand Risk P3 approach, the Authority has initiated preliminary discussions with several different entities such as the United States Department of Agriculture ("USDA") in connection with financial assistance to the Project, in the form of a financial backstop. Receiving this payment guarantee from the USDA would reduce the exposure to credit risks and the current economic environment in Puerto Rico, which a private party may be unwilling to assume in the Demand Risk P3 approach to procuring the Project. Thus, securing a private party to operate, maintain, improve, and manage the Project may be contingent on the approval of the USDA loan guarantee, or another source of financial backstop.



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## Section 3 – Analysis Approach



## Section 3 - Analysis Approach

### 3.1 Scope of Work

The Advisors were requested to assist the Authority in developing the Study to identify the optimal Project delivery method for Puerto Rico by comparing both innovative and traditional procurement methods. The analysis aims to understand the key qualitative considerations of each option and articulates the financial impact of the options analyzed herein. Both the qualitative and quantitative analyses are described in the following sections.

### 3.2 Approach

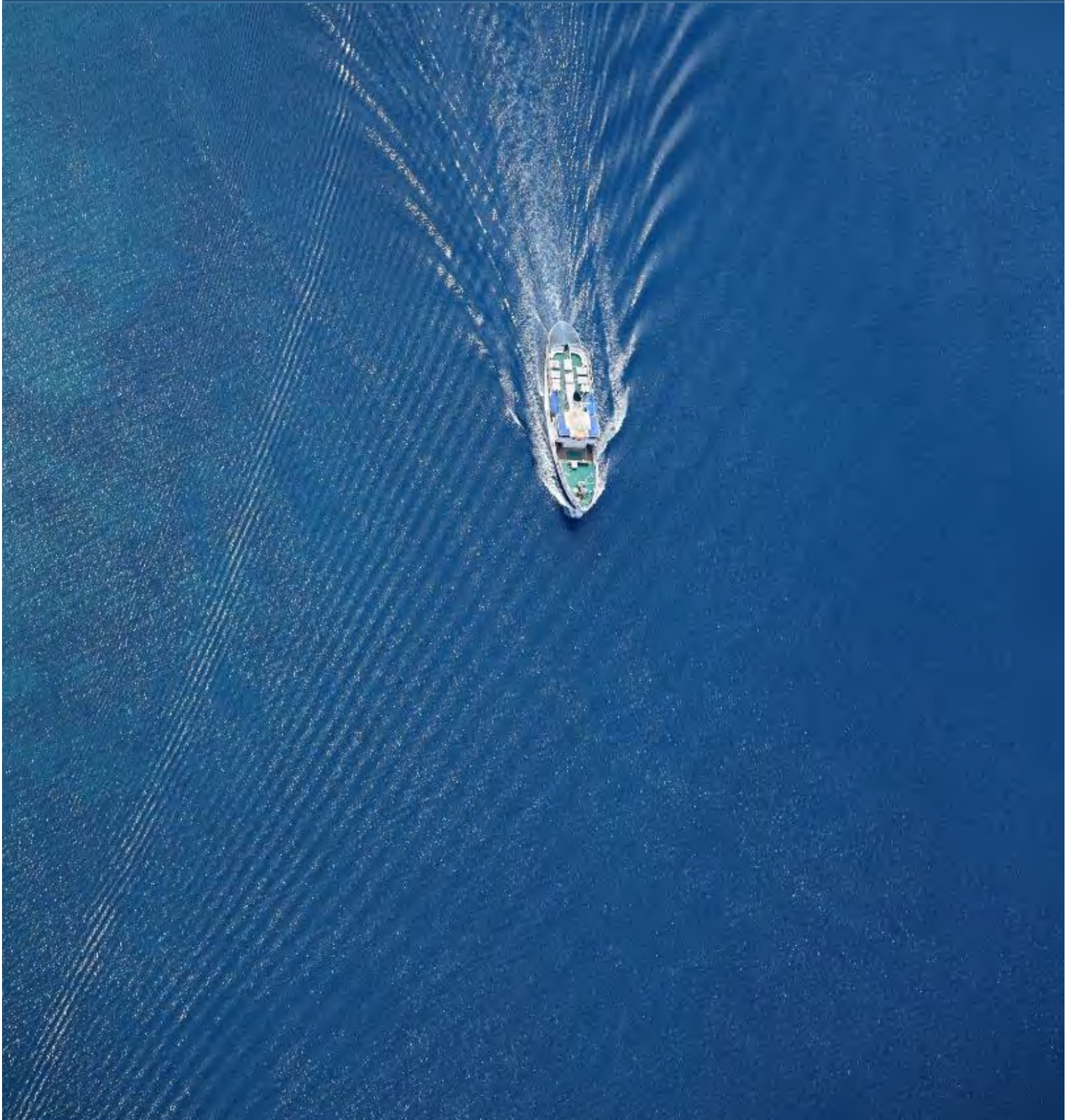
The approach used in this analysis focuses on evaluating potential project delivery options and determining the most appropriate option for the Project considering both qualitative and quantitative factors. Methodologies utilized as part of this analysis are based on generally accepted principles used by state and local governments when evaluating the case for investment and evaluating the various approaches to project delivery. Analyses of this type are routinely used by government agencies and public sector project sponsors in the U.S. and globally for making and supporting decisions. The following key activities were undertaken as part of this scope:

- **Identifying Project Goals and Objectives:** The initial stages of the analysis involved discussions with the Government, the Authority, the MTA, and other affiliated entities to identify the key objectives for the Project. These objectives ensured the consistency and focus of the following steps in the analysis and verify the selected procurement model is consistent with the parties' procurement intentions.
- **Qualitative Assessment:** During this phase of the analysis, a range of potential delivery models are evaluated against the project objectives. The outcome of this first-level delivery model screening is to identify if the established goals can best be achieved via alternative procurement methods versus a traditional Business as Usual method.
- **Inputs Analysis:** SDG, KPFF, and KPMG were consulted to provide information, preliminary revenue and cost estimates, expected O&M and lifecycle requirements, among other inputs. Assumptions were based on historical operating, maintenance, and financial data, market precedent, current market conditions in Puerto Rico, and discussions with local experts. Relying upon this information, a preliminary cost estimate of needs to complete the Project, functional requirements, and future expectations for a project of this nature was developed. These inputs were used as the basis for the financial modeling during the next phase of the analysis.
- **Affordability Analysis:** An affordability analysis was developed to evaluate the Project's ability to generate the necessary revenues to pay for the Project's obligations.
- **Value for Money Analysis:** A quantitative assessment was also performed based on the VfM comparison of the Business as Usual model against the alternative delivery methods. VfM is a fundamental component in the evaluation of project delivery models to examine the financial implications of each model in a structured "apples-to-apples" analysis. This is done by comparing estimates of the total risk-adjusted costs of operating, improving, managing, and maintaining the Project under each model over a comparable expected contract life.

- **Conclusion and Next Steps:** A combined summary of the outputs obtained through the qualitative assessment, the affordability analysis and the VfM analysis for the different delivery models is included in further sections. The process to accomplish the procurement of the Project is also discussed herein.

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## Section 4 – Project Delivery Options Assessment



## Section 4 – Project Delivery Options Assessment

### 4.1 Approach

This section describes select delivery model options available for the Project and includes their respective benefits and considerations. Based on the outcome of the qualitative assessment, the preferred delivery models are advanced for further quantitative analysis.

As part of this Study, the advisors have evaluated a broad spectrum of delivery models to develop the Project, including traditional and P3 options. The following segments of the Study provide a high-level summary of the qualitative delivery model analysis that was performed to determine which models were best suited to deliver the Project. Each delivery method was evaluated in light of the procurement objectives identified in Section 1.

#### *Business as Usual*

The Business as Usual option is the continued delivery of services by the MTA, representing Project delivery by the Government with no change to the current structure. The Business as Usual case assumes the Government takes on all risk associated with the Project, including operating, maintenance, funding/financing, vessel purchases, and other risks.

This has been the traditional approach for the MTA and the operation of the ferry system. For this delivery method, Puerto Rico retains the risk and responsibility for all elements of the Project from inception through perpetuity, including but not limited to implementation and operation of the new Ceiba terminal, maintenance of existing terminals, maintaining the shipyard facility, purchasing vessels, maintaining vessels, as well as operating the service, including paying for

labor and fuel costs, among others. To continue to operate the ferry service utilizing the same Business as Usual approach, Puerto Rico would have to fund the acquisition of new vessels, or continue to maintain the current vessels, which may be unfit to continue operating given the vessels' age. Puerto Rico may also have to maintain and repair current terminal facilities, the shipyard facility, and continue to operate ferry service. Key characteristics of this delivery approach include:

- **Familiarity and acceptance** – The delivery model is familiar to Puerto Rico as the current ferry service is provided by the MTA. As the Project is under direct control of MTA, continuing to operate in this fashion is relatively straightforward.
- **Funds appropriation process** – Despite current fiscal constraints, Puerto Rico needs to continue to appropriate general revenue funds to pay for the operation and maintenance of the ferry service throughout the Project term. A lack of availability of resources for ongoing maintenance and lifecycle costs, as well as acquisition of new vessels, has historically led to an increase in costs and significant deferral of O&M and major maintenance, as well as new vessel purchases. As the majority of the assets required to continue operation of the service (both terminals and vessels) are well beyond their useful life, continued deferral of rehabilitation work may render future service incapable of transporting passengers.
- **Value** – While value may be created due to familiarity with the Business as Usual operating method, public sector



operations may result in higher costs due to inefficiencies. Additionally, the long-term value of the assets is negatively impacted due to the uncertainty of O&M and major maintenance funding for the life of the Project.

- **Risks retained by Puerto Rico** - There is an inability to incentivize project participants under the Business as Usual model to avoid overruns and delays on maintenance, project performance, and other common risks in operating this type of infrastructure project. These risks are retained by the MTA during operations and have historically been problematic resulting in deferred maintenance and increased issues and costs with lifecycle capital improvements, as well as service reductions and uncertain ferry capacity. Puerto Rico retains all risk and responsibility for the long-term performance of the Project under a Business as Usual approach.

### ***P3 Approach***

Under a P3 approach, the Project will be procured with a private party responsible for the operation, maintenance, improvement, and management of the Project. It is expected that the Project will be procured in two phases, with Phase I acting as a transition period to ensure the operation is smoothly transferred to the private sector. During the Phase I period, the private party should enhance and make the ferry service more efficient, reducing costs and optimizing the service prior to the Phase II period.

During the term of the Project, the private party will be responsible for the collection of all farebox and ancillary revenue, and it is expected that the Government will provide a subsidy

payment to the private party for operating the service. The amount of the subsidy payment to the private party will be made net of farebox and ancillary income. Net subsidy payments as well as defined funding will compensate the private party for funding investments during Phase I and Phase II, as well as the costs incurred to reasonably operate the ferry service. As the asset is fully transitioned to the private party after the Phase I period, the Government expects the ferry operation's subsidy to be substantially reduced.

During the Project's term, the private party will be responsible for the operation, maintenance, management, and improvement of the Project, including the risks associated with any necessary capital investment of local funds for the matching required on FTA federal funds in vessels, terminals, and ports that are not covered by FTA or other funds through the Government. However, the Government expects to fund a significant portion of capital improvements through the use of grants obtained for such purposes. The private party will be responsible for the management and execution of capital improvements.

During Phase II, the Government will specify the service requirement in terms of minimum frequency and total capacity leaving it to the private sector operator to ensure the service is operational during these periods. It is expected that the private party will commercially maximize the asset during the Phase II period, including additional commercial activities, trips, and other revenue enhancements.

During both phases, the Government will retain ownership of the Project's assets, and at the end of the term all management responsibility of the Project will revert to the Government.

Two different P3 delivery models have been analyzed for this Study, utilizing the aforementioned P3 structure:

### 1. Demand Risk P3 Approach

This type of procurement provides Puerto Rico maintenance and lifecycle cost benefits, revenue enhancement, and in addition, the transfer of significant risk to the private sector partner. Given the current unwillingness of private parties to assume the risk of exposure to Puerto Rico's credit quality, it is important that the Government identify available funding to provide to the private party for operating and maintaining the asset. Although a private party is assuming the risk of sufficient farebox being available to cover the Project's obligations, it is likely a subsidy will be provided to the private sector for operating the asset.

Key characteristics of this delivery approach include:

- **Risk transfer to private sector** – Under this type of procurement method, risks associated with the operation, management, improvement, and maintenance of the Project are transferred to the private sector. This procurement method transfers Project risks to the party best able to manage them.
- **Revenue maximization approach** – The private partner is incentivized to earn a return, therefore maximization of revenue throughout the Project term is a strong incentive to maintain Project performance.
- **Innovation** – By transferring the risks associated with the Project to a private party, the ferry service receives enhanced operations resulting from the private sector's experience and

innovation. This Project knowledge may lead to significant value and efficiency and can help to avoid future project issues, and lead to reduced costs for the Government in the long run.

- **Reduction in Public Support** – Under this delivery model, Puerto Rico could reduce the amount of public support that is needed for the ferry service given the shift in revenue risk to the private sector. Further, private sector efficiencies and expertise may drive down costs and increase revenue for the service, which would ultimately reduce the amount of public funds required to maintain the service.
- **Less familiar delivery model** – This delivery model is not as familiar to Puerto Rico and might be perceived as a loss of direct control over the Project.

### 2. Availability Payment P3 Approach

Under this scenario, the private party remains responsible for the operation, maintenance, improvement, and management of the Project.

The main difference in the two structures is the payment mechanism to the private party. Under this structure, the Government will pay an availability payment that is part fixed, part index-linked at the start of the contract for the duration of the operating period. An availability payment is a single, annual unitary payment made to the private sector by the public sector sized to cover the cost of vessel acquisition, terminal and shipyard improvements, ongoing maintenance, lifecycle or major rehabilitation and replacement costs, taxes, transfers to reserves and returns to equity, among other items.

In this scenario, the Government would assume the risk of generating sufficient farebox and other revenue to cover availability payments



made to the private operator. A shortfall in revenue would not affect the amount of payments that are made to the private party, thus the Government assumes demand risk – or the risk/reward associated with revenue being sufficient to cover payments made to a private party.

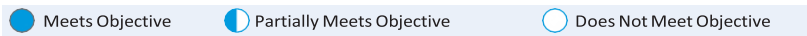
In addition to the key characteristics identified above for the Demand Risk P3 model, this delivery approach includes:

- **Performance-based incentives** - Financial incentives imposed by the contract structure, which include deductions to availability payments if established standards in the contract are not achieved, act as a powerful motivator toward incentivizing high performance.

## 4.2 Results of Project Delivery Options Assessment

The chart below compares the objectives with each procurement method analyzed.

Project Objective Considerations	Delivery Method		
	Business as Usual	Private Sector Availability Payment	Private Sector Demand Risk
<i>Maintain customer and crew safety</i>	●	●	●
<i>Improve the quality of service and reliability</i>	○	●	●
<i>Increase resources for vessel and terminal maintenance</i>	○	●	●
<i>Streamline workforce to provide an efficient amount of employees</i>	○	●	●
<i>Allocate project risks and responsibilities to the party best able to manage them</i>	○	●	●
<i>Increase revenue by introducing and improving ancillary revenue sources</i>	○	●	●
<i>Reduce costs through innovation and private sector experience</i>	○	●	●
<i>Decrease the amount of public funding required to operate the Project by pricing the service to better reflect operating costs</i>	○	◐	●
<i>Reduce exposure to the current fiscal situation in Puerto Rico</i>	○	○	◐
<i>Provide a boost in economic activity for the entities involved in the operation, maintenance and other portions of the Project</i>	◐	◐	●
<i>Modernize public services and build a stronger and more resilient infrastructure</i>	◐	●	●
<i>Become the first P3 project to be delivered after the financial crisis and adapt to current economic and fiscal circumstances</i>	○	◐	●
<i>Achieve the Governor's priority of implementing the MTA ferry Project as a P3</i>	○	●	●



As can be seen in the chart, the Demand Risk P3 approach is the method of procurement that satisfies the majority of the Project objectives considerations.

The qualitative analysis conducted herein determined that the private sector operating model that transfers the risk of managing, operating, maintaining, and improving the Project as well as a private party assuming demand risks (Demand Risk P3) associated with the ferry service is the most optimal delivery model option for the Project when evaluated against the procurement objectives.

When evaluating the Availability Payment P3 model, it was determined that the drawback of this structure is a private party's unwillingness to assume the credit risks associated with exposure to Puerto Rico's current fiscal situation. Further, given the fiscal situation, it remains uncertain as to whether Puerto Rico would have available funds to make ongoing contractually obligated payments to a private party for operating the assets. When the Authority conducted market sounding discussions, private parties' unwillingness in assuming this risk was evident.

Therefore, the private sector operating model that transfers the risk of managing, operating, maintaining, and improving the Project as well as the private party assuming demand risks will undergo further quantitative analysis herein and will be compared with the Business as Usual delivery option.

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## Section 5 – Affordability Analysis



## Section 5 - Affordability Analysis

### 5.1 Introduction

The affordability assessment discussed in this section involves a detailed, quantitative analysis that compares the preferred Demand Risk P3 approach to the Business as Usual approach. A financial model was developed for the Project that takes into consideration estimated Project ridership, revenue, and the costs associated with operating the ferry service, acquiring new vessels, maintaining current vessels, and improving and maintaining the terminal facilities and maintenance facility for the Project. The inputs utilized for the development of the model used in the Business as Usual and Demand Risk P3 portions of this analysis discussed below were derived from SDG, KPFF, and KPMG leveraging historical and expected future MTA operating and financial information, market precedent, publicly available data sources, and local insight. The inputs are preliminary estimates and should continually be refined as the Project progresses.

The analysis herein considers the costs and revenues associated with each segment in nominal year of input values and the present value associated with each input. Nominal dollar estimates are helpful when looking at cash flows over a long period of time, as the values consider the effects of inflation. To derive nominal values, the inputs (presented in real U.S. dollars) were indexed to a long-term inflation rate of 2.2%. The present value of each input refers to the current value of expected future dollar amounts, discounted back to the present using a discount rate.

The inputs utilized for the development of the model used to discern the affordability of the Project are discussed below.

### 5.2 Ridership Inputs

The preferred Demand Risk P3 approach seeks to minimize the subsidy that the ferry system incurs. This is done with measures that both increase revenues and lower costs, lowering overall ridership but maintaining a service equipped to meet the needs of Municipal Island residents and cater to a smaller tourist population.

This modeling approach takes the Island Service and Metro Service separately.

#### *Island Service*

Starting with the Island Service, several points were taken into consideration in arriving at this minimization point, the following being the most important: (1) the historically stagnant fare level; (2) the vulnerability of Municipal Island residents using the service for work and school commutes as opposed to other users utilizing the service for leisure purposes; and (3) rising operational costs. Given these points, the Demand Risk P3 case raises fare levels for all users with a fare scheme that sets higher fares for non-residents of the Municipal Island relative to Municipal Island residents, subject to FTA approval while reducing service levels. The resulting Demand Risk P3 case increases revenue while cutting costs, although it is still expected that a subsidy, while significantly lower than the current one, will be required.

Given the fact that there is no recent historical instance of price changes on the Island Service to use as the basis for arriving at a fare elasticity, comparable services and previous studies were used to model the responsiveness of users to



fare increases. Income levels of the three distinct user groups – Municipal Island residents, Puerto Rico main island residents, and non-residents of Puerto Rico – and their corresponding trip purposes were used to inform how each would respond to fare increases relative to each other. Over the relevant fare range resident responsiveness to changes in fares is inelastic, with an elasticity of -0.1. Visitors have a more elastic responsiveness to changes in fare given their higher proportion of discretionary trips, with visitors from outside Puerto Rico having the lower elasticity of the two groups given their higher incomes (-0.36 and -0.55 arc elasticities for nonresidents from outside Puerto Rico and nonresidents from Puerto Rico, respectively).

Seating capacity for the Island Service has, however, varied over time. These observed changes formed the basis for modeling how demand would respond to the reduced service defined in the Demand Risk P3 case. The relatively high elasticity was adjusted to account for the fact that, although the service was supply-constrained in the past, the higher fares in this scenario should mean a lower responsiveness to seating capacity. Again, given the differing trip purposes among the user groups, in addition to the fact that the ferry service currently gives preference to Municipal Island residents, it is expected that reduced capacity will have a minimal effect on demand from that user group.

Responsiveness to fare and service changes form the basis for the base year Island service inputs in the Demand Risk P3 case. Employment forecasts and assumptions about Puerto Rico's economic recovery in the wake of hurricanes Irma and Maria form the foundation of their forecast over the project timeline. Puerto Rico non-farm employment has proved to be a successful predictor of ridership over the model estimation period and for future year forecasts.

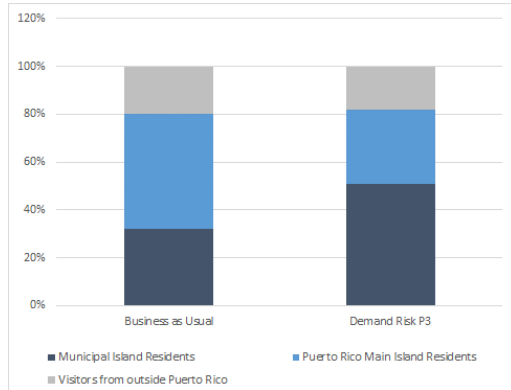
Thus, the ridership inputs are forecast to grow at a moderate rate similar to the one employment projects.

It is worth noting that although the seating capacity available following the reduction of the sailing schedule in the Demand Risk P3 Case, the extent of which is described below, accommodates demand at the start of Phase II, the moderate growth projected means forecasted ridership brushes up against and surpasses this limit during the Project's timespan. Vessel reconfiguration will likely be necessary during Phase II to meet this demand. Although the growth projected seems reasonable given the trend of the past few years, there is however, uncertainty surrounding Puerto Rico's recovery from the recent hurricanes. Similar situations of recovery from natural disaster, such as New Orleans' in the aftermath of hurricane Katrina, suggest a return to trend growth at a lower level following emigration, which is assumed in this model as well.

The Business as Usual case considers no fare or capacity changes, but makes use of the same assumptions regarding future-year ridership growth.

As shown below, this fare structure alters the composition of users. In the Demand Risk P3 case, Municipal Island residents account for 51% of ridership, as opposed to 32% in the Business as Usual case. While increasing revenues, this scenario accounts for the importance of this ferry service to that population.





These ridership forecasts were originally developed considering a Fajardo terminal on Puerto Rico’s main island. Considering the user base, these forecasts are adaptable to a Ceiba terminal given the assumption that a mode of transportation exists to connect Municipal Island residents to the Fajardo site. As Municipal Island residents have no viable alternative for consistently and regularly taking these trips, they should continue making them to the Ceiba terminal as long as there isn’t an excessive burden in getting to their final destination. Although there will be marginal differences in time given sailing distances (the Vieques route will be shorter and the Culebra route will be slightly longer), ridership shouldn’t be extremely sensitive to this variation.

**Metro Service**

The Metro Service inputs have a similar foundation, save for the second point that was taken into account for the Island service – the vulnerability of Municipal Island residents. Given that the service is heavily used by commuters, the fare will increase and be set uniformly at \$2.50 for all users, subject to FTA approval. Again, the Metro Service doesn’t have recent historical price changes to inform fare elasticity, so findings from similar services were used to inform a -0.3 elasticity to the fare change.

**5.3 Revenue Inputs**

**Before Fare Increases**

In the Business as Usual scenario, with no changes to the fare structure and with ridership inputs described above, the Island Service is projected to generate farebox revenue of \$2.1M and the Metro Service is projected to generate farebox revenue of \$330,000 in 2019. With no changes to the current operational structure, the only other main source of revenue is cargo. Under the current system cargo revenue is projected to be \$2M in 2019. It is expected that the ferry system would operate similarly in Phase I (2019-2022) in both the Business as Usual and Demand Risk P3 scenarios, hence the projected revenue in the Demand Risk P3 scenario is the same as above. Over this three-year period no significant revenue growth is expected.

**After Fare Increases**

The main source of revenue in both the Demand Risk P3 and Business as Usual cases is farebox revenue. As described above, the Demand Risk P3 case seeks to raise revenue while lowering costs to reduce the subsidy required, while keeping in mind the social and economic benefits from delivering a reasonably-priced service to Municipal Island residents. The Business as Usual case, conversely, maintains the current fare levels beyond Phase I. The revenues projected for these two cases are \$4.2M and \$2.1M for the Island services, respectively; \$700,000 and \$330,000 for the Metro Service, respectively, in 2022, the first year of Phase II.

The following offer additional revenue streams in the Demand Risk P3 case: Cargo, concessions, and parking facilities. However, in light of recent developments in the Caribbean as a result of Hurricanes Irma and Maria, the Authority and

the MTA are also interested in assessing the potential feasibility of providing maritime services (which may include any combination of transportation, docking, and engineering etc.) and developing additional routes to nearby Caribbean islands and/or developing a port hub for other regional maritime transportation providers. The development and establishment of a regional port hub and additional routes to the Caribbean islands in close proximity to Puerto Rico represent a significant opportunity to increase ridership and enhance the potential revenue generated from the operation of the Project.

Similar to passenger fares, cargo fees haven't risen in recent years, which presents an opportunity for additional revenue. Using a system that raises fees on larger items, such as cars and bicycles, to more closely reflect the amount of space they occupy and the cost of transporting them, and lowers or eliminates fees on smaller items, such as chairs and umbrellas, the Island Service has the potential to generate additional revenue (\$2.4M as opposed to \$2M in the Business as Usual case in the first year of Phase II).

The passenger survey conducted in 2015 and described in Section 2 of this study forms the basis of estimates of revenue from concession sales. Sixty percent of respondents indicated that they were likely to purchase amenities such as food or drinks either on-board or at the Fajardo terminal, and it is assumed a similar level of demand would hold for Island Service running to and from the Ceiba terminal as well. Based on expressed interest in various items (including sandwiches, soft drinks, beer and wine, and sit-down dining) an estimate of \$2.70 in purchases per passenger may be assumed. This would yield an estimated \$1.6 million a year in gross revenue. After assuming operational costs of these concessions to be 90% of revenue, this

analysis assumes the private sector may earn an additional \$160,000 in the first year of concession operations. Due to its commuter-oriented focus and shorter trip length, the Metro service isn't anticipated to be capable of generating significant revenue from concession sales.

Both the Ceiba terminal and the Cataño terminal sites have a limited area that could be used to generate parking revenue. Taking into consideration the need for employee parking and for staging area for boat purposes, there could be about 150 spaces available for parking. At the market parking rate in the two areas, this could generate an additional \$270,000 in revenue a year.

## 5.4 O&M Inputs

### *Business as Usual*

#### **Island Service**

The Island Service assumes service from Ceiba to Culebra and Ceiba to Vieques on the current schedule. This schedule provides the following level of service:

- Culebra – Ceiba Passenger-Only: 3 round-trips per day
- Culebra – Ceiba Cargo (Ro-Pax): 2 round trips per day
- Vieques – Ceiba Cargo (Ro-Pax): 4 round trips per day (large ferry); 1 round trip per day (small ferry)

In addition to the above trips, 2 fuel trips per week are assumed to each island. Passengers are not allowed on the ferries during these fuel delivery trips. Current service also includes additional unscheduled runs as needed to return visitors to the main island on busy days or when



requested by the local municipalities to support special events.

#### *Labor*

Labor costs are estimated based on the historical information from the MTA plus benefits totaling 50% of the base hourly rate. For the Metro service, Maintenance Base, and administrative staff, overtime is estimated at one hour per day. For the Islands Service, overtime is estimated at 2 hours per day.

#### *Fuel and Lubricant Costs*

Fuel costs are based on the estimated fuel consumption of the primary vessel on each route at \$2.50 per gallon based on current local prices for diesel fuel. Lubricant costs are estimated as 10% of the fuel costs. Currently, fuel for the MTA ferries is purchased through an agreement with the Puerto Rico Integrated Transit Authority ("PRITA") that provides discount bulk pricing. This discount is assumed to be 10%.

#### *General Vessel Maintenance*

General Maintenance costs are estimated as fixed cost per round trip. These costs include miscellaneous parts, cleaning supplies, and light, daily maintenance conducted by the vessels' operating crews, either while underway or dockside at the vessel's homeport. These costs are based on typical costs incurred by other operators of similar services.

#### *General Terminal Maintenance*

General Maintenance costs are estimated as a fixed annual cost. This cost includes miscellaneous parts, cleaning supplies, contracted maintenance and repairs, and utilities. Assuming major investments are made in the three Islands Service terminals in the first three years of the project, the annual

maintenance costs the terminals is estimated to be \$100,000 for the next five years, \$150,000 per year for the ten following years, and \$200,000 for the last years of the contract.

#### **Metro Service**

#### *Labor*

Labor costs are estimated based on historical MTA information plus benefits totaling 50% of the base hourly rate and one hour per day of overtime at 1.5 times the base hourly rate.

#### *Fuel and Lubricant Costs*

Fuel costs are based on the estimated fuel consumption of the primary vessel on each route at \$2.50 per gallon based on current local prices for diesel fuel. Lubricant costs are estimated as 10% of the fuel costs. Currently, fuel for the MTA ferries is purchased through an agreement with PRITA that provides discount bulk pricing. This discount is assumed to be 10%.

#### *General Vessel Maintenance*

General Maintenance costs are estimated as fixed cost per round trip. These costs include miscellaneous parts, cleaning supplies, and light, daily maintenance conducted by the vessels' operating crews, either while underway or dockside at the vessel's homeport. These costs are based on typical costs incurred by other operators of similar services.

#### *General Terminal Maintenance*

General Maintenance costs are estimated as a fixed annual cost. These costs include miscellaneous parts, cleaning supplies, contracted maintenance and repairs, and utilities. Assuming the necessary capital improvements are made in the first three years of the project, the estimated terminal



maintenance cost for the Cataño and Old San Juan terminals is \$50,000 for the next five years, \$100,000 for the following 10 years, and \$150,000 for the last years of the contract.

**Support Services**

*Shipyard Labor*

Shipyard labor costs are estimated based on historical information from the MTA, plus benefits totaling 50% of the base hourly rate and one hour per day of overtime at 1.5 times the base hourly rate.

*Central Administration Labor*

Central administration labor costs are estimated based on historical information from the MTA plus benefits totaling 50% of the base hourly rate and one hour per day of overtime at 1.5 times the base hourly rate.

*General Shipyard Maintenance Costs*

Assuming the ship lift is repaired and other necessary repairs are made in the first three years of the project, general shipyard maintenance costs are estimated to be \$100,000 for the next five years, \$150,000 per year for the following ten years, and \$200,000 for the last years of the study period.

*General Administrative Costs*

Insurance, professional services, general, and administrative costs are assumed to continue at their current levels throughout the project period.

**Demand Risk P3**

**Island Service**

The Island Service assumes service from Ceiba to Culebra and Ceiba to Vieques on the current schedule. This schedule provides the following level of service:

- Culebra – Ceiba Passenger-Only: 2 round-trips per day
- Culebra – Ceiba Cargo (Ro-Pax): 1 round trip per day
- Vieques – Ceiba Cargo (Ro-Pax): 2 round trips per day (large ferry); 1 round trip per day (small ferry)

In addition to the above trips, 2 fuel trips per week are assumed to each island. The P3 service does not include any unscheduled runs. This represents approximately a 40% reduction in the overall level of service to the islands.

Under the Demand Risk P3 operation, the Islands Service fleet is expected to consist of the following seven vessels:

Name	Year Built	# of Passengers
<b>Passenger-Only Vessels</b>		
Caribeña	2004	236
Cayo Blanco	2009	600
Vieques II/New Vessel	1996	523
<b>Passenger + Cargo Vessels</b>		
Cayo Largo	2008	300
Cayo Norte/New Vessel	1995	198
Isla Bonita	2012	355
Isleño	2004	204

The Vieques II and Cayo Norte are at or nearing the end of their expected service life and are recommended to be replaced during the first three years of the project. The characteristics of the new vessel should be similar to those of the Isla Bonita as recommended in the 2017-2026 Fleet Management Plan.

### *Labor*

Labor costs are estimated based on historical information from the MTA plus benefits totaling 30% of the base hourly rate. For the Metro service, Maintenance Base, and administrative staff, overtime is estimated at one hour per day. For the Islands Service, overtime is estimated at 2 hours per day.

As a result of the projected reduction in the number of round-trips made each day, the labor cost assumes a single split-shift each day for each vessel and the terminals, with a 4-hour service window in the morning and a 4-hour service window in the afternoon. As a result of the reduction in staff and benefits, the P3 labor cost is estimated to be approximately 50% of the public sector labor cost.

Some labor cost savings are expected to be realized during the first three years of the project. This savings is estimated to be 20% the first year, 30% the second year, and 40% the third year.

### *Fuel & Lubricants Cost*

Fuel costs are based on the estimated fuel consumption of the primary vessel on each route at \$2.50 per gallon. Lubricant costs are estimated as 10% of the fuel costs. For the first three years of the project, fuel savings are estimated at 10% of the Public Sector operations fuel cost. Starting in year 4, the fuel costs are based on the reduced level of service described above.

It is assumed that the current bulk purchase discount is not available to the private sector operator.

### *General Vessel Maintenance*

General Maintenance costs are estimated as fixed cost per round trip. These costs include miscellaneous parts, cleaning supplies, and light, daily maintenance conducted by the vessels' operating crews, either while underway or dockside at the vessel's homeport. For the first three years of the contract, the general vessel maintenance costs are estimated to be 90% of the Public Sector operations cost.

### *General Terminal Maintenance*

General Maintenance costs are estimated as a fixed annual cost. This cost includes miscellaneous parts, cleaning supplies, contracted maintenance and repairs, and utilities. Assuming major investments are made in the three Islands Service terminals in the first three years of the project, the annual maintenance costs for the terminals are estimated to be \$100,000 for the next five years, \$150,000 per year for the ten following years, and \$200,000 for the last years of the contract.

### **Metro Service**

Under the Demand Risk P3 operation, the Metro Service is expected to be reduced to a commute-hour only service, with a corresponding reduction in costs. Of the current Metro Service fleet, the Amelia and Covadonga are recommended to be replaced within the first three years of the project with vessels having similar characteristics and modern engines and equipment. La Princesa is recommended to be kept in the fleet as a backup vessel and La Decima is recommended to be sold as the ship is too small for the commute-period only service anticipated. New vessel prices are based on recent deliveries for comparable passenger-only ferries.

Name	Year Built	# of Passengers
<b>Passenger-Only Vessels</b>		
<b>Amelia</b>	1989	143
<b>Covadonga</b>	1989	144
<b>La Princesa</b>	2009	150
<b>La Decima</b>	2009	49

### *Labor*

Labor costs are estimated based on historical information from the MTA plus benefits totaling 30% of the base hourly rate and one hour per day of overtime at 1.5 times the base hourly rate. During the first three years of the project, labor cost savings are estimated at 20%, 30%, and 40% of the Public Sector operations labor cost.

During Phase II of the project, the vessel crews and terminal staff are assumed to work a split shift, with a service window during the morning commute period and another during the afternoon commute.

### *Fuel & Lubricants Cost*

Fuel costs are based on the vessel speeds required to maintain the current schedule and \$2.50 per gallon for diesel fuel. Lubricant costs are assumed to be 10% of fuel costs.

### *General Vessel Maintenance*

General Maintenance costs are estimated as fixed cost per round trip. These costs include miscellaneous parts, cleaning supplies, and light, daily maintenance conducted by the vessels' operating crews, either while underway or dockside at the vessel's homeport. Vessel maintenance costs are expected to be reduced approximately 10% during the first three years of the project.

### *General Terminal Maintenance*

General Maintenance costs are estimated as a fixed annual cost. This cost include miscellaneous parts, cleaning supplies, contracted maintenance and repairs, and utilities. Assuming the necessary capital improvements are made in the first three years of the project, the estimated terminal maintenance cost for the Cataño and Old San Juan terminals is \$50,000 for the next five years, \$100,000 for the following 10 years, and \$150,000 for the last years of the contract.

### **Support Services**

#### *Shipyard Labor*

Shipyard labor costs are estimated based a gradual reduction in staff size to approximately 75% of the current staff by the end of the third year of the project. In addition, benefits are expected to be reduced to 30% of the base hourly rate and an average of one hour per day of overtime at 1.5 times the base hourly rate is assumed for the shipyard staff.

#### *Central Administration Labor*

Central administration labor costs are estimated based on a gradual reduction in staff size to approximately 50% of the current staff by the end of the third year of the project. In addition, benefits are expected to be reduced to 30% of the base hourly rate. It is assumed the staff will continue to work one hour per day of overtime at 1.5 times the base hourly rate.

#### *General Shipyard Maintenance Costs*

Assuming the ship lift is repaired and other necessary repairs are made in the first three years of the Project, general shipyard maintenance costs are estimated to be \$100,000 for the next five years, \$150,000 per year for the

following ten years, and \$200,000 for the last years of the study period.

#### *General Administrative Costs*

Insurance costs are assumed to continue at their current levels throughout the project period. Professional services, general, and administrative costs are assumed to gradually be reduced to 50% of their current costs.

### 5.5 Lifecycle Inputs

#### ***Business as Usual***

Dry docking and refit costs for the continued public sector operation are assumed to be as estimated in the 2017-2026 Fleet Maintenance Plan.

#### ***Demand Risk P3***

##### *Vessel Refits*

Vessels are assumed to be given a general refit approximately every 10 years of service. During the refit, engines and generators will be replaced or overhauled, interiors will be refitted, machinery such as air conditioning units and deck gear will be overhauled or replaced, and the vessel's electronics and navigation equipment will be updated as necessary. For the Islands Service vessels, each refit is estimated to cost \$5 million. For the smaller Metro Service vessels, each refit is estimated to cost \$500,000. Refit costs are distributed over two 6-month periods to reflect the duration of the work. Refits are assumed to be coordinated with regularly scheduled dry dock periods and the refit cost includes the costs normally associated with dry docking.

##### *Dry Docking*

Per USCG regulations, each vessel is required to be dry docked at least twice in every five year period for hull inspections. In addition to inspections, vessel will receive new bottom paint and general hull maintenance during dry docking periods, as well as major maintenance. Dry docking of Islands Service vessels is estimated at \$500,000 per period and for the Metro Service vessels it is estimated at \$150,000.

### 5.6 Initial Investments

#### ***Business as Usual***

##### **Island Service**

##### *Hurricane Damage Repairs*

Recent damage from hurricane Maria is expected to be repaired prior to the start of the Project using FEMA funding under a separate contract.

##### *New Ceiba Terminal*

The cost estimate for the construction of the new Ceiba terminal is based on work performed as part of a previous P3 effort. However, given the Ceiba terminal is expected to be financed by FTA, MARAD or other means of public grant funding, the costs were not included in this analysis.

##### *Vessel Purchases*

Vessel acquisition costs were based on the 2017-2026 Fleet Maintenance Plan. The cost for new vessels is distributed over three 6-month periods, to reflect progress payments made during construction.

##### **Metro Service**

### *Vessel Purchases*

Vessel acquisition costs were based on the 2017-2026 Fleet Maintenance Plan. The cost for new vessels is distributed over two 6-month periods, to reflect progress payments made during construction.

### **Support Services**

#### *Isla Grande Shiplift Repairs*

The estimated cost to repair the Isla Grande ship lift is based on inputs developed by the MTA taking into account current market estimates.

#### *Isla Grande Shipyard Improvements*

The estimated cost to improve the Isla Grande ship lift is based on inputs developed by the MTA taking into account current market estimates.

### **Demand Risk P3**

#### *Hurricane Damage Repairs*

Recent damage from hurricane Maria is expected to be repaired prior to the start of the project using FEMA funding under a separate contract.

### **Island Service**

#### *New Ceiba Terminal*

The cost estimate for the construction of the new Ceiba terminal is based on work performed as part of a previous P3 effort. However, given the Ceiba terminal is expected to be financed by FTA, MARAD or other means of public grant funding, the costs were not included in this analysis.

### *Vessel Purchases*

For the Islands Service, two new vessels to replace are recommended to be acquired during the first three years at a cost of approximately \$15 million each. This cost is based on recent deliveries of Ro-Pax ferries with capacity similar to that of the Isla Bonita.

### **Metro Service**

#### *Vessel Purchases*

For the Metro Service, two new vessels are recommended at \$5 million each.

### **Support Services**

#### *Isla Grande Shiplift Repairs*

The estimated cost to repair the Isla Grande shiplift is based on inputs developed by the MTA taking into account current market estimates.

#### *Isla Grande Shipyard Improvements*

The estimated cost to improve the Isla Grande ship lift is based on inputs developed by the MTA taking into account current market estimates.

## 5.7 Results of Affordability Analysis

The financial model that was developed for the Project that takes into consideration the aforementioned inputs surrounding the Project's ridership, revenue, and the costs associated with operating the ferry service, such as O&M, lifecycle, and other investment costs. Utilizing the inputs, the financial model was developed to depict a cash flow scenario that analyzes the affordability of the Project under both the Business as Usual and Demand Risk P3 delivery option.



### ***Business as Usual***

The results of the affordability analysis indicate that Project revenue under the Business as Usual scenario is not sufficient to cover O&M, lifecycle, and other investments needed to sufficiently operate the Project. This shortfall has historically been realized by the MTA. While subsidies from the Government have enabled the MTA to continue to operate, they have been insufficient to properly operate and maintain the ferry, as suggested by the quality and condition of the service and assets. The affordability analysis suggests that an estimated public funds contribution of \$487 million on a present value basis over the Project's term, is required to accomplish the Project, under which all risks will be borne by the Government.

### ***Demand Risk P3***

Under the Demand Risk P3 approach, the results of the affordability analysis indicate that Project revenue is also not sufficient to cover O&M, lifecycle, and other investments needed to operate the Project. The shortfall in this scenario will also need to be realized by the MTA, through the use of a public funds contribution. As the Project is conceptualized as a full demand risk project, a private party will not assume these risks without a contribution from the Government.

Given the private sector's ability to bring efficiencies, reduce costs, and increase revenue, the amount of public subsidy that will be required under the Demand Risk P3 case is \$227 million less than the Business as Usual method, representing savings to the Government of Puerto Rico. The net shortfall in the Demand Risk P3 case totals \$261 million on a present value basis over the Project's term.

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## Section 6 – VfM Analysis



## Section 6 – VfM Analysis

### 6.1 VfM Analysis

VfM analysis is a commonly recognized measure in assessing the merits of a P3 project vis-à-vis a public sector's traditional procurement method, as the analysis captures the full life-cycle costs for both procurement methods, adjusted for project risks retained by the public sector over the term of a project. The all-in costs for each model are compared on a present value basis so that the net costs of each model can be compared in a consistent manner. Completion of a VfM analysis requires identification, allocation and assessment of project risks under each procurement model to simulate the expected risk premium that will be priced by private sector proponents. The procurement model that results in the lowest cost is deemed to represent the most valuable procurement option for the public sector.

The portions of this section attributable to Project risk discuss the differences between the Business as Usual operation of the ferry service and a Demand Risk P3 procurement, where a private operator assumes the responsibility and risk associated with the Project. The Demand Risk P3 case will reflect the estimated reduction in costs that are assumed by a private partner, and the increase in revenue as a result of increased innovation and efficiency.

The remaining segments in this section provide an overview of the delivery models utilized in the VfM analysis as well as explain the results of the comparison.

### 6.2 Components of VfM Analysis

**Revenue** includes all farebox, cargo, parking, and other commercial activities revenue. Each

segment of the ferry service as well as the delivery method may have different revenue generation ability, however farebox revenue is the primary revenue generator for the ferry service under both procurement methods.

**Operations and Maintenance Costs** includes recurring costs of operating and maintaining the ferry service. These costs primarily consist of routine terminal and vessel maintenance, labor, fuel, insurance and other general and administrative costs.

**Rehabilitation and Replacement Costs** includes the cost of the rehabilitation and replacement of Project assets as they reach the end of their service life, such as dry docking and refitting of vessels.

**Other Investment Costs** includes the costs associated with major terminal rehabilitation and improvement works and new vessel purchases. These items are typically more costly and occur less frequently than other cost segments.

**Efficiencies** are included in the cost estimates of the Demand Risk P3 scenario to reflect the expected savings resulting from private sector practices employed in a competitive environment such as optimization of a project's total cost of ownership and leveraged innovation and technology.

### 6.3 Overview of Delivery Models

#### *Business as Usual*

Under the Business as Usual model, the MTA would continue to operate and maintain the ferry service, and would assume the risk and responsibility of the long-term performance of the Project. Further, the Government would be required to continue to identify funding for the



upfront costs associated with operations, maintenance and other investment costs for the duration of the Project's life, and would assume the costs associated with any unpredictable deviations from the established budget. This current scenario has resulted in deferred maintenance backlogs, uncertain service, and a ferry service that is operating beyond its useful life in most aspects.

### ***Demand Risk P3***

The Demand Risk P3 model estimates a 20-year contract between the MTA and a private party to assume the majority of Project risks over the contract term. The operating term is based on market precedent for similar projects and considers factors such as the potential service life of the asset, the time required for a private party to receive a return on their investment, as well as pay any financing for capital works on the Project, if applicable.

As previously discussed, under the Demand Risk P3 model, a private party will be responsible for the majority of Project risks over a two-phased approach.

The Project will commence at the Ceiba Terminal and consist of the improvement of existing operations of the MTA for the Island Service, Metro Service and the operation, maintenance and improvement of the Maintenance Facility. The Developer will provide the Ferry Services from Pier 2 located in the former Roosevelt Roads Naval Station in the Municipality of Ceiba ("Pier 2"). Such Ferry Services will commence once Federal and/or Government authorities have concluded certain agreed upon capital improvements to Pier 2 and approval to commence operations from FTA has been received.

During Phase I, the private party will assume the responsibilities of the ferry service under an agreement with the MTA. During Phase I, a

private party is expected to optimize the workforce, implement efficiencies in ticketing, routes, maintenance, and other operations. The private party may also be responsible for implementing capital plans set out by the Government, however will not be required to fund those capital improvements. It is expected that a subsidy will be made to the private party throughout the Phase I transition period.

During Phase II, the private party will have the obligation to operate the ferry service and assume the majority of Project risks including demand risk (i.e. sufficiency in farebox revenue to cover obligations) and the risk to finance any capital improvements outside of the Government's requirements, if necessary. Further, the private party will be expected to bear the risk of maintenance and other operating costs such as fuel and labor. It is expected that the Government will still provide public funding support to the ferry service during Phase II. The amount of support, however, is expected to be reduced.

### **6.3 Risk Introduction**

Value can be achieved by selecting the delivery model and the structuring of the contract that allows for the allocation of risks to the parties best able to manage them. To maximize value, the Government should retain responsibility for those risks that it is best able to manage, and shift the risks that it is not best able to manage to the private sector. Oftentimes, the Government should assume risks related to environmental approvals, permitting, etc. where the Government usually has direct control over those processes.

Those risks that can be eliminated or mitigated by the private party should be transferred, most notably risks associated with operating and maintaining the ferry service. Any risk transferred to the private sector will be priced

into the bid by the private sector entity. Therefore, analyzing and quantifying these risks is a central component of VfM analysis. Risks can be accounted for in two different categories: project specific risks and systematic risks.

#### ***Project Specific Risk***

Project Specific Risks are those risks that are idiosyncratic or unique to a project. While such risks impact the financial return for a specific project, investors can avoid them by diversifying their investment portfolio. Project specific risks therefore are accounted for by adjusting the project cash flow. The quantification of project risks also enables the public owner to plan for expected contingency amounts to be carried by private bidders and the public owner, respectively.

#### ***Systematic Risk***

Systematic Risks, on the other hand, result from changes in macroeconomic conditions and therefore affect all assets on the market. The extent to which a given asset is affected by changes in macroeconomic conditions is reflected in the return demanded by investors for investing in the asset, and hence in the discount rate. The risk profile of any given project varies based on the procurement method selected and where on the risk transfer profile that procurement method falls.

Under the Demand Risk P3 operating scenario, risks are transferred from the public sector to the private sector, as the private sector is the party best able to manage them. The following section analyzes the different risks that are transferred to the private sector, and the result, or quantification of savings that transferring these risks provide to the private sector.

## 6.4 Risk Analysis

The following risks are transferred to the private sector entity that will be responsible for operating, maintaining, managing, and improving the Project over the stated term. Each risk discussed is then quantified as the expected result of a private sector party introducing efficiencies, cost savings measures, and increasing revenue, which results in lower public funding needed by the Government. The quantified amount represents the savings to the Government by transferring the risk.

#### ***Revenue Risk***

Revenue risk relates to the generation and collection of revenue over the Project term, and the risk associated with demand of the ferry, or ensuring that revenue is sufficient to cover Project obligations. Under the Business as Usual scenario, the MTA retains the risks of collection of all farebox and other revenue, and assumes the risk of ensuring that such revenue is sufficient to cover the Project's obligations. The Government has to make up any shortfall in revenue, and has historically obligated general revenue funds to cover the deficit. However, given the uncertainty and lack of funding, this has led to shortfalls which tend to cause major maintenance backlogs and extending the service life of assets.

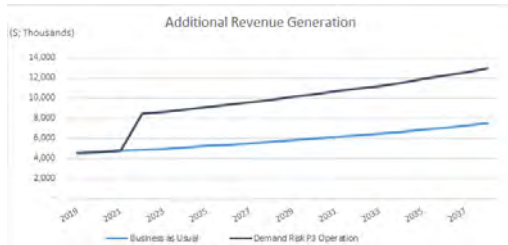
By shifting the risks of generating and collecting revenue over the Project term, and the risk associated with demand of the ferry, or ensuring that revenue is sufficient to cover Project obligations, the private party is incentivized to maximize revenue to cover its obligations and generate a return. It is expected that the private party will receive an ongoing payment from the Government to cover the costs to reasonably operate the ferry service. Further, it is expected that the private sector will introduce additional



revenue generation capabilities, as the private sector’s motive is maximization of profit. As mentioned in the revenue inputs section, the private sector is expected to increase fares, while understanding the necessary nature of the service to Puerto Ricans. Further, the Demand Risk P3 case offers additional revenue streams in increasing cargo pricing, introducing the availability of concessions, and parking.

The Demand Risk P3 assumes fare increases on cargo and passengers, as well as the introduction of additional revenue items, which accounts for the increases in revenue over the Business as Usual case. For the Demand Risk P3 case revenue assumptions optimize the level between ridership and fare increases, such that revenue is maximized at a point where an additional fare increase would not result in additional revenue, given elasticity in ridership. For concessions, the Demand Risk P3 case assumes 60% of ridership purchases concession items at an estimate of \$2.70. Parking is estimated at 150 spaces, purchased at the market parking rate.

The results of the revenue optimization from the Demand Risk P3 case suggest the Project is able to achieve significantly higher levels of revenue throughout the Project’s term compared to the Business as Usual case, as shown in the chart below:



**Operating & Maintenance Risk**

Operating and maintenance risks refer to the costs associated with operating and maintaining the ferry service, including the costs to operate

and maintain vessels, terminals, and general support for the service.

**Vessel & Terminal O&M**

Vessel and terminal O&M costs comprise a substantial portion of the total cost to operate the ferry service, as these costs include fuel, lubricants, and general upkeep of the terminal and vessels. Under the Business as Usual case, the MTA is responsible for all costs associated with vessel and terminal O&M. Currently, the MTA does not operate under an optimized service method, sailing additional trips due to a variety of factors, including lack of ship capacity. Further, due to deferred maintenance, costs associated with general vessel maintenance are increasing as ships operate beyond their service life. The terminals have also been in operation well beyond the typical service life, resulting in higher costs to maintain an adequate terminal area.

Under the Demand Risk P3 delivery method, the risks associated with operating and maintaining the vessels and terminals are shifted to the private sector. It is expected that the private party will optimize sailings and only incur costs associated with additional sailings when it’s economical to the Project, reducing fuel costs. Further, the private sector is expected to purchase new vessels and make the O&M process more efficient, which should cut down on these costs throughout the term of the Project. Terminals are expected to be improved leading to a reduction in the costs to operate the terminal area.

The Demand Risk P3 adjustments for vessel and terminal O&M costs primarily surround the larger costs associated with vessel operations, such as fuel and vessel maintenance. Assumptions for fuel costs were developed utilizing the number of optimized routes compared to current routes at a rate of \$3 per gallon. Private sector efficiency adjustments for

fuel costs stem from the optimization of trips, which reduces the amount of fuel needed to operate the service. The price of fuel remains the same in both cases. Private sector efficiencies for vessel maintenance were assumed at 10% of the MTA’s Business as Usual costs.

**Labor**

Labor costs also comprise a significant portion of the total O&M costs associated with the Project. Under the Business as Usual scenario, the number of employees and the costs associated with the employees is the responsibility of the MTA.

Under the Demand Risk P3 scenario, the risks and costs associated with staffing are borne by the private sector. It is expected that the private sector will bring efficiencies in all aspects of the Project’s service which will result in a fewer number of employees needed to operate the service. These cost savings will ultimately reduce the amount of public funding that the Government is required to provide to operate the ferry.

The Demand Risk P3 adjustments for labor costs focus on optimizing staff and benefits to a level commensurate with the amount of vessels and trips required to operate the service. The resulting savings that reflect private sector efficiency in optimizing the workforce were assumed at 50% of the MTA’s Business as Usual costs.

**Support Costs**

Under the Business as Usual scenario, general support costs are the responsibility of the public sector, and include costs such as general and administrative, professional services, insurance, and labor.

Under a Demand Risk P3 approach, the risks associated with these costs are the responsibility of the private sector, who bring efficiencies,

expertise, and the knowledge to implement standard cost reduction exercises and streamline the support processes. Private sector efficiencies in support costs for were estimated at a reduction in support staff by 50%-75% of the MTA’s Business as Usual case, and a 30% reduction to benefits. General and administrative costs were assumed at 50% of the current cost in the Demand Risk P3 case. Insurance estimates remained the same in both cases.

The following graph shows the total O&M cost savings by implementing the Demand Risk P3 case.



**Lifecycle Risk**

Lifecycle risk relates to the costs associated with dry docking and refitting vessels, which the MTA currently assumes the risks and costs associated with. Under the Business as Usual approach, the MTA will continue to assume these risks.

Under the Demand Risk P3 approach, a private party will assume the costs associated with dry docking and refitting vessels, and will be responsible with adhering to the requirements of the U.S. Coast Guard.

Total lifecycle costs were estimated to be significantly reduced in the Demand Risk P3 compared to the MTA’s Business as Usual case, given the efficiencies that a private party implements. Efficiencies realized by the private sector stem from the acquisition of new vessels,

and more sound management of maintenance, resulting in less dry docking and refitting costs.

The following graph shows the total lifecycle cost savings by implementing the Demand Risk P3 case.



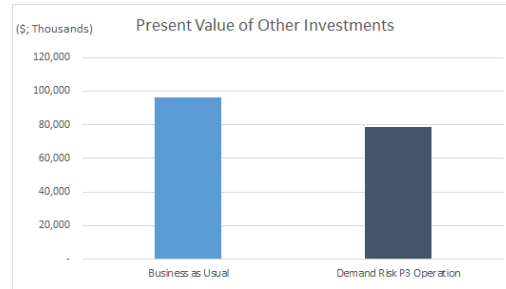
**Initial Investment Risk**

Initial investment risk relates to the costs associated with purchasing new vessels, and terminal and shipyard improvements. Under the Business as Usual approach, the MTA will assume the risks and associated costs with these items.

Under the Demand Risk P3 approach, the private party will be responsible for completing capital improvement items as defined by the MTA, including new vessel purchases. The MTA is expected to fund the Phase I improvements and vessel acquisitions with FTA funding. However, any additional approaches to commercially maximize the asset during Phase II will be the responsibility of the private party, effectively shifting the risk away from the MTA. The MTA will, however, provide a payment to the private party to cover the costs of reasonably operating the ferry service. Initial investment costs are typically substantial, but less frequent throughout the Project’s term.

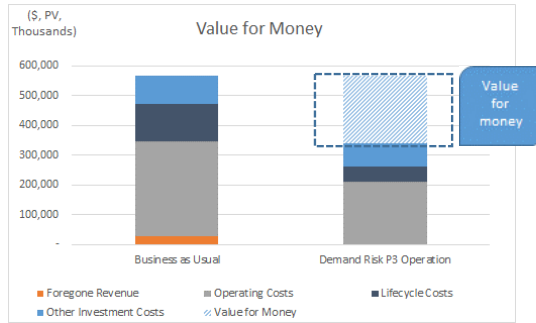
The present value of initial investment costs is expected to be 18% less in the Demand Risk P3 case than the Business as Usual case.

The following graph shows the total initial investment cost savings by implementing the Demand Risk P3 case.



**6.5 Results of VfM**

The overall results of the analysis demonstrate that the Demand Risk P3 approach is estimated to provide the greatest reduction in public subsidy that is required by the MTA to continue to operate the ferry service. The Demand Risk P3 approach is estimated to require a subsidy of \$261 million over the life of the Project on a present value basis, compared to \$487 million if the Project remains under operation by the MTA, resulting in \$227 million savings over the life of the Project. Further, the Demand Risk P3 approach provides the additional advantages of spurring innovation and providing for more efficient and reliable operations and management of the ferry service. These results highlight quantitatively the benefits attributed to effective risk transfer and capturing the efficiencies inherent in the Demand Risk P3 approach. The chart below captures the value for money that is achieved, or essentially the amount of savings that the MTA will incur as a result of implementing the Demand Risk P3 method. The chart includes foregone revenue as an additional cost under the Business as Usual method, which is calculated as the difference in revenue created by the Demand Risk P3 case and the Business as Usual method.



As noted above, the Demand Risk P3 operating model requires a private party to assume the risks of generating and collecting revenue over the Project term, and the private party is expected to introduce additional revenue generation capabilities, as the private sector’s motive is maximization of profit. As mentioned in the revenue inputs section, the private sector is expected to increase fares, while understanding the necessary nature of the service to Puerto Ricans. Further, the Demand Risk P3 case offers additional revenue streams in increasing cargo pricing, introducing the availability of concessions, and parking. By transferring revenue risks to the private sector under a Demand Risk P3 scenario, the Project is expected to generate an additional \$28 million over the Project’s term from the Business as Usual scenario, on a present value basis.

The Demand Risk P3 operating model adds value in ensuring the long-term operational integrity of the Project, as the private party retains the risk and responsibility for the long-term performance of the Project. Under the Demand Risk P3 operating model, the costs savings that result from the private party managing O&M risks totals \$107 million on a present value basis.

Further, the Demand Risk P3 operating model transfers the risks associated with lifecycle and other investments, which primarily include dry docking, refitting of vessels, terminal improvements, and new vessel purchases. While a portion of these items will be funded via FTA

funds from the MTA, cost savings are expected as a result of the private sector’s innovation and efficiency. Cost savings resulting from a private party managing lifecycle and initial investment risks total \$91 million on a present value basis.

The analysis on a collective basis shows that the Demand Risk P3 procurement option may achieve lifetime savings of approximately \$227 million on a present value basis, assuming the foregone revenue associated with the Business as Usual case.

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## Section 7 – Conclusions & Next Steps



## Section 7 – Conclusions & Next Steps

### 7.1 Conclusions

The MTA faces the ongoing challenge of maintaining existing ferry operations in a state of good repair and providing consistent and reliable service, despite the current challenging economic conditions in Puerto Rico. Capital investment is needed to improve current service levels and asset conditions, yet there is little certainty in the availability of future public funds to make meaningful improvements. Falling revenue in a rising cost environment has resulted in deferred maintenance, asset replacement backlogs and reduced vessel reliability. In the face of these issues, enhanced MTA services are critical for future economic and tourism development, as well as for the residents and visitors of Puerto Rico.

#### ***Business as Usual***

The Business as Usual option represents the sustained delivery of services by the MTA. All Project risk is borne by Puerto Rico, including operations and maintenance, funding/financing, vessel purchases, and others. While this delivery model is familiar to Puerto Rico, it fails to meet many of the procurement objectives as outlined by the Authority. This comfortability may be offset by higher costs due to inefficiencies and expense ambiguity surrounding O&M and major maintenance.

By continuing to operate the ferry service, the MTA fails to reduce the amount of public subsidy needed to maintain service or increase the pool of resources available for vessel maintenance. In effect, the Business as Usual option maintains the status quo, which historically has not resulted in the highest quality service. Major

maintenance backlogs are likely to continue, given the lack of funding availability from Puerto Rico's general revenue funds. As the Business as Usual approach represents a Government procured option, there is no opportunity to leverage private sector ferry expertise to create operational efficiencies. Completion of these objectives would be the sole responsibility of the MTA, which would also be tasked with increasing ferry ridership and utilization. In effect, the Business as Usual option would result in a required subsidy value of \$487 million in order to implement the Project over the stated term.

#### ***Demand Risk P3***

By procuring the Project as a Demand Risk P3, Puerto Rico is able to satisfy many of its procurement objectives. Notably, the Demand Risk P3 is highly adaptive to Puerto Rico's current economic and fiscal environment. This delivery method decreases Puerto Rico's exposure to Project risks and reduces the amount of public subsidy needed to effectively maintain service. This is achieved by allocating Project risks and responsibilities to the party best able to manage them and transferring significant cost responsibility in exchange for farebox and ancillary revenue. The Demand Risk P3 model encourages the private party to maximize revenue to earn a strong return.

Under the Demand Risk P3 model, revenue is anticipated to increase despite lower overall ridership. This revenue growth assumes that fares are raised for users, with lower fares set for Municipal Island residents relative to non-residents. In addition, introducing and optimizing ancillary offerings, including cargo, concessions, and parking, is anticipated to

generate incremental revenue. When compared to the Business as Usual model, total revenue is expected to be \$28 million higher over the Project’s term, compared to the Business as Usual method on a present value basis.

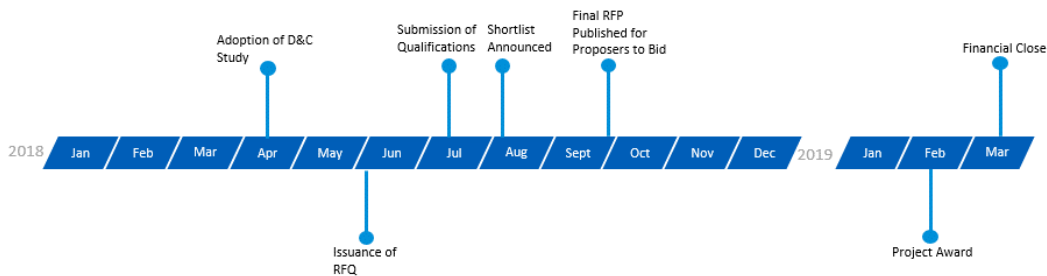
Leveraging private sector expertise will allow for the introduction of operational efficiencies. Such efficiencies will help increase ferry quality of service and reliability, improve O&M cost certainty, and streamline the ferry workforce. Such cost reductions are driven by the removal of unscheduled runs, labor optimization, and less fuel consumption. Total costs savings including O&M, lifecycle, and initial investments as a result of implementing the Demand Risk P3 case total roughly \$198 million over the Project’s term, on a present value basis.

As such, it is recommended that the Authority procure the Project under the Demand Risk P3 procurement method, as it results in a public subsidy that is \$227 million less than that required under the Business as Usual model, on a present value basis, inclusive of the foregone revenue associated with the Business as Usual case. Further, by procuring the Project utilizing a Demand Risk P3 delivery model, the Project will be more efficient, innovative, and streamlined, at a reduced cost to the Government.

## 7.2 Next Steps

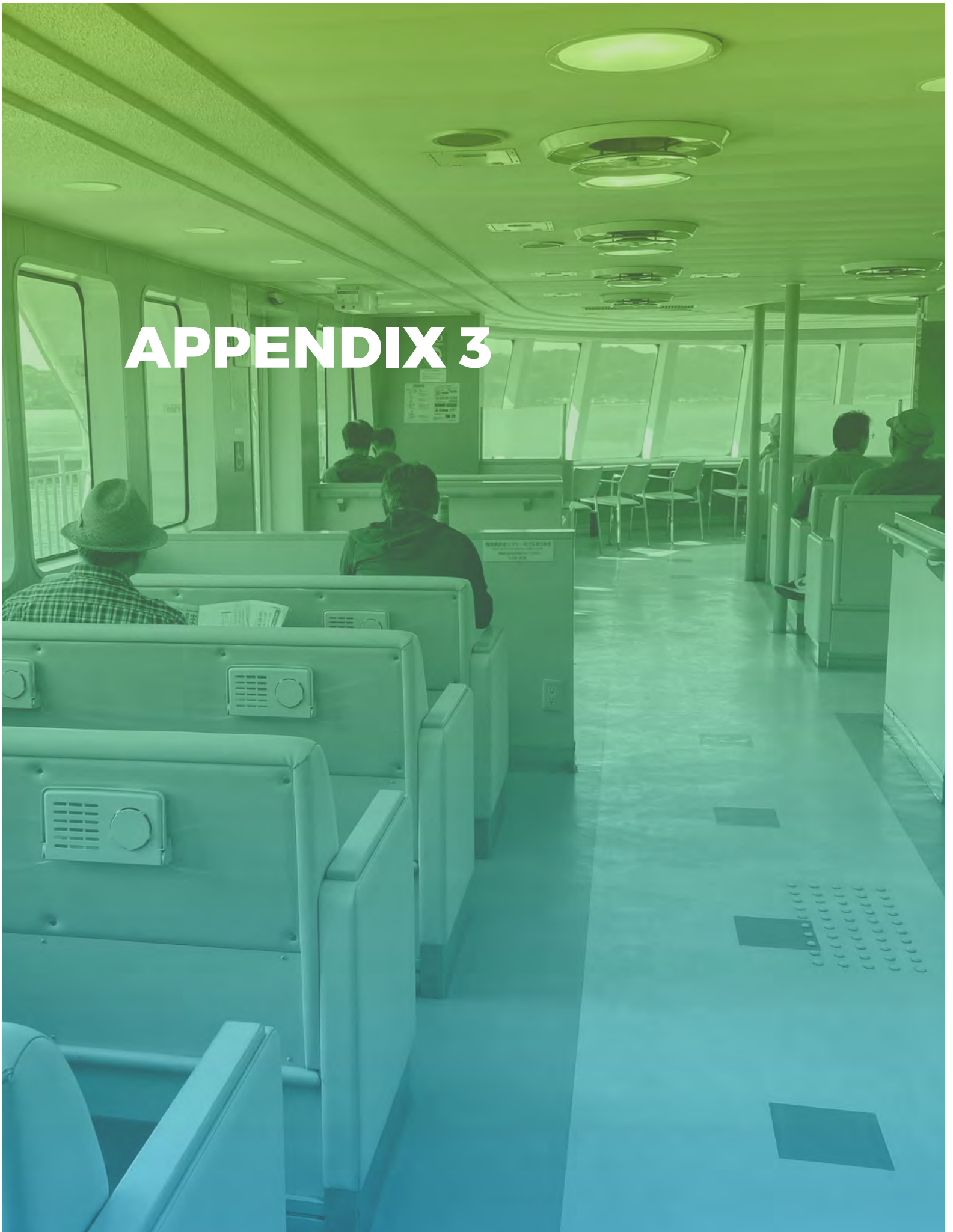
### Timeline

Following the adoption of the Study in the second quarter of 2018, formal procurement will commence in the first week of June 2018 with the issuance of the RFQ. Shortlisting and one on one meetings will be completed leading up to the publication of the Final RFP in September 2018. The final steps of the P3 procurement process, project award and financial close, will be reached during the first quarter of 2019. The timeline below summarizes the expected next steps of the Project. The expected dates for each step are subject to change.



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# APPENDIX 3



## SUMMARY OF THE MARITIME TRANSPORT OPERATIONS AND MAINTENANCE AGREEMENT

This summary of the principal terms and conditions of the Maritime Transport Operations and Maintenance Agreement (the “**Agreement**”) is provided for convenience and should not be relied upon in lieu of the O&M Agreement. In the event of any conflict between this summary and the O&M Agreement, the O&M Agreement controls. Capitalized terms used in this summary and not otherwise defined herein have the meaning set forth in the O&M Agreement.

Term	Summary
<b>Parties</b>	The Agreement will be executed by the Puerto Rico and the Island Municipalities Maritime Transport Authority (the “ <b>Authority</b> ” or “ <b>MTA</b> ”), HMS Ferries Inc. (the “ <b>Selected Proponent</b> ” or “ <b>HMSI</b> ”) and HMS Ferries-Puerto Rico LLC (the “ <b>Operator</b> ” or “ <b>HMSPR</b> ”) (each referred to as a “ <b>Party</b> ” and collectively as the “ <b>Parties</b> ”). The Selected Proponent and the Operator are jointly and severally liable for compliance with the Operator’s obligations. The Selected Proponent is being permitted to assign its interest in the Agreement to HMSPR, which will act as the initial Operator. (§34.1(b))
<b>Purpose</b>	Under the Agreement, the Operator becomes responsible for the Operation and Maintenance of MTA’s Ferry System in exchange for an annual compensation that varies depending on the Phase of the Agreement, as described below.
<b>Effective Date</b>	The Agreement commences on the date of its execution by both Parties (the “ <b>Effective Date</b> ”), subject to the following conditions precedent: (i) all Governmental Authority approvals required for the effectiveness of the Agreement under Applicable Law have been issued or obtained and shall be in full force and effect; (ii) the representations of the Parties set forth in the Agreement are true and correct as of the Effective Date; (iii) each Party has delivered to the other Party certified resolutions and incumbency certificates authorizing the execution of the Agreement and related transaction documents; (iv) the Agreement shall be in form and substance reasonably satisfactory to both Parties, and, when executed by the Parties, shall be valid, in full force and effect and enforceable against each Party on the Effective Date; (v) no Change in Law shall have occurred that would make the authorization, execution, delivery, validity, enforceability or performance of the Agreement a violation of Applicable Law; (vi) all documents required to be delivered by a Party on or prior to the Effective Date shall have been delivered in form and substance acceptable to the other Party; (vii) each Party’s counsel shall have delivered legal opinions, in form and substance acceptable to the other Party; (viii) the Authority shall have executed, or caused to be executed, and delivered to the Operator, copies of such agreements, consents, authorizations, board approvals, term sheets and/or other form of binding

acknowledgment and agreement by each of the owners of the Ferry Terminals and other Facilities not owned by the Authority, each in form and substance reasonably satisfactory to the Operator, providing the agreement of such entities with the Authority to execute the applicable Facility Document (or, if required, modify the existing Facility Document) and authorizing the execution by the Authority and the Operator of each Facility Lease Agreement in accordance with the terms of the Agreement; (ix) the Authority shall have submitted the Partnership Committee Report with respect to the Agreement; and (x) the Operator shall have delivered to the Authority the Payment Bond. (§2.3)

**Contract Term** The term of the Agreement commences on the Effective Date and ends on the twenty-third (23<sup>rd</sup>) anniversary of the commencement of Phase 1 of the Agreement (Phase 1 is expected to commence no later than the end of January of 2021).<sup>1</sup> (§4.1)

**Ownership of the Ferry System** The Ferry System is and will remain owned by the Authority throughout the Contract Term and following the expiration of the Agreement. The Authority grants the Operator an exclusive right to operate and maintain the Ferry System during the Contract Term. (§4.2)

**Scope of O&M Services**

1. Base Level of Service. The Agreement contemplates that the Operator will provide ferry services in accordance with the schedule of trips attached as an Appendix to the Agreement.
2. Optional Level of Service. The Authority, at its option, may instruct the Operator to increase the frequency of ferry service in exchange for pre-agreed increases in the compensation payable to the Operator. The increased level of service and fees are established in Appendix BB of the Agreement.
3. Unscheduled Trips. The Operator is required to provide each year an aggregate number of unscheduled trips of Island Service as set forth in Appendix Q of the Agreement. Such unscheduled trips would not generate an additional fee payable to the Operator. If the option to increase the frequency of ferry service is exercised there may not be a need for unscheduled trips. (§6.3)

<sup>1</sup> The deadlines for the commencement of each phase of the Agreement may be extended as a result of delays caused by the restrictions on private and governmental activity imposed in connection with the COVID-19 pandemic.

4. Special Services. From time to time, at the request of the Authority, subject to mutual agreement, the Operator may provide trips that involve carrying passengers or cargo for the benefit of any person or group of persons and not for the benefit of the general population (“**Special Services**”) at the rates established in Appendix P of the Agreement. (§6.1)
5. Ancillary Activities<sup>2</sup>. In addition to the ferry services, the Operator has the right to conduct or allow to be conducted the following activities in the Vessels and the Ferry Terminals (the “**Ancillary Activities**”): (1) establish food, beverage or other concessions at the terminal facilities, (2) use the Isla Grande maintenance facility to provide vessel maintenance and repair services to third parties, (3) allow the use of the vessels and terminals for marketing, advertising and/or public relations services, (4) operate and impose charges and fees for the use of parking facilities, (5) lease space in the terminal facilities, and (6) provide the Special Services referred to above. (§4.5)

**Contract Phases** The Agreement contemplates two phases: Phase 1 and Phase 2. Phase 1 will have a duration of three (3) years and includes an initial transition period (which is expected not to exceed twelve (12) months), as discussed below. Phase 2 is expected to have a duration of twenty (20) years. (§1.1, (§2.1 and §2.6)

- Phase 1**
1. Phase 1 will commence on the date on which all conditions precedent to the transition period and Phase 1 are met (listed below) and will expire on the third anniversary of such date. During Phase 1, all of the costs and expenses incurred by the Operator in providing the ferry services, operating the terminals and complying with its repair and maintenance obligations will be reimbursed by the Authority. During Phase 1, the Operator will collect but not retain for itself the fares paid with respect to the ferry services and Ancillary Revenues<sup>3</sup>. During Phase 1, the Operator shall provide Special Services and may carry out other Ancillary Services, provided that any required approval from the FTA or incidental Uses is obtained and that the Authority and the Operator agree on how the Ancillary Revenues will be shared. (§2.1)

<sup>2</sup> Pursuant to applicable federal laws and regulations, the conduct of certain Ancillary Activities by the Operator requires the approval of the Federal Transit Administration (the “FTA”).

<sup>3</sup> Ancillary Revenues are the revenues derived from Ancillary Activities, which are defined below.

2. Conditions Precedent. The following are the conditions precedent to the commencement of Phase 1<sup>4</sup>: (i) no pending legal proceedings challenging the O&M Agreement; (ii) execution of Use and Access Agreements for the Ferry Terminals; (iii) issuance of Tax Administrative Determination by the PR Treasury Department; (iv) the Operating Account<sup>5</sup> shall have been established; (v) funding of the initial Phase 1 Quarterly Service Payment shall have been made; (vi) the O&M Agreement shall have been filed with the Comptroller's Office; and (vii) the Authority will have provided notice of the Agreement to any other operator of vessels used in MTA's ferry services. (§2.4)

**Transition Period** The transition period is the initial portion of Phase 1 during which the condition of all assets used in the operation of the Ferry System will be assessed by the Operator and possession of the assets shall be taken over gradually by the Operator once any required repairs are completed. The transition period will also include the establishment by the Operator of the ticketing system. The transition period will end on the first to occur of (i) the date on which all of the Authority's assets shall have been accepted by the Operator, and (ii) the first anniversary of the commencement of Phase 1. (§2.1)

**Gradual Acceptance of Assets**

1. In order to ensure an efficient transition from the Authority to the Operator, the Operator will accept and take control of the Authority's assets gradually on a route-by-route basis. (§2.5)
2. Conditions Precedent. The following are the conditions precedent to the acceptance by the Operator of the delivery of any Vessel or Facility: (i) the Authority shall be the title owner of the Facility being delivered or holder of a leasehold right under a lease agreement signed with the corresponding Facility owner; (ii) Phase 1 environmental studies of the Ferry Terminal being delivered shall have been completed and delivered to Operator; (iii) the Vessel or Facility being delivered shall satisfy the requirements for acceptance provided in the Asset Rehabilitation Plan; (iv) the Authority and the Operator shall have executed a Facility Lease Agreement in the form of Appendix T-1 of the Agreement; (v) with respect to each Facility, the Authority shall have delivered to the Operator a consent and estoppel agreement duly executed by the owner of such Facility in the form of Appendix J to the Agreement; (vi) the Authority shall have delivered to its counterparty(ies) under each Authority contract

<sup>4</sup> The failure by the Authority to comply with the conditions precedent to Phase 1 or Phase 2 by the deadline established in the Agreement would allow the Operator to terminate the Agreement and receive the agreed upon Termination Fee.

<sup>5</sup> This is the account where all funds used to pay the Operator will be deposited by MTA. The Operator will have a lien on this account to secure the Authority's payment obligations.

in effect as to the Acceptance Date with respect to any of the assets a notice in the form of Appendix K-2 of the Agreement; (vii) with respect to each contract or concession agreement to be assumed by the Operator, the Authority shall have delivered to the Operator a duly executed consent and estoppel agreement in the form of Appendix L of the Agreement, and the parties shall have executed an assignment of contract in the form of Appendix M of the Agreement, unless the Operator requests the termination of said contract or concession; (viii) the Operator shall have presented to the Authority for its approval a proposed Handback Plan and the Authority shall have agreed in writing to its terms; (ix) there shall be no pending legal proceedings challenging the Agreement; (x) the Authority and the Operator shall have executed bare boat charters for each of the vessels being provided by the Authority to the Operator; (xi) the Authority shall have obtained one or more written determinations of the designation of certain Facilities as a “port” or “dock” under Puerto Rico law; and (xii) the Authority and the Operator shall have obtained all those material permits, licenses and approvals required for the acceptance of the assets by the Operator, which failing to obtain them would have a Material Adverse Effect on the Operator or the Authority. (§2.5)

## Phase 2

1. Phase 2 will commence on the date when all conditions precedent (listed below) to Phase 2 have occurred, which must occur prior to the third (3<sup>rd</sup>) anniversary of the commencement date of Phase 1, and will end on the 23<sup>rd</sup> anniversary of such commencement date. During Phase 2 the only compensation that the Operator will receive is the fixed fee (subsidy) included in the budget originally proposed by the Operator in its proposal, which is attached as part of the Agreement, subject only to the specific adjustments to compensation agreed to by the Parties, as described below. During Phase 2 the Operator will collect and retain for itself the fares paid with respect to the ferry services and the Ancillary Revenues (subject to the revenue sharing arrangement with MTA explained below). (§2.6)
2. Conditions Precedent. The following are the conditions precedent to Phase 2: (i) certain representations shall remain true; (ii) all Governmental Authority approvals shall have been obtained; (iii) no pending legal proceedings challenging the Agreement; (iv) no change in law; (v) compliance with all the transition period requirements; (vi) the travel lift at the Isla Grande Facility shall be fully functional; (vii) all of the agreed upon repair work to the Vessels shall have been completed; (viii) the construction work to the Mosquito Terminal Facility shall have been completed; (ix) issuance of Tax Ruling by the PR Treasury Department; (x) the fare increases that were included in the Request for Proposals shall have been implemented; and (xi)

the Culebra-Vieques Resident Identification System is in effect. (§2.6)

**Basic  
Compensation to  
Operator**

1. Service Payments. During Phase 1, the Authority will pay to the Operator the Phase 1 Service Payments, which consist of the reimbursement to the Operator of all the costs it incurs in providing the ferry and maintenance services, including (i) any excise or sales and use taxes imposed on Operator with respect to the introduction into Puerto Rico or acquisition of taxable items acquired by the Operator on behalf of and for the Authority for use in connection with the operation of the Project Assets and the maintenance and repair of Vessels and Facilities, or in connection with the performance of the Operator's obligations under the Agreement<sup>6</sup>, (ii) any construction excise tax imposed with respect to the maintenance and repair of Facilities, and (iii) any income or municipal license taxes imposed in connection with the Phase 1 Service Payments, but excluding any Taxes imposed with respect to (x) the Management Fee, (y) any property acquired by Operator for its own use or (z) any income received by the Operator from Ancillary Activities. (§5.1)
2. Fixed Fee. During Phase 2, the Authority will pay to the Operator a fixed fee in accordance with the proposal submitted by Operator, which is set forth in Appendix D of the Agreement. The fixed fee is subject to specific adjustments to compensation agreed to by the Parties, as described below. (§5.2)
3. Disbursement Mechanism. The Authority will make quarterly deposits to an operating account in an amount equal to one fourth of the annual amount payable to the Operator as set forth in the approved budget<sup>7</sup> for each year (the "**Quarterly Deposit Amount**"). The Quarterly Deposit Amount will be deposited in the operating account in advance commencing on the day preceding the first day of the Transition Period and, thereafter, on or before February 15, May 15, August 15 and November 15 of each year (each a "**Quarterly Deposit Date**"), with each such deposit being in the corresponding Quarterly Deposit Amount sufficient to cover the amount included in the budget through the end of the month of the immediately following Quarterly Deposit Date. The compensation due to the Operator, absent an event of default of the Operator, will be disbursed by the Authority to the Operator in advance on the 15th day of each month, (the "**Monthly Payment Date**") in an amount equal to one twelfth of the annual budget for the corresponding period. Each monthly payment shall cover the payment due with respect to

<sup>6</sup> The Puerto Rico Treasury Department has issued an Administrative Determination recognizing that no income or sales and use tax will be imposed in connection with these items.

the following month. The Agreement provides for monthly reports of revenues and expenses and provides for reconciliation of amounts paid in excess of or below the approved budget. (§5.1)

**Gross Revenue and Net Income Sharing**

1. Service Revenues. Any time that the cumulative service revenues collected by the Operator during the Phase 2 period exceed the cumulative amount of service revenue projected by the Operator in its proposal for such period by thirty percent (30%) or more, the excess above such thirty percent (30%) (the “**Windfall Revenues**”) will be shared equally between MTA and the Operator. Within four (4) months following the end of each fiscal year of the Operator, the Operator will determine and pay to the Authority its share of Windfall Revenues based on the audited financial reports of the Operator. (§5.2)
2. Ancillary Activities Net Income. Anytime that the net income<sup>8</sup> from any individual Ancillary Activity exceeds thirty percent (30%) of the amount projected by the Operator for such activity, such excess shall be shared equally between MTA and the Operator.<sup>9</sup> (§5.2)

**Allocation of Certain Increases in Cost-Adjustments During Phase 2 to Compensation Payable to Operator**

1. Fuel Costs. Increases in the price of fuel of up to 10% (proposed price includes a 1% inflation factor) over the price of fuel projected by the Operator in its proposal will be borne by the Operator. Increases in prices that exceed such 10% (plus 1% inflation factor) threshold will be borne by the Authority and will be paid to the Operator annually as an adjustment to the compensation payable to the Operator. If the fuel price is below the amount projected by the Operator, the resulting savings will be for the sole benefit of the Authority and the amount of such savings will be paid by the Operator to the Authority. (§5.12)
2. Insurance Costs. Increases in insurance premiums of up to 10% (proposed price includes a 1% inflation factor) over the cost projected by the Operator will be borne by the Operator. Increases that exceed such 10% (plus 1% inflation factor) threshold will be borne by the Authority and will be added to the compensation payable to the Operator. Any increases in insurance premiums resulting from the negligent acts or omissions of the Operator will be borne by the Operator. If insurance premiums fall below the amounts projected by the Operator, the resulting savings shall be for the sole benefit of the

<sup>7</sup> The annual budget for Phase 1 is set forth in Appendix G of the Agreement.

<sup>8</sup> The amount of projected revenues and projected costs for each Ancillary Activity must be agreed upon in advance by the Authority and the Operator.

<sup>9</sup> In the case of Special Services and the use of the Isla Grande facility for repair services provided to third parties, the net income from such activities will be aggregated for purposes of determining the thirty percent (30%) threshold.

Authority and will be applied against the Fixed Fee payable by the Authority. (§5.12)

3. Increases in Level of Service. As discussed above, an increase in level of service required to be provided by the Operator, upon exercise by the Authority of the option to increase the level of service, will result in an increase in the amount of the Fixed Fee payable to the Operator. (§5.2 and Appendix B)
4. FTA's Disapproval of Incidental Uses. In the event that certain Ancillary Activities that require FTA approval are not approved, the Fixed Fee payable to the Operator will be adjusted upwards (as a compensation event) accordingly to compensate the Operator for the loss of revenues from such Ancillary Activities. (§47)

#### **Compensation Events**

The occurrence of any of the following events will entitle the Operator to receive compensation for the actual damages suffered by Operator in connection therewith (plus a management fee of 5%): (i) a breach by the Authority of applicable law if such breach has a Material Adverse Effect on the Operator; (ii) any Change of Law that discriminates specifically against the Operator in a way that has a Materially Adverse Effect on the Operator; (iii) any Modification that has a Materially Adverse Effect on the Operator; (iv) the issuance of any preliminary or permanent injunction or temporary restraining order by a Governmental Authority that has a Materially Adverse Effect on the Authority's or the Operator's performance thereunder (except where such injunction or temporary restraining order is caused by an act or omission of the Operator); (v) the requisition of one or more Authority-Provided Vessels for use by any United States competent governmental authority; (vi) any violation by the Authority of its obligations under Section 5333(b) of title 49 USC; (vii) the disturbance of Operator's enjoyment, use and possession rights with respect to any Facility; (viii) the disapproval by the FTA or FAA of the Operator's use of the Isla Grande Facility as its principal office in Puerto Rico; and (ix) the failure by the Authority to provide eight (8) vessels. (§47)

#### **Modifications**

Either the Authority or the Operator may propose a Modification. A Modification is an amendment to the Agreement pertaining to operational, economic or technical matters, such as a change in the services, obligations, or work to be performed by, or rights of, the Operator with respect to the Maritime Transport Operations from that provided for in the Agreement prior to such amendment, including changes to the compensation, service schedules and routes, level of services or other work described in the Scope of Work. Promptly after any proposal of a Modification is made by the Authority or the Operator, the proponent of the modification must prepare and deliver to the other

Party a written statement setting forth (i) a description of the modification and any services, obligations, rights or work related to the modification, and (ii) if applicable, a schedule for the implementation of the modification. The Operator shall promptly submit to the Authority a firm price for implementing the Modification and its impact on the services and revenues. If the Authority and the Operator cannot agree on the terms of a Modification proposed by the Authority, then the Authority will have the right to require the Operator to implement the modification under terms set forth by the Authority, and the Authority must provide the Operator with mutually agreeable compensation therefor. If the parties cannot reach an agreement with respect to compensation for a Modification, then such matter must be submitted to the dispute resolution process provided in the Agreement. (§16.1)

**Authority  
Provided  
Assets-Maintenan  
ce and Repair  
Obligations**

1. General. The Authority will transfer to the Operator control over all of its current vessels and facilities to be used for the provision of the ferry services. The Authority will retain title to all such assets.<sup>10</sup>
2. Condition of Assets. All such assets must be delivered to the Operator in good working condition. (§8.6 and §13.2)
3. Vessel Maintenance and Ordinary Repairs. The Operator will be responsible for making all repairs, replacements, corrections, maintenance and rebuilding work, overhaul and upgrades (to the extent that they do not constitute vessel extraordinary repairs and vessel capital improvements) required for the vessels to remain in good working condition and in compliance with applicable law. Such work shall be made at the Authority's cost, during Phase 1, and at the Operator's cost during Phase 2. (§8.6(a))
4. Vessel Extraordinary Repairs<sup>11</sup>. During Phase 1, the Authority will be responsible for all required repairs to the vessels identified during the asset assessment process conducted by both Parties during the Transition Period. (§8.6(b))
5. Vessel Capital Improvements. During Phase 1 and Phase 2, the Authority may, but is not required to, carry out work to the vessels that will either enhance the asset's overall value, prolong its useful life or productivity, or adapt it to new uses or better services, but that is not required to maintain the vessel in good working condition and in compliance with applicable law. (§8.6 (c))

<sup>10</sup> The Authority is required to provide the Operator with eight (8) Authority owned vessels in good working order.

<sup>11</sup> The Vessel Extraordinary Repairs and Facility Extraordinary Repairs, for which the Authority will be responsible, include the items of repair identified in the Asset Assessment carried out during the Transition Period and latent defects that materialize within three (3) years after the last repairs are made by the Authority.

6. Facility Ordinary Maintenance and Repairs. The Operator will be responsible for making all repairs, replacements, corrections, and cleaning (to the extent that they do not constitute facility extraordinary repairs and facility capital improvements or are otherwise covered by rent payable by the Authority under any of its agreements with the owners of the facilities) required or desirable for the facilities to remain in good working condition and in compliance with applicable law. (§13.2(a))
7. Facility Extraordinary Repairs. During Phase 1, the Authority shall be responsible for all required repairs to the facilities identified during the asset assessment process conducted by both Parties during the Transition Period. (§13.2(b))
8. Facility Capital Improvements. During Phase 1 and Phase 2 the Authority may, but shall not be required to, carry out work to the facilities that will either enhance the asset's overall value, prolong its useful life or productivity, or adapt it to new uses or better services, but that is not required to maintain the facility in good working condition and in compliance with applicable law. (§13.2(c))
9. Capital Improvement Plan for Vessels and Facilities. During Phase 1, the Authority is responsible for developing a Capital Improvement Plan for carrying out required vessel acquisitions, retirements and improvements and preserving the facilities in sound operating condition. Said plan shall cover the entire period of the Contract Term and shall be updated by the Authority every 3 years. (§8.5 and §13.2)

**Fares and Routes** The Authority will consult with the Operator regarding any proposal to revise the routes and service schedule. During Phase 2, with prior approval by the Authority, the Operator will be able to modify and implement fares for non-residents of Culebra and Vieques, subject to any applicable federal requirements. During Phase 2, beginning on the third anniversary of the Effective Date (January 2023), with prior approval of the Authority and FTA, the Operator shall be permitted to increase the fares for residents of Culebra and Vieques not more often than once every three (3) years in an amount not exceeding one percent (1%) per year, (rounded up to the nearest five (5) cents), subject to any applicable federal requirements. (§15)

**Mechanisms for Ensuring Compliance with Level of Service** The Agreement sets forth minimum service quality and performance standards designed to ensure that the Operator provides the Authority with high-quality service throughout the contract period. The standards cover the following elements: on-time performance, failure to implement

emergency passenger notification plan, failure to notify reportable accidents and security incidents, maintenance and cleanliness, vessel, terminals and facilities inspection, code compliance, passenger complaints, ticketing services, passenger injuries, and passenger satisfaction. Should the Operator's performance fall below the established standards, the Authority may, at its sole discretion, impose monetary fines to the Operator that will be capped at \$20,000 per month. The performance standards set forth in Appendix B of the Agreement shall not apply during Phase 1 nor to the extent the service or non-compliance with such standards is attributable to Force Majeure events or such other events that are outside the reasonable control of, and unforeseeable by, the Operator and that are not attributable to the negligence or intentional misconduct of the Operator. The Operator shall provide to the Authority monthly reports regarding its compliance with the performance standards. If the Operator fails to comply with the standards in the manner specified in Appendix B, the Authority may, in its discretion, declare the Operator to be in default under the Agreement. (§23 and Appendix B)

#### **Employment Matters**

1. The Operator shall be required to interview and consider for employment positions, other than those of key individuals identified in the Operator's Proposal, all Authority employees who apply to the Operator for employment and, at Operator's discretion, offer employment to such employees of the Authority who meet the Operator's stated requirements for employment. However, the Operator does not have an obligation to offer employment to any employees of the Authority. (§10.1)
2. The Operator shall be solely responsible for the satisfactory work performance of all its employees and for payment of all its employees and/or subcontractors' wages and benefits. (§7.1)

#### **Records and Reports**

1. The Operator must submit several reports pertaining to the operation of the Ferry Service on a monthly basis. The Operator must also submit quarterly reports concerning Disadvantaged Business Enterprise matters and make all required filings and reports with governmental agencies that regulate navigation or the provision of ferry services. (§21.1)
2. The Operator, upon the inquiry or request of the Comptroller of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Comptroller of the Commonwealth. Such information may include the Operator's business or financial records, documents or files of any type or form that refers to or concerns the Agreement.

Such information must be retained by the Operator for a period of five (5) years unless otherwise provided by Law. (§27.6)

3. In order to document services under the Agreement and compliance with all Agreement requirements and applicable law, the Operator must maintain all records as required by good business practices and applicable law and as described more particularly in the Scope of Work. The records must document daily operations and must be sufficient to serve as a database to monitor and evaluate productivity of the services provided and the Service requirements and methods. (§21.1)
4. Operator must establish and maintain a separate account of all Project expenditures and any other relevant financial records or documents and must maintain complete records reflecting all farebox and other receipts and revenues. The Operator also must maintain all checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents related in whole or in part to the Agreement so that they may be clearly identified, readily accessible and available to all concerned federal agencies and/or the Authority upon request. The Operator's financial records during Phase I shall be kept according to Puerto Rico Office of Management and Budget Circular Letter OMB-A-87 and on a strict accrual basis with an annual financial and data collection audit performed by an accounting firm contracted by the Authority. During the Contract Term and for six (6) fiscal years following the date of the Authority's delivery to all concerned federal agencies (which date of submission shall be informed in writing to the Operator), as the case may be, of the final expenditure report, the Operator must maintain intact and readily accessible all data, documents, reports, records, sub-agreements, leases, third party contracts, and supporting materials related to the Agreement. Such records may be audited by the Authority or all concerned federal agencies at any time within this period. (§21.1)

#### **Credit Support**

HMSI is required to provide a Payment Bond in the amount of \$5,000,000 to secure its payment obligations. If the bond were to be cancelled or not renewed prior to the termination of the Agreement, the Authority is permitted to draw upon the Payment Bond and is required to deposit the amount drawn in an escrow account as security for HMSI's obligations. In the event of a termination due to a default on the part of the Operator, the Authority shall have the right to recover any Losses resulting therefrom by making a draw against the Payment Bond provided by the Operator. Any amount due to the Authority and not recovered under the Payment Bond shall be paid by HMSI to the Authority. (§3.7)

**Compliance with Applicable Law** The Operator shall, at all times and at its own cost and expense, observe and comply, in all material respects, and cause the Service and the Ancillary Activities to observe and comply, in all material respects, with all Applicable Laws now existing or later in effect that are applicable to it or such Works, including all such laws and regulations that may in any manner apply with respect to the performance of the Operator's obligations under this Agreement. The Operator shall notify the Authority in writing within seven (7) days after receiving notice from a Governmental Authority that the Operator may have violated any of these laws and regulations. (§27.1)

**Insurance** Until otherwise instructed by the Authority in the event that the Authority concludes that its direct purchase of insurance will result in lower premiums than those obtained by the Operator, the Operator shall obtain and maintain various insurance policies required under the Agreement. The Operator shall bear the cost of such policies up to the amount estimated therefor in their proposal. Subject to certain exclusions, any increases in premiums over those estimated by Operator in their proposal shall be borne by the Authority. (§5.12 and §24)

**Subcontractors and Contractors**

1. The Operator shall not enter into any subcontract for any portion of the Work required under the Agreement without the prior review and written approval of the Authority. The Operator shall be fully responsible for all work performed by any subcontractor. The entering into of a subcontract shall not relieve the Operator of its obligations, responsibilities, and liabilities under this Agreement. (§35.1)
2. The approval of the Authority shall not be required with respect to any subcontract: (i) involving an annual consideration of less than \$100,000; (ii) engaging a Person who dedicates less than fifty percent (50%) of his/her/its time to provide advisory services related to the Services to be provided under the Agreement; and (iii) related to back-office, business consulting or administrative services such as legal, accounting, human resources, financial, IT or similar services. (§35.1)
3. The Operator shall not, without prior written notice to and consent by the Authority, remove or replace any Subcontractors, or appoint any new subcontractors to those subcontracts, whether in an acting or permanent capacity, at any time during Phase 1 or Phase 2. (§35.2)

**Taxation**

1. No withholding of Taxes shall be made by the Authority with respect to the Phase 1 Service Payments, provided that the withholding of any Taxes may be made with respect to the Management Fee to the extent required by Applicable Law. (§5.1(e))

2. The Operator shall pay, and shall hold the Authority harmless from, all license, registration fees, Taxes, (except those for which the Operator is entitled to reimbursement or to an exemption) levies, imposts, duties, withholding or other charges of any nature whatsoever (together with any penalties, fines or interest thereon) now or hereafter imposed by any federal, state, Commonwealth or local government or taxing authority upon the Operator arising out of or with respect to the Work. (§39)
3. The Operator shall inform the Authority if, at any time during the Contract Term, it becomes delinquent in the payment of Taxes imposed by any Governmental Authority of the Commonwealth, other than with respect to Taxes being contested in accordance with applicable Law. (§27.7)

#### **Intellectual Property**

1. The Operator shall be responsible for developing and implementing during the first twelve (12) months of Phase I a new integrated ticketing system for the Maritime Transport Services (the “**New Ticketing System**”), which shall belong to the Authority and shall be considered Authority-Provided Intellectual Property. All Authority-Provided Intellectual Property shall be owned by the Authority throughout the Contract Term and following the expiration or termination of this Agreement, and the Operator, except to the extent set forth in the Agreement and any document ancillary thereto, shall have no rights, title or interest therein or thereto. (§4.2(b) and §14.4)
2. Intellectual property, software and other technology developed, collected, licensed or supplied by the Operator during the Contract Term (other than the New Ticketing System), which shall be considered Operator-Provided Intellectual Property, shall remain the sole and exclusive property of the Operator during the Contract Term and following the End Date, to the maximum extent permitted under Applicable Law. (§4.2(c))

#### **Termination for Events of Default by Operator**

1. The Authority may terminate the Agreement upon a default by the Operator. If the Authority determines that an event of default on the part of the Operator has occurred, it may immediately notify the Operator in writing and provide the Operator with thirty (30) days (five (5) Business Days in the case of a default related to the insurance and bonding requirements) in which to cure. If such default is incapable of being cured in such period and the Operator diligently commences to cure such default, then such cure period shall be extended until final cure, provided, however that the total cure period shall never exceed one hundred twenty (120) days; provided, that the cure period shall not be applicable to a default resulting from the Operator’s bankruptcy or insolvency. (§45.1)

2. If the Operator fails to cure within the applicable time period, the Authority may declare the Operator to be in default and terminate the Agreement in whole or in part. Upon a termination by the Authority in such case, the Authority shall be entitled to recover all losses suffered by the Authority in connection therewith, subject to the following caps:
  - a. Payment Bond. In the event of a termination due to a default on the part of the Operator, the Authority shall have the right to recover any Losses resulting therefrom by making a draw against the Payment Bond provided by the Operator. Any amount due to the Authority and not recovered under the Payment Bond shall be paid by HMSI to the Authority.
  - b. Caps to Authority's Recovery. The damages and costs recoverable by the Authority are capped at \$10,000,000. (§45.1)

#### **Termination for Events of Default by Authority**

1. The Operator may terminate the Agreement upon a default of the Authority. If the Operator determines that an Authority event of default has occurred, it may immediately notify the Authority in writing and provide the Authority with thirty (30) days in which to cure. If such default is incapable of being cured in such period and the Authority diligently commences to cure such default within such period the curing period shall be extended until final cure, provided, however that the total cure period shall never exceed one hundred twenty (120) days. The cure period for a default relating to the Authority's failure to deposit the Quarterly Deposit Amount in the operating account or to the payment of the monthly Fixed Fee amount is ten (10) days and five (5) days, respectively. (§45.5)
2. In the event of a termination of the Agreement by the Operator due to an Authority default, the Operator shall have the right to receive the Basic Termination Fee. Any amount due to the Operator that is not recovered from the operating account shall be paid by the Authority. (§45.5)

#### **Additional Termination Rights**

1. Termination for Convenience. The Authority has the right to terminate, at any time, the Agreement for convenience. If the Authority exercises this right, the Operator will receive a termination fee calculated as indicated below. (§43.2)
  - a. Basic Termination Fee. The Basic Termination Fee consists of: (i) unpaid fees payable to the Operator up to the

termination date; plus (ii) the Operator's demobilization costs; plus (iii) termination or severance payments required to be made by the Operator to its employees and subcontractors; plus (iv) the Operator's documented cost of participating in the MTA's procurement process (with a cap of \$750,000); minus (v) fair value of property that is destroyed, lost or stolen or damaged so as to become undeliverable to or unusable by the Authority.

b. Additional Termination Fee. In addition to the Basic Termination Fee, if the Authority terminates the Agreement for convenience under the circumstances described below, the Operator will receive an additional termination fee in the amount indicated below.

i. Applicability. The Operator shall have the right to receive the Additional Termination Fee if (a) the Authority exercises its right to terminate the Agreement for convenience, and (b) within a 12 month period after such termination the Authority enters into a new O&M Agreement with a substitute operator which provides for the payment to the Operator of a Fixed Fee, the present value of which (using a percentage discount of 5%) exceeds by more than 10% the present value of the Fixed Fee provided under the Agreement with the Operator.

ii. Amount. The Additional Termination Fee will be an amount equal to the management fee paid to the Operator during the contract year immediately preceding the termination.

2. Termination for Non-Fulfillment of Conditions Precedent. Either Party may terminate the Agreement in the event that (i) the conditions precedent to the Transition Period and Phase 1 are not met on or before 90 days after the Effective Date or (ii) the conditions precedent to Phase 2 are not met within three (3) years of the Phase 1 commencement date. In either of such cases, if the failure to meet the conditions precedent is not attributable to the Authority, the Operator shall have the right to receive a termination payment equal to the fee that would have been payable upon termination of the Agreement due to an event of extended force majeure. If the failure to meet the conditions precedent is attributable to the Authority, then

the Operator shall have the right to receive a termination payment equal to the Basic Termination Fee. (§2.7)

3. Termination as a Result of Casualty. The Authority may terminate the Agreement if the Facilities or Vessels are wholly or substantially destroyed. (§24.5)
4. Authority's Right to Cancel Contract. The Authority has the right to cancel the Agreement without penalty in any of the following cases: (i) the Operator is guilty of material misrepresentations of certain of its representations; (ii) the Operator or any of the Operator's officers, directors, managers and/or administrators are found guilty, or enter a plea of guilty, of certain crimes relating to governmental corruption or are found to have violated certain laws regarding governmental corruption; (iii) the Agreement is obtained by fraud, collusion, conspiracy, or other unlawful means; (iv) the Agreement conflicts with any Puerto Rico or United States statutory or constitutional provision of general application (not directly or indirectly aimed at Operator) enacted after the execution of the Agreement, and such conflict has the effect of rendering any of the material terms of this Agreement unenforceable, invalid or illegal, and an amendment to this Agreement to modify such conflicting terms is not feasible; or (v) the Operator is found guilty, or enters a plea of guilty, of knowingly participating, or aiding and abetting, in the commission of any felony, or a court of law determines that the Operator knowingly allowed illegal activities constituting a felony to be carried out, in any of the Project Assets of the Ferry System. (§42)

#### **Dispute Resolution**

Any dispute between the Parties initially will be appealable in writing to the Authority Executive Director within five (5) Business Days of the decision giving rise to the dispute, which writing will include a particular statement of the grounds of the dispute. In connection with any such dispute, the Operator shall be afforded an opportunity to offer written evidence on the issues presented to the Authority and meet with the Authority's Executive Director or his or her duly authorized representative (and such other Authority staff persons as the Authority's Executive Director may determine). The Authority's Executive Director will issue a decision in writing within thirty (30) Business Days of the receipt of the written evidence or of the date of the meeting, as the case may be. The Operator will respond in writing, if it does not accept the Executive Director's decision, by stating in general terms the factual and/or legal objections to the decision within ten (10) Business Days of such decision. The Operator's failure to object within the above-specified time limit will constitute acceptance of the Executive Director's decision. Thereafter, either the Operator, if the Operator objects to the Executive Director's decision, or the Authority, at the

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Force Majeure event and from any associated Events of Default, except to the extent contemplated in the Agreement. (§38.2(a))

3. In the event the Operator is the party claiming the Force Majeure event, the Operator shall be (i) excused with respect to compliance with the operational requirements set forth in Appendix B of the Agreement that are affected by the Force Majeure event, but only to the extent that such compliance is so affected, and (ii) if the Force Majeure event increases the cost of providing the Services, it shall be entitled to request and receive appropriate adjustments to the Phase 1 Budget or Phase 2 Fixed Fee, as applicable. Any adjustments during Phase 2 shall be made pursuant to a Modification. For the avoidance of doubt, notwithstanding the foregoing, the Operator shall be required to continue providing the Service to the maximum extent possible within the circumstances created by the Force Majeure event. Any disputes as to the justification for, or the amount of such appropriate adjustment shall be resolved in accordance with the Agreement's dispute resolution provisions. (§38.2(b))
4. In the event that an event of Force Majeure occurs and is ongoing and, as a result of such event, a party is unable to comply with most of its material obligations under the Agreement for a continuous period of more than one hundred eighty (180) days (an “**Extended Force Majeure Event**”) and the parties are unable to agree on appropriate terms to mitigate the effect of such event of force majeure, such party may terminate the Agreement by delivering a termination notice to the other party. Such notice shall identify the event of force majeure and specify the date of such termination, which shall be no less than one hundred twenty (120) days after the other party's receipt of such notice. An Extended Force Majeure Event that results in a permanent reduction of fare revenues in an amount that exceeds 30% of the fare revenues collected by the Authority or the Operator in the preceding Contract Year shall give rise to the termination right for extended force majeure. In the case of a termination as a result of a force majeure, the Operator will have the right to receive items (i), (ii), and (iii) of the Basic Termination Fee minus (i) any insurance proceeds that the Operator would be entitled to retain and (ii) any liquidated damages for non-compliance with the Agreement due from the Operator that remain unpaid. (§38.3)
5. To the extent any event of Force Majeure is reasonably foreseeable, such as a Named Windstorm, the Operator shall be required to implement the Emergency Management Plan in order to secure and protect any and all assets used in the Maritime Transport Operations, including any and all Vessels and Facilities. To the extent the Operator fails to comply with the provisions of the Emergency

Management Plan, the Operator shall be responsible for any and all damages suffered by any such assets, including the Vessels and the Facilities. (§38.2)

**Indemnification** 1. Indemnification with Regard to Third Party Claims. (§28.1)

- a. By the Operator. The Operator is required to indemnify and hold harmless the Authority from and against any losses actually suffered or incurred by the Authority as a result of any claims by third parties arising from, related to, or in connection with (A) any failure on the part of Operator to comply with any applicable laws, including, without limitation environmental laws and the ADA or (B) the Operator's performance of the services as required by the Agreement, in each case arising from matters occurring on or after the commencement of Phase 1, including any losses related to former Authority employees hired by the Operator or to contracts assumed or managed by the Operator for the performance of its obligations under the Agreement.
- b. By the Authority. The Authority is required to indemnify and hold harmless the Operator from and against any losses actually suffered or incurred by the Operator as a result of any claims by third parties arising from matters occurring prior to the commencement of Phase 1.

2. Indemnification with Regard to Breaches of Covenants, Representations or Warranties. (§28.2)

- a. By the Operator. The Operator is required to indemnify and hold harmless the Authority from and against any losses actually suffered or incurred by the Authority arising from (A) any failure by the Operator to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in the Agreement, (B) any negligence or willful misconduct of the Operator, (C) any breach by the Operator of its representations or warranties.
- b. By the Authority. The Authority is required to indemnify and hold harmless the Operator from and against any losses actually suffered or incurred by the Operator arising from (A) any failure by the Authority to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in the Agreement, including payment terms, or (B) any negligence or willful misconduct of the Authority, or

(C) any breach by the Authority of its representations or warranties.

<b>Limitations on Liability</b>	In no events shall any party to the Agreement be responsible to the other party for lost profit or consequential, indirect, exemplary or punitive damages, or unforeseeable damages, nor shall any party be obligated to indemnify any other party or any other person with respect to any losses or damages caused by the fraud of its other party or person. The obligation to indemnify the other party shall not arise until the aggregate amount of all losses exceeds \$100,000, and the maximum aggregate liability of each party in connection with breaches of warranties and representation shall not exceed \$5,000,000. (§28.2)
<b>Amendments</b>	The Agreement may be amended only by a written instrument duly executed by the Authority and the Operator or their respective successors or assigns. (§48.5)
<b>Governing Law</b>	The Agreements shall be interpreted, construed and governed by and in accordance with, and enforced pursuant to, the law of the Commonwealth of Puerto Rico. With respect to any court action required to resolve any dispute, the parties have agreed that any civil actions shall be filed in Commonwealth court. The Selected Proponent and the Operator agree to submit to the jurisdiction of the Commonwealth courts. <sup>12</sup> (§48.4)

<sup>12</sup> Claims against the Surety must be brought in the United States District Court in Puerto Rico.

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# APPENDIX 4





GOVERNMENT OF PUERTO RICO  
Puerto Rico Public-Private Partnerships Authority

**Qualification Process Report**

***Puerto Rico Maritime Transportation Services Project***

September, 2018  
San Juan, Puerto Rico

Partnership Committee  
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## Introduction

This Qualification Process Report (the “**Report**”) summarizes the qualification procedures and relevant information related to the procurement process conducted for the establishment of a public private partnership (“**PPP**”) for the financing, design, construction, operation, maintenance, management and improvement of the MTA’s ferry services (the “**Project**”).

On June 29, 2018, the Public-Private Partnership Authority (“**PPPA**” or “**Authority**”), acting in collaboration and as an agent of the Puerto Rico and Island Municipalities Maritime Transport Authority (“**MTA**”) - which is ascribed to the Department of Transportation and Public Works (“**DTOP**”) - issued an amended Request for Qualifications (the “**RFQ**”) as part of the commencement of the Project’s procurement process.

The PPPA received statements of qualifications (the “**SOQs**”) in response to the RFQ from five (5) prospective proponents (“**Respondents**”). This Report describes the qualification process followed to evaluate such SOQs and determine if the Respondents were qualified to participate as Proponents in the Request for Proposal (“**RFP**”) stage. The Report also includes the official list of Respondents that were qualified for the RFP stage. The Report consist of the following parts: (I) Project Background; (II) Description of each Respondent; (III) Qualification Process Background; (IV) Qualification Process; (V) Conclusions of the Evaluation Performed; and (VI) Respondents Qualified to Participate as Proponents for the Project.

### I. Project Background

MTA’s ferry system currently provides a poor level of service and its assets are in need of repair. Also, the MTA is currently experiencing financial challenges due to Puerto Rico’s fiscal situation, and the irregular nature of ongoing ferry expenses in each case with limited capacity for improvement.

With the execution of this Project, the Government of Puerto Rico seeks an alternative commercial structure for delivering maritime transportation services, currently provided by MTA under a traditional public delivery structure. Consequently, the PPPA, in collaboration with the MTA, is interested in procuring a 23-year agreement (the “**PPP Contract**”) for the financing, design, construction, operation, maintenance, management and improvement of the MTA’s ferry services including, without limitation: (i) the commencement of ferry service in the Municipality of Ceiba, currently performed by the MTA in the Municipality of Fajardo; (ii) the performance and improvement of existing operations of the MTA located in the Municipalities of Vieques and Culebra (“**Island Service**”) and in the San Juan Bay (“**Metro Service**”), and; (iii) the operation, maintenance and improvement of a maintenance facility located in San Juan (the “**Maintenance**”).

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**Facility**”). The selected proponent is expected to provide the Ferry Services from Pier 2 located in the former Roosevelt Roads Naval Station in the Municipality of Ceiba (“**Pier 2**”).

## II. Description of each Respondent

For convenience and ease of reference, set forth below is a summary of each Respondent’s principal characteristics. The Partnership Committee evaluated all Respondents strictly based upon the information provided in their SOQs. The Respondents are presented in alphabetical order.

### **Baleària Caribbean Inc. (“Baleària” or “Balearia”)**

- Baleària Caribbean Inc. was created under Puerto Rico law specifically to participate in the Project’s procurement. The team consists of three members: (i) Laura G. Irizarry Toro, (ii) Arnaldo Irizarry; and (iii) Mario Otero Rivera. Ms. Irizarry Toro, who is a legal advisor of MEDI Corp., has worked on many projects that focus on obtaining financing for the development of government owned property. Mr. Irizarry, who has 30 years of experience in the public and private sector, is the main legal advisor of MEDI Corp. and has traveled the world looking for private investors that could help Puerto Rico’s economic development. Finally, Mr. Otero Rivera is the General Manager of the Caribbean Area and Balearia’s representation in the team.
- Its holding company is Baleària Group, an organization incorporated in Spain since June 20, 1998. This company is principally involved in the maritime transport of passengers, vehicles and merchandise, which operates under the name Baleària. As a parent company, they have many branches with activities in the Balearic Islands, the Strait of Gibraltar, the North of Africa and the Caribbean.
- Baleària Group is one of the largest Maritime Transportation Services Company in the European Maritime Transportation Services Industry. It is the only company in the region that provides inter-island connections for the Balearic Islands. The Baleària Caribbean Brand also operates lines between Algecires and Tanger in Marruecos; Valencia and Mostaganem in Argelia; along with the services offered between Fort Lauderdale in Florida, U.S.A., and the Grand Bahama Island.

### **HMS Ferries, Inc. (“HMS”)**

- HMS has 20-year of experience in passenger vessel operations in the United States. They carried over 3 million passengers in 2017, and 16 million passengers when including its holding company, HMS Global Maritime, and its affiliate Hornblower companies. In 2017, HMS companies’ revenues exceeded \$200 million, and HMS Ferries, Inc. alone produced nearly \$15 million.

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- HMS has four divisions: (i) the ferry division; (ii) the government services division; (iii) the cruise line division, and; (iv) the consulting division.
- HMS plays a leadership role in several maritime industry organizations, such as the Passenger Vessel Association, the Ship Operations Cooperative Program, the U.S. Coast Guard Area Maritime Security Committees, the State Maritime Federations, among others. Also, they claim to be the only domestic United States passenger vessel company to have received an American Bureau of Shipping certification for its Safety Management System.
- HMS is currently working in an all-battery powered ferry in Alabama, which would be the first all-battery powered ferry of that magnitude in the United States.

#### **Priority Roro Services, Inc. (“Priority Roro” or “Roro”)**

- Is a local corporation that offers various services including: (i) the maritime transportation of dry or refrigerated cargo between Puerto Rico and the Dominican Republic; (ii) authorized maritime agents; (iii) local transportation and handling of customs procedures; and (iv) transport of loose cargo.
- Priority Roro has neither a parent company nor a branch office. However, it has the following affiliated companies:
  - **America Cruise Ferries, Inc. d/b/a/ Ferries del Caribe** has been dedicated to the movement of passengers and passenger vehicles by sea through a ferry service for the last 20 years. America Cruise Ferries was one of the few companies that was approved in the past to provide carrier services for persons, baggage, or authorized cargo by vessel between Cuba and the United States.
  - **Marine Express, Inc.** is dedicated to the maritime transportation of cargo since 1993. One of its most important historical points is that it started operating from the Port of Mayaguez at a time when larger shipping companies operated from San Juan, Puerto Rico.
  - **Marinex Cargo Line, Inc.** started operating in July 2015 and has served as a shipping link for maritime cargo from San Juan to St. Thomas, Tortola, St. Croix, St. Marteen, and others. Transshipment cargo from the United States of America and the Dominican Republic is also carried.

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#### **Puerto Rico Fast Ferries, LLC (“PRFF”)**

- PRFF has technical experience in the start-up and operation of ferry services throughout the Northeast United States and Puerto Rico that spans decades. One of its officials, Mr. Hagopian, has experience as a legal Counsel to major ferry businesses, as well as an investor in and a member of their management teams.
- As a Principal and General Counsel to Island Hi-Speed Ferry, LLC (“IHSF”), Mr. Hagopian started the first high speed passenger ferry service to summer resort Block Island, Rhode Island in 2001.
- PRFF also worked in a support role to the MTA on the Fajardo-Culebra-Vieques routes, pursuant to an emergency service contract with the Puerto Rico Highway Transportation Authority. During that period, PRFF carried over 750,000 passengers and over 50,000 vehicles on the Fajardo-Culebra-Vieques routes in supplement to the few vessels MTA could keep operational at any given time. PRFF currently has a charter agreement with the MTA to address emergency caused by Hurricanes Irma and Maria.

#### **Seastreak**

- Seastreak, LLC is a Delaware corporation headquartered in New Jersey owned by Seastreak Holding Company, and has experience providing high speed commuter ferry service in the New York Metropolitan area and in New England.
- They carry over one million passengers annually, operating a fleet of eight vessels with 149-600 passenger’s capacity range.
- Seastreak is a sister company of Moran Towing Co., which currently has operations in Puerto Rico, as well as The Interlake Steamship Company and Mormac Marine Group, Inc.
- Seastreak claims to be the only privately held passenger ferry service in the United States that has developed and implemented a safety management system in accordance with the requirements of the International Safety Management (ISM) Code, which is audited annually by the American Bureau of Shipping (ABS). Seastreak’s senior managers hold United States Coast Guard mariner licenses and credentials.

### **III. Qualification Process Background**

Pursuant to Act No. 29-2009, also known as the *Public-Private Partnership Act* (the “**Act**”), and the *Regulation for the Procurement, Evaluation, Selection, Negotiation, and Award of Public-Private Partnership Contracts under Act No. 29 of June 8, 2009* (the “**Regulation**”), the Board of Directors of the PPPA established the Partnership Committee for the Project (the “**Partnership Committee**” or “**Committee**”). The Partnership Committee has the duty and responsibility to

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evaluate and pre-qualify those Respondents most suitable to participate as proponents for the Project.

In addition, the PPPA has a group of advisors that were engaged in providing assistance to the Partnership Committee throughout the Project's development and RFQ. These are: *KPMG LLP* – Project's lead, general and financial advisor; *Pietrantonio Méndez & Alvarez LLC (PMA)* – legal advisor; *SDG and KPFF Consulting Engineers* – technical advisors, and; *CPM PR, LLC*- advisor for the procurement process.

#### **The Authority and the Partnership Committee rights in the qualification process**

The Regulation states that the Partnership Committee may qualify a limited number of Respondents to arrive at a shortlist for the Project. Accordingly, the Partnership Committee notified Respondents of its right to shortlist in the RFQ. Specifically, Section 6.1 of the RFQ provides that "...the Committee reserves the right to qualify a limited number of prospective Proponents in order to arrive at a shortlist for a particular Project; provided, that such right is contemplated in the applicable RFQ. The Authority's goal is to create a fair basis for the evaluation of the SOQs in compliance with all applicable laws governing this procurement."

It should be noted, however, that the Partnership Committee may determine in its sole discretion that all the Respondents are qualified to participate as proponents in an RFP process. In other words, such right to shortlist a limited number of Respondents is not mandatory, but rather a discretionary right that the Partnership Committee may utilize when it determines that it is in the best interests of the process.

#### **IV. Qualification Process**

The RFQ required, among other things, that prospective respondents submit completed SOQs by no later than 5:00 p.m. AST on July 30, 2018. The Authority received the SOQs in the order detailed below:

No.	Respondent	Date	Time
1	Priority Roro Services, Inc.	July 27, 2018	11:13 am
2	HMS Ferries, Inc.	July 27, 2018	3:39 pm
3	Seastreak, LLC	July 30, 2018	4:08 pm
4	Puerto Rico Fast Ferries, LLC	July 30, 2018	4:52 pm
5	Baleària Caribbean, Inc.	July 31, 2018	11:47 am

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### **Baleària's SOQ submission**

We note that Baleària's SOQ submittal was filed one day after the deadline due to their attorney's negligence. Baleària asked the Authority to grant a two-week extension in order to submit its completed SOQ. Baleària submitted convincing evidence to support its claim, the Authority granted the extension after consultation with its legal advisors and Baleària filed their SOQ submittal the next day.

### **PRFF potential conflict of interest**

Additionally, during the evaluation process, it came to the attention of the PPPA that a potential conflict of interest or unfair advantage could arise as a result of: (i) the President of Respondent PRFF, Mr. Rick Newman, participating in a committee named by the Governor of Puerto Rico in connection with the development of the Roosevelt Roads Naval Base and the improvement of maritime transportation in Puerto Rico ("**Committee for the Transition of Ferries to Ceiba**"), and (ii) the execution of an agreement pursuant to which Fast Ferries would charter vessels to the MTA for the operation of ferries between the main island and the municipalities of Vieques and Culebra.

PPPA asked PMA to review the potential conflict of interest. Counsel advised the PPPA to evaluate the actions it could take to mitigate the unfair advantage and determine the course of action accordingly.

As a result, the Partnership Committee determined to conduct a Referendum pursuant Section 8(b) of the Act, and Section 3.3 of the Regulation. Each member of the Partnership Committee was required to render a vote selecting one of the two following options:

- **Action Number 1:** To disqualify Respondent PRFF, or;
- **Action Number 2:** Not to disqualify Respondent PRFF, subject to the following conditions: (i) to disclose to every Respondent all of the work product produced by PRFF as part of their working relationship with MTA; (ii) to provide to every Respondent all of the information that is available to PRFF as part of their working relationship with MTA; (iii) to Request that Mr. Newman shall not participate in the Committee for the Transition of Ferries to Ceiba. (Regarding this condition, it should be mentioned that Mr. Newman is no longer part of such committee), and; (iv) to provide to all Respondent a detailed explanation of all measures to be taken to address this situation.

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Pursuant to the discretion that Section 5.5, 5.6, and 5.7 confers to the Partnership Committee, all of its members rendered a written and unanimous vote electing Action Number 2, and therefore determining not to disqualify Respondent PRFF.

### Evaluation Process

Pursuant to Article 8(b) of the Act and Section 3.1 of the Regulation, the Partnership Committee evaluated the SOQs and selected those Respondents best qualified to undertake the Project. Specifically, the Partnership Committee evaluated each response to the RFQ by considering the extent to which Respondents satisfied the evaluation criteria established in Section 6 of the RFQ (collectively referred as the “**Evaluation Criteria**”).

SOQs were first examined under a *Pass/Fail Criteria and Responsiveness Review*, as per Section 6.2.1 (“**Pass/Fail Criteria**”) to confirm: i) Criterion 1 – overall compliance with the requirements contained within the RFQ including but not limited to, format requirements (Appendix 1), terms, conditions, and the completion of required Forms illustrated in the RFQ’s Appendix 2 and issued addenda, and; ii) Criterion 2 - compliance with the requirements of the Act.

The Pass/Fail Criteria was established in the RFQ as follows:

#### **a. Pass/Fail Criteria**

##### Criterion 1 – Compliance with RFQ

To pass Criterion 1, the SOQ must comply with the requirements contained within this RFQ, including, but not limited to, format requirements, terms, conditions of this RFQ and the completion of required Forms in Appendix 2.

##### Criterion 2 – Compliance with Requirements of the Act

Each SOQ submitted pursuant to this RFQ will be reviewed to determine whether it satisfies the Act’s requirements. To pass this Criterion 2, Proponents are to provide a statement which addresses the following:

- The Respondent shall demonstrate that it is a Person authorized to do business in Puerto Rico.
- Each Team Member and each Respondent, if the Respondent has been formed as of the date of a submission of a response to this RFQ, shall certify that neither it nor any of its directors, officers, shareholders, or subsidiaries, nor its parent company, nor in the case of a partnership, any of its partners, nor any person or entity that may be considered an alter ego or the passive economic agent of the Respondent (each a “Covered Party”), has been convicted, has entered a guilty plea or has been indicted, or has had probable cause

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found for their arrest, in any criminal proceeding in the courts of the Government, the Federal courts of the United States, or the courts of any jurisdiction of the United States or a foreign country, of criminal charges related to acts of corruption or to any of the following crimes: a crime against public integrity, as defined in the Government of Puerto Rico Penal Code, embezzlement of public funds, a crime against the public treasury, public trust, public function or involving the wrongful use of public funds or property, any of the crimes enumerated in Act No. 458 of December 29, 2000, as amended (“Act 458”), or under the Foreign Corrupt Practices Act; nor is any Covered Party under investigation in any legislative, judicial or administrative proceedings in the Government of Puerto Rico, the United States or any other country. The Respondent is in compliance and will continue to comply at all times with all federal, state, local and foreign laws applicable to the Respondent that prohibit corruption or regulate crimes against public functions or public funds, including the Foreign Corrupt Practices Act (this requirement may be satisfied by completing the Form of Sworn Statement and Form of Respondent Certification included in Appendix 2 to this RFQ).

- Proponents who apply or bid for an award of U.S. \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient (this requirement may be satisfied by completing the Certification Regarding Lobbying included in Appendix 2 to this RFQ).

As part of the initial assessment of the SOQs, the PPPA issued Request for Clarifications (“RFCs”; as such process is outlined in the Act and described in Section 6.2.1) to all Respondents, requesting further clarification and/or information as to some of the content of their SOQs. Respondents provided the corresponding clarifications. All Respondents received requests for further clarification and information, though the majority of RFCs were considered to be minor in nature, or clarifying as it relates to the organizational structure of the Respondent. Upon receiving an RFC, Respondents were given a specified period time to respond with additional clarifying information to assist the Partnership Committee in evaluation of the SOQs. All Respondents provided responses to RFCs within the allotted time.

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After reviewing the documents presented, the determination was that all five (5) Respondents complied with the requirements assessed under the Pass or Fail Criteria evaluation, specifically, those requirements contained in the Act, as well as all other requirements contained within the RFQ, including format requirements, terms, conditions, and the completion of all Forms illustrated in the RFQ's Appendix 2 and issued addenda.

#### ***b. Qualitative Evaluation***

After it was determined that all SOQ's complied with the Pass/Fail Criteria, Respondents' SOQs were qualitatively evaluated following Section 6.3 - *Qualitative Evaluation Criteria and Weighting* ("**Qualitative Evaluation**" or "**Qualitative Evaluation Criteria**") and scored by the Committee in the following categories:

1. Management Plan (10% Weighting)
2. Technical Qualifications and Capability (40% Weighting)
3. Conceptual Technical Approach Statement (30% Weighting)
4. Financial Qualifications and Capability (20% Weighting)

#### **Description of the Qualitative Evaluation Criteria**

Below is the Qualitative Evaluation Criteria, as stated in the RFQ:

##### ***1. Management Plan (10% Weighting):***

Section 6.3.4 of the RFQ describes the information and qualifications that shall be considered under this evaluation criteria. Respondent's Management Plan was evaluated based on the completeness and capability of its organizational structure to successfully deliver the Project. The Management Plan is organized under Part A – General Information, as per Appendix 1 of the RFQ. Also, Part A included general information of each Respondent that supports the overall understanding of the Respondents' capabilities and organization. According to Section 6.3, weighting is based on the presented Management Plan, and only the Management Plan was scored as part of the SOQ. However, the items listed below were validated to understand a Respondent's organizational structure and background.

- a. Respondent provided Disclosure of Conflicts, which includes a list of any dealings with the Government of Puerto Rico, the Authority, or MTA (including the employees and elected representatives of each), as well as any suppliers of goods or services to MTA.

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- b. Respondent provided a Cover Page that identifies all Team members.
- c. Respondent provided a Cover Letter and Table of Contents that adheres to the requirements listed in the RFQ.
- d. Executive Summary (3 pages maximum)
  - Respondent provided an Executive Summary that identifies each Team Member and briefly describe the role, headquarter office location, and the qualifications of each Team Member, and their experience in performing comparable projects. The executive summary addresses why the Respondent wants to become the Preferred Proponent.
- e. Respondent and Organization Information (2 pages maximum):
  - Respondent provided a Respondent Representative: a single contact person for all future communication between the Authority and the Respondent. The submission should identify the Respondent Representative's name, title, organization, work address, email address, and work, cell and fax numbers.
  - If the organization listed has multiple offices, the SOQ shall include information about the parent company and branch office separately and identify offices from which the Project will be managed and their respective responsibilities and subordinate organizational units (including an organizational chart which illustrates the various subcontractors and Key Personnel).
  - Respondents should provide form of ownership, including state of residency or incorporation, and number of years in business.
  - Respondent specified whether the firm is a sole proprietorship, partnership, corporation, limited liability company, joint venture, or other structure.
- f. Management Plan (2 pages maximum):
  - The Respondent provided details regarding its organizational structure which efficiently identifies key positions, their duties and responsibilities and how the proposed structure will deliver the required quality of service.
  - The plan must provide details of the proposed staff and their qualifications for the position. The Respondent's Management Plan shall be evaluated based on the completeness and capability of its organizational structure to successfully deliver the Project.

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## 2. Technical Qualifications and Capability (40% Weighting)

Section 6.3.1 of the RFQ depicts the different elements and aspects to be evaluated. This category is organized under Part B – Technical Information as per Appendix 1 of the RFQ. Part B (Technical Information) also comprised the Conceptual Technical Approach Statement, which is the third category explained further in this section. Items as described in Section 6.3.1 and the Appendix are listed below:

- a. **Firm Experience** - Respondents should provide details for a minimum of three and no more than five projects that best meet the following evaluation criteria:
  - Evidence of experience with the design, construction, operation and maintenance of projects comparable to the design, construction, operation and maintenance of capital improvements to Pier 2, including any examples of innovative approaches to similar projects that provided benefits to both the public and private sectors.
  - Evidence of experience with the management, improvement, operations and maintenance of maritime transit operations or government-sponsored or owned infrastructure.
  - A demonstrable history of acquiring and/or financing new ferry vessels.
  - Evidence of operation of vessels including history of past “on time” service performance.
  - Evidence of maintenance of vessels including fleet sizes and type/size of vessels maintained, including history of missed trips.
  - Evidence of customer service and ticketing system development and operation.
  - Evidence of meeting local, governmental, federal, and international labor standards and fair wage.
  - A demonstrable history of maintaining responsible environmental practices and regulatory compliance.
  - Respondent submission includes copies of the following reports for the last three (3) years:
    - Occupational Safety and Health Administration (OSHA) 300 forms. If not applicable, a Respondent shall present a document explaining the reasons for not submitting the form.

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- Inclusion of vessel safety records including list of accidents/incidents they have been involved in.
  - USCG CG-835 and CG-2692 forms for current operations. If not applicable, a Respondent shall present a document explaining the reasons for not submitting the form.
- b. **Technical Key Personnel Experience** – Respondent should identify at least one individual as Technical Key Personnel and provide separate resumes for all other Technical Key Personnel whose qualifications and experience will be evaluated based on the extent and depth of the experience of Technical Key Personnel with projects of similar scope and complexity and with similar personnel roles and responsibilities as are anticipated for this Project, and specific experience with concessions, PPP contracting, design and construction, operations and maintenance contracting, or any variation thereof.
- The resumes should be as of the last 5 years and include:
    - Name of the project, the public owner’s contact information (project manager name, telephone number, email address), and dates of work performed on the project.
    - Description of the individual’s exact role and the work or services provided on the project. If more than one role was played, identify the dates and duration of each role.
    - Description of how the individual’s experience on the project is relevant to the criteria above.
    - Relevant licensing and registration (copies of licenses and/or applications for licenses, if applicable, must be attached.)
  - One reference must be supplied for each of the Key Technical Personnel. The references, in each case, must be from projects in which the Key Technical Personnel was involved during the past five years. References shall be provided by previous clients with whom the Key Technical Personnel have worked as described above, and shall include the reference's name, position, company or agency, and current contact details (including current address, e-mail address, and telephone number).
  - Respondents are requested to verify the accuracy of the reference's contact details, and are advised that if the contact details are not correct, the Authority

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may elect to exclude the experience represented by such reference in determining the Key Technical Personnel's qualifications.

- Respondent must provide an express written statement from each entity employing the individuals designated in the SOQ committing such individuals as Key Technical Personnel.

### 3. Conceptual Technical Approach Statement (30% weighting; 5 pages maximum)

Section 6.3.3 specifies that the respondent's Conceptual Technical Approach Statement should be a narrative of its approach to delivering the Project and demonstrate the following:

- An understanding of the Project's scope and complexity.
- An understanding of Project risks and potential solutions (regardless of which party has responsibility for such risks) that may arise during all Project phases, including design, construction, management, operation, maintenance, improvement, as well accepting the risk of demand of the ferry service.
- An understanding and sound approach to PPP contracting and successfully delivering the Project using PPP contracting.
- A sound approach to implementing Commercial Activities to generate additional revenue for the Project.
- An understanding and sound approach to establishing a ticketing system and business opportunities to optimize revenue that can be generated from the Project.
- An understanding and sound approach to implementing current personnel and/or utilizing other personnel to achieve appropriate staffing levels.
- An understanding and sound approach to project quality (QA/QC) during Phase I and Phase II operations.
- An understanding and sound approach to safety management during both Phase I and Phase II of operations.
- An understanding and sound approach to providing good customer service through the operations of the Project.

### 4. Financial Qualifications and Capability (20% weighting)

Section 6.3.2 of the RFQ depicts the different elements and aspects to be evaluated in connection with a Respondent's financial capability to undertake the Project. This category is organized

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under Part C – Financial Information as per Appendix 1 of the RFQ. Following, items as described in Section 6.3.1 and the Appendix:

- a. **Project Finance Experience** - Respondents should provide details for a minimum of three and no more than five projects that best demonstrate experience and understanding with accessing necessary corporate or equity capital, securities, or other financial resources that enable the design, construction, operation, maintenance, improvement, and management of maritime transportation and/or infrastructure assets similar to the Project, including descriptions of the projects and case studies.

Each case study should highlight any unique financial challenges encountered and the approach to overcoming these challenges. Only maritime transportation projects that are comparable to the Project should be listed.

- b. **Financial Key Personnel** - Respondent must identify at least one individual as Financial Key Personnel and provide separate resumes for all other Financial Key Personnel whose qualification and experience will be evaluated based on the length and depth of experience in funding maritime related transportation project improvements, design and construction, vessel acquisition, and other maritime related capital improvements.
  - For each project, the following information shall be included in the resume:
    - Name of the project, the public owner's contact information (project manager name, telephone number, email address), and dates of work performed on the project.
    - Description of the individual's exact role and the work or services provided on the project. If more than one role was played, identify the dates and duration of each role.
    - Description of how the individual's experience on the project is relevant to the evaluation criteria set forth above.
    - Relevant licensing and registration. (Copies of licenses and/or applications for licenses, if applicable, must be attached.)
  - Respondent must provide one reference for each of the Financial Key Personnel. The references, in each case, must be from projects on which the Financial Key Personnel was involved during the past five years. References shall be provided by previous clients with whom the Financial Key Personnel have worked as

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described above, and shall include the reference's name, position, company or agency, and current contact details (including current address, e-mail address, and telephone number).

- Respondents must provide an express written statement from each entity employing the individuals designated in the SOQ committing such individuals as Financial Key Personnel.
- c. **Financial Capacity** - The Financial Capacity section, which is listed in Appendix 1 Part C – Financial Information, was utilized to evaluate a Respondent's ability to undertake the financial requirements of the Project. This section was evaluated by analyzing a Respondents' financial statements to understand their current financial condition and make a confirmation that a Respondent has the financial resources to overcome any performance issues and deliver the Project. The Financial Capacity section is not scored; however, it was confirmed that the Respondents exhibited the necessary financial condition to be a viable candidate and be selected as a Proponent to move to the RFP stage.

The following items were required to make an evaluation as described Appendix 1 Part C – Financial Information, under the heading Financial Capacity:

- The Respondent must provide financial statements for the Respondent, including all Team Members and any Guarantors with respect to the three most recent completed fiscal years.
- Financial statements were prepared in accordance with U.S. GAAP or IFRS. If financial statements are prepared in accordance with principles other than U.S. GAAP or IFRS, a letter must be provided from a Certified Public Accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS. A restatement of the financial information in accordance with U.S. GAAP or IFRS is not required.
- Financial statements were provided in U.S. dollars if available. If financial statements are not available in U.S. dollars, the Respondent must include summaries of the income statements, balance sheets and statement of cash flow for the applicable time periods converted to U.S. dollars by a Certified Public Accountant with an explanation as to how they were converted.
- Financial statements were audited by an independent party qualified to render audit opinions (e.g. a Certified Public Accountant). If audited financial statements are not available for an entity, the SOQ must include unaudited financial statements for such entity, certified as true, correct and accurate by the chief

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executive, chief financial officer, treasurer or a duly authorized representative of that entity.

- Financial statement information was prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must accompany the original financial statement information.
- If the Respondent is a newly formed entity and does not have independent financial statements, the Respondent shall expressly state that it is a newly formed entity and does not have independent financial statements meeting the Financial Capacity requirements discussed in this section and shall provide financial statements otherwise consistent with those required hereby for each of its shareholders/Equity Members.
- If a Guarantor is a parent company of an entity to which a guarantee is being provided, the Respondent shall provide financial statements on a consolidated basis, only for each parent company entity (not for both the parent company and its subsidiary). If an entity is performing more than one role as part of a Respondent's team, the Respondent shall provide only one set of financial statements and clearly state the roles the entity is performing.
- Financial statements include the following:
  - opinion letter (auditor's report)
  - balance sheet
  - income statement
  - statement of cash flow
  - footnotes
- If an entity for whom financial statements are submitted files reports with the U.S. Securities and Exchange Commission, then the entity must provide electronic links to the most recently filed Forms 10-K and 10-Q for all such reporting entities.
- In addition to all other electronic information requested in this RFQ, each Respondent must submit a copy of all financial statements digitally in searchable PDF format on one or more USB flash drives.
- The Respondent provided information regarding any material changes in financial condition ("**Material Changes**") for each entity required to provide financial statements above for the past three years and anticipated for the next fiscal quarter.
- In instances where a Material Change has occurred, or is anticipated, the affected entity provided a statement describing each Material Change in detail, actual and

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anticipated associated changes or disruptions in executive management, the likelihood that the developments will continue during the period of performance of the Project, and the projected full extent, nature and impact, positive and negative, of the changes experienced and anticipated to be experienced in the periods ahead.

- The Respondent included discussion of how the change is anticipated to affect the organizational and financial capacity, ability and resolve of the entity to remain engaged in this procurement and, if short-listed, submit a Binding Proposal.
- Estimates of the impact on revenues, expenses and the change in equity should be provided separately for each Material Change. References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of Material Changes.
- Where a Material Change will have a negative financial impact, the affected entity shall also provide a discussion of measures that would be undertaken to insulate the Project from any recent material changes, and those currently in progress or reasonably anticipated in the future.
- If no Material Change has occurred and none is pending, a statement to that effect should be included.
- If the financial statements indicate that expenses and losses exceed income in each of the three completed fiscal years (even if there has not been a Material Change), the affected entity shall provide a discussion of measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.
- Respondent provided detailed information regarding any voluntary or involuntary proceeding commenced within the most recent three fiscal years (whether or not such proceeding was ultimately dismissed) under any law relating to bankruptcy, insolvency, reorganization, or the composition or re-adjustment of debts, in respect of any entity required to provide financial statements as stated above.
- Respondent identified all off-balance sheet liabilities in excess of \$25 million dollars in the aggregate.

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### Qualitative Evaluation Scoring

The Partnership Committee reviewed each of the five (5) SOQs and assessed each Respondent according to the strength to which its SOQ satisfied the Qualitative Evaluation Criteria. The initial evaluation was performed utilizing the qualitative evaluation scores for each item within the categories established in the RFQ.

After the qualitative evaluation was performed, a maximum number of 100 points were allocated, to determine the SOQs ranking. The following definitions and points were given to each qualitative score:

- **Exceptional (100 points)** - The Respondent has provided information relative to its qualifications which is considered to significantly exceed stated requirements in a beneficial way and indicates a consistently outstanding level of quality. There are essentially no weaknesses.
- **Good (75 points)** - The Respondent has presented information relative to its qualifications which is considered to exceed stated requirements and offers a generally better than acceptable level of quality. Weaknesses, if any, are very minor and no correction is necessary.
- **Acceptable (50 points)** - The Respondent has presented information relative to its qualifications which is considered to meet the stated requirements and has an acceptable level of quality. Weaknesses are minor and can be readily corrected.
- **Unacceptable (0 points)** - Respondent has presented information relative to its qualifications that contains significant weaknesses and/or unacceptable quality. The SOQ fails to meet the stated objectives and/or requirements and/or lacks essential information and is conflicting and/or unproductive. Weaknesses are so major and/or extensive that a major revision to the SOQ would be necessary and/or are not correctable.

The review and evaluation process were conducted and completed by the Partnership Committee after several discussion sessions. Each Respondent was scored five times, one by each member of the Partnership Committee, resulting in five sets of scores. The five sets of scores were averaged into a single set of scores. The result of this operation was an average aggregate score for each of the five Respondents (the "Average Aggregate Score"). For further details as to the aggregated scores, please see the Aggregate Score Sheet in Attachment No. 1.

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Although the evaluation worksheets reflect that additional elements were reviewed as part of the Evaluation Criteria considered under the Management Plan Category (refer to Part A -General Information in the evaluation worksheets and the Aggregate Score Sheet), it should be noted that in the Aggregate Score Sheet, such elements were not given any weighting.

#### V. Conclusions of the Evaluation Performed

After a comprehensive analysis of each of the SOQs submitted, the Partnership Committee concluded that all five Respondents provided sufficient information of their qualifications to comply with the minimum requirements of the RFQ. All Respondents were able to demonstrate, to an adequate extent, their managerial, technical and financial capabilities which enables each one of them to present a competitive proposal in the RFP phase.

It should be mentioned that each of the Respondents has their own particular strengths and qualifications that differentiates one from another. As such, each of the Respondents can potentially offer distinctive proposals in the RFP stage, which would be convenient to evaluate considering the public interest surrounding the execution of the Project. In reaching such conclusion, the Partnership Committee emphasizes its discretionary abilities, as conferred by the Act and outlined in the RFQ, and as previously discussed in this Report.

#### VI. Respondents Qualified to Participate as Proponents in the Project

Based on the scoring criteria described above, the Respondents ranked as follows:

Respondent	Rank
HMS Ferries, Inc.	1 (63%)
Priority Roro Services, Inc.	2 (60%)
Puerto Rico Fast Ferries, LLC	3 (53%)
Baleària Caribbean Inc.	4 (45%)
Seastreak, LLC	5 (45%)

# Attachment 1

## Average Aggregate Score

MTA SOQ Scoring Parts A,B,C  
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Key	Score	Number of Points
Exceptional	100	
Good	75	
Acceptable	50	
Unacceptable	-	

Scoring

Part A - General Information Section

% Weight	HMS	PR Fast Ferries	SeaStreak	Priority RoRo Services	Balearia
0.00% Disclosure of Conflicts	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
0.00% Cover Page	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
0.00% Cover Letter/TOC	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
0.00% Executive Summary	Acceptable	Acceptable	Acceptable	Unacceptable	Acceptable
0.00% Respondent and Organization Information	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
10.00% Management Plan	Acceptable	Acceptable	Unacceptable	Acceptable	Acceptable
<b>10.00% Total Score</b>	<b>5.00</b>	<b>5.00</b>	<b>0.00</b>	<b>5.00</b>	<b>5.00</b>

Part B - Technical Information Section

% Weight	HMS	PR Fast Ferries	SeaStreak	Priority RoRo Services	Balearia
10% Firm Experience	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
10% Technical Reports	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
10% Technical Key Personnel	Good	Acceptable	Acceptable	Good	Acceptable
10% Express Written Statement	Acceptable	Unacceptable	Acceptable	Acceptable	Unacceptable
30% Conceptual Technical Approach	Good	Good	Acceptable	Good	Acceptable
<b>70% Total Score</b>	<b>45.0</b>	<b>37.5</b>	<b>35.0</b>	<b>45.0</b>	<b>30.0</b>

Part C - Financial Section

% Weight	HMS	PR Fast Ferries	SeaStreak	Priority RoRo Services	Balearia
10% Project Finance Experience	Good	Acceptable	Acceptable	Acceptable	Acceptable
10% Financial Key Personnel	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
<b>20% Total Score</b>	<b>12.50</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>

<b>100% Total Score</b>	<b>63</b>	<b>53</b>	<b>45</b>	<b>60</b>	<b>45</b>
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# APPENDIX 5



GUIDELINES TO ADDRESS POTENTIAL UNFAIR ADVANTAGES IN THE PROCUREMENT OF THE  
PUERTO RICO MARITIME TRANSPORTATION SERVICES PROJECT

**SECTION 1- BASIS; PURPOSE; SCOPE; BACKGROUND**

1.1 **Basis of Guidelines.** The Public-Private Partnerships Authority (the “**Authority**”) was created by the Public-Private Partnerships Act, Act No. 29-2009 (as amended to date, the “**Act**”), for the purpose of implementing the public policy of the Government of Puerto Rico concerning Public-Private Partnerships as contemplated under the Act. Persons who desire to enter into contracts with the Authority must comply with the provisions of Act No. 2-2018, known as the Anti-Corruption Code for a New Puerto Rico. Such persons must also comply with the Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private Partnership Contracts, approved by the Authority on December 19, 2009 (the “**Main Guidelines**”). The Main Guidelines are incorporated herein by reference.

1.2 **Purpose of Guidelines.** The purpose of these guidelines is to establish certain procedures to detect and address any unfair advantages in connection with the Puerto Rico Maritime Transportation Services Project (the “**Project**”), which will allow the Authority to implement the public policy of the Government concerning the establishment of the Public-Private Partnerships in a manner that is fair, consistent, and transparent. To this end, these guidelines have been developed in order to: (i) protect the integrity, fairness and competitive spirit of the procurement process; (ii) avoid circumstances that result in an actual or perceived unfair advantage for Respondents; and (iii) protect the public’s and the Authority’s interests.

1.3 **Scope of Guidelines.** The scope of these guidelines is limited to the Project. These guidelines are intended to supplement the Main Guidelines. In the event of any conflict between these guidelines and the Main Guidelines, the Main Guidelines shall prevail.

**SECTION 2- DISCLOSURE REQUIREMENT; NO PREEMPTION**

2.1 **Disclosure Requirement.** In order to ensure compliance with the legal and ethical requirements set forth in the Act, the Regulation for the Procurement, Evaluation, Selection and Negotiation of Public-Private Partnership Contracts promulgated pursuant to the Act (the “**Regulation**”) and the Main Guidelines, any information possessed by or available to a Shortlisted Respondent that, if not disclosed to the other Shortlisted Respondents, would result in an unfair advantage (as such term is defined in the Main Guidelines) in favor of such Shortlisted Respondent (the “**Covered Information**”) must be disclosed to the Authority.

2.2 **Authority’s Right to Require Disclosure.** Absent disclosure by a Shortlisted Respondent of information that, in the Authority’s opinion, constitutes Covered Information, the Authority may request that such information be disclosed to the other Shortlisted Respondents by giving written notice thereof to the Shortlisted Respondent in possession or with knowledge of the Covered Information.

2.3 **No Preemption.** The Authority follows the pertinent state and federal laws regarding potential organizational conflicts of interest. Nothing contained in these guidelines is

intended to limit, modify or otherwise alter the applicability or effect of other relevant (federal, state and local) law, rules and regulations. All of such laws, rules and regulations shall apply in their normal manner irrespective of these guidelines.

### SECTION 3- PROCEDURES

3.1 **Notice of Possession of Covered Information.** Upon discovery by a Shortlisted Respondent that it has come into contact or is in possession of Covered Information, such Shortlisted Respondent shall give written notice thereof to the Authority (the “**Covered Information Notice**”) within 48 hours of such discovery. The Covered Information Notice shall include all of the Covered Information and shall specify the origin of such Covered Information. If the Shortlisted Respondent giving the Covered Information Notice does not object to the disclosure by the Authority of the Covered Information contemplated in such notice, it shall so state in the Covered Information Notice. If the Shortlisted Respondent giving the Covered Information Notice objects to the disclosure by the Authority of the Covered Information contemplated in such notice, it shall so state in the Covered Information Notice and detail, with reasonable specificity, the reasons that justify such information not being disclosed to the other Shortlisted Respondents.

3.2 **No Objection by Shortlisted Respondent With Respect to Disclosure of Covered Information.** If a Shortlisted Respondent submitting a Covered Information Notice states in such notice that it does not object to the disclosure of the information contemplated therein with the other Shortlisted Respondents, the Authority shall promptly share such information with the other Shortlisted Respondents.

3.3 **Objection by Shortlisted Respondent With Respect to Disclosure of Covered Information.** If a Shortlisted Respondent submitting a Covered Information Notice states in such notice that it objects to the disclosure of the information contemplated therein with the other Shortlisted Respondents, the Authority shall review the reasons raised by the relevant Shortlisted Respondent. The Authority, in its sole discretion, will make the final determination relative to whether the non-disclosure of the Covered Information may result in an actual, potential or perceived conflicts of interest or unfair advantage and whether it shall require that the Covered Information be disclosed to all of the Shortlisted Respondents.

3.4 **Duty to Update Disclosed Covered Information.** Any Shortlisted Respondent that discloses Covered Information, whether voluntarily or at the request of the Authority, shall have the duty to provide updates on such Covered Information to the Authority, which will be shared with the other Shortlisted Respondents. Such updates shall be made by means of a written statement, which shall be delivered electronically to the Authority no later than the 15th day of each calendar month (or on the following business day, if the 15th day of any month is not a business day). In such statement, the Shortlisted Respondent shall specify if there have been any changes or developments with respect to the Covered Information that was previously disclosed. If no such change or development occurred for any given month, then the relevant Shortlisted Respondent shall nonetheless submit the statement corresponding to such month, and shall state therein that no change or development occurred for the period covered therein.

## SECTION 4- IMPLEMENTATION

4.1 **Effectiveness.** These guidelines will become effective immediately on all procurement processes administered by the Authority.

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# APPENDIX 6





January 24, 2019

**To: All Proponents**

**Re: Request for Proposals for the Maritime Transportation Services Project.**

#### **NOTIFICATION TO PROPONENTS**

#### **SITE VISITS AND PRE – PROPOSAL CONFERENCE MEETING SCHEDULED FOR JANUARY 29-31, 2019**

We make reference to the Request for Proposals for the Ferry Services, consisting, without limitation, the operation, maintenance and improvement of a maintenance facility located in San Juan, issued by the Puerto Rico Public-Private Partnerships Authority (“Authority”) on December 21, 2018 (“RFP”). Capitalized terms not defined in this response take their meaning from the RFP.

This notification is to share the details related to the proposed Project Site Visits and Group Meeting scheduled for January 31, 2019.

#### **Meetings and Site Visits**

The Authority is interested in making Site Visits as productive as possible. With this in mind, the Authority has organized two set of activities to take place on 29, 30 and 31, 2019. The activities will begin with a series of guided site visits that will take place on January 29<sup>th</sup> and 30<sup>th</sup>, 2019 and will finalize with a meeting on January 31<sup>st</sup>. Attendance for site visits shall be limited to a maximum of 6 members per Proponent.

Below is an outline of the meeting and locations for you to make the necessary arrangements.

Request for Proposals  
 Maritime Transportation Services Project  
 Site Visits and Pre Proposal Conference Meeting  
 January 24, 2019  
 Page 2 of 5

<b>Day 1: Site Visit (Ceiba, Vieques, and Culebra, PR)</b>	
<b>Date:</b>	January 29, 2018
<b>Arrival:</b>	Meet at Administration Building, Ceiba Pier 9:00 am AST
<b>Location:</b>	Marina Drive Roosevelt Roads Naval, Ceiba, PR 00735
<b>Ceiba Pier &amp; Terminal Site Visit</b> <b>9:00 am – 10:00 am AST</b>	Visit to Pier and Terminal areas: 1) Administration Building 2) Waiting Area 3) Parking Lot
<b>10:00 am – 10:30 am AST</b>	Ferry ride from Ceiba to Vieques
<b>10:30 am – 10:45 am AST</b>	Arrived at Isabel II Terminal & Ground Transportation to Mosquito Pier
<b>Mosquito Pier &amp; Terminal Site Visit</b> <b>10:45 am – 11:30 am AST</b>	Visit to Pier and Terminal areas: 1) Main Terminal & Access Road 2) Cargo Pier & Passenger Shelter
<b>11:30 am to 11:45 am AST</b>	Ground Transportation from Mosquito Pier to Isabel II Terminal
<b>11:45 am to 12:15 pm AST</b>	Ferry ride from Vieques to Culebra
<b>12:45 pm to 1:45 pm AST</b>	Lunch Break
<b>1:45 pm to 2:00 pm AST</b>	Ground transportation from Sardinas to San Ildefonso Pier
<b>Culebra, San Ildefonso Pier &amp; Terminal Site Visit</b> <b>2:00 pm – 2:45 pm</b>	Visit to Pier and Terminal areas: 1) Waiting Area 2) Plaza Artesanal 3) Cargo Ramp
<b>2:45 – 3:00 pm AST</b>	Ground Transportation from San Ildefonso Pier to Sardinas Terminal
<b>Sardinas Pier &amp; Terminal Site Visit</b> <b>3:00 pm – 3:30 pm AST</b>	Visit to Pier and Terminal areas: 1) Terminal Building 2) Waiting & Parking Are 3) Cargo Ramp
<b>3:30 pm – 4:15 pm AST</b>	Ferry ride from Culebra to Ceiba
<b>4:15 pm – 4:30 pm AST</b>	The Authority will close the Day 1 Site Visit.

\*Ferry travel times are estimated.

Request for Proposals  
 Maritime Transportation Services Project  
 Site Visits and Pre Proposal Conference Meeting  
 January 24, 2019  
 Page 3 of 5

<b>Day 2: Guided Site Visit (Isla Grande, San Juan and Cataño, PR)</b>	
<b>Date:</b>	January 30, 2019
<b>Arrival:</b>	9:00 am AST Meet at Isla Grande Maintenance Base, Administration Building
<b>Location:</b>	Lindbergh St. Isla Grande, San Juan, PR
<b>Isla Grande Maint. Base 9:00 am – 10:00 am AST</b>	Visit to Maintenance Base Facilities: 1) Administration Building 2) Workshop Site
<b>10:00 am – 10:15 am AST</b>	Ground Transportation from Isla Grande to Pier 2, San Juan
<b>Pier 2, San Juan Meet at Terminal Building 10:15 am – 11:00 am AST</b>	Visit to Pier and Terminal Facilities: 1) Main Terminal 2) Concession Facilities
<b>11:00 am – 11:15 am AST</b>	Ferry ride from Pier 2, Old San Juan to Cataño
<b>Cataño Pier 11:45 pm – 12:30 pm AST</b>	Visit to Pier and Terminal Facilities: 1) Main Terminal 2) Concession Facilities
<b>12:30 am – 12:45 am AST</b>	Ferry ride from Cataño Terminal to Pier 2, Old San Juan
<b>Day 2 – Site Visit Closing 12:45 am – 1:00 pm AST</b>	The Authority will close the Day 2 Site Visit.

<b>Day 3: Proponent Briefing Session and Initial Discussion Meetings (in San Juan, PR)</b>	
<b>Date:</b>	January 31, 2018
<b>Arrival:</b>	9:00 am AST
<b>Location:</b>	Puerto Rico Convention Center 100 Boulevard Saint John San Juan, 00907 Puerto Rico  Room No.: <b>To be Determined.</b>

Request for Proposals  
 Maritime Transportation Services Project  
 Site Visits and Pre Proposal Conference Meeting  
 January 24, 2019  
 Page 4 of 5

<b>Authority Introductory Presentation:</b> <b>9:00 am – 10:15 am AST</b>	The Authority will open the day of meetings with an introductory presentation regarding the RFP process, project phases and evaluation criteria. The objective is to clarify any questions regarding the RFP process and have a high-level discussion of the Project.
<b>Coffee Break:</b>	15 minutes coffee break
<b>Term Sheet Discussion:</b> <b>10:30 am – 11:00 am AST</b>	The Authority will facilitate a discussion of the Term Sheet of the Project. The Authority's legal counsel will be available. The objective of this session is to receive the initial feedback from Proponents about the Term Sheet and identify key elements of consideration.
<b>Project's Operational and Technical Requirements:</b> <b>11:00 am – 12:00 pm AST</b>	The Authority will facilitate an initial discussion regarding the operational and technical requirements. The objective of this session is to obtain the initial feedback about these requirements and to have a discussion of any other technical or operational considerations of the Project. The Authority will have part of the technical team available to provide clarifications and facilitate the discussion.
<b>Day 3 – Meeting Closing</b> <b>12:00 pm – 12:15 pm AST</b>	The Authority will close with Day 3 Meeting Day

#### **Additional Details**

Proponents should confirm attendance to the activities scheduled on January 29, 30 and 31, by sending a confirmation email to: [RFQ-FerrySystem@p3.pr.gov](mailto:RFQ-FerrySystem@p3.pr.gov). In the confirmation email, Proponents should list the names of persons participating in the Site Visits activities and those expected to participate in Meetings activities.

We look forward to productive sessions next week.

Sincerely,

*/s/Mara Pérez*

Mara Pérez

Special Aide to the Executive Director & Project Manager

Request for Proposals  
Maritime Transportation Services Project  
Site Visits and Pre Proposal Conference Meeting  
January 24, 2019  
Page 5 of 5

Puerto Rico Public-Private Partnerships Authority

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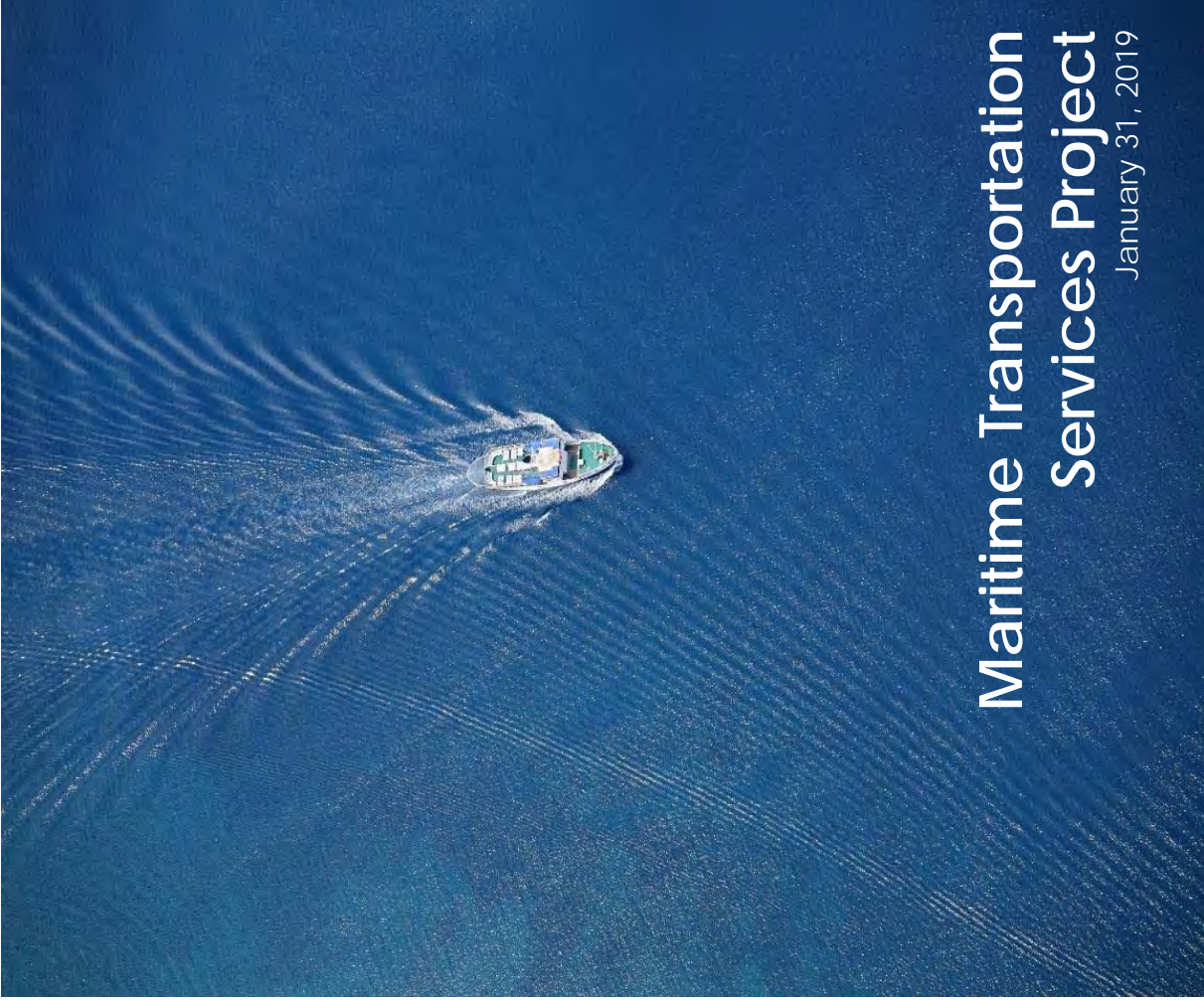
# APPENDIX 7





GOVERNMENT OF PUERTO RICO  
Puerto Rico Public-Private Partnerships Authority

# Proponent Briefing



Maritime Transportation  
Services Project  
January 31, 2019



## Disclaimer

This presentation and its contents (the "Presentation") have been prepared at the direction of and from material and information supplied by the Puerto Rico Maritime Transportation Authority ("MTA"), the Puerto Rico Public-Private Partnerships Authority (the "PPP Authority") and the Government of Puerto Rico (the "Government") in connection with a potential public-private partnership related to the operations of the MTA. The Presentation is subject to the confidentiality provisions contained in the Non-Disclosure Agreement executed by each shortlisted bidder prior to being granted access to the dataroom. The Presentation is for the exclusive use of the persons to whom it is addressed or delivered and their advisors.

No representation or warranty, express or implied, is or will be given by the MTA, the PPP Authority or the Government or their respective agents, representatives, directors, officers, employees, advisers, counsel and consultants or any other person as to the accuracy, completeness or fairness of this Presentation and no responsibility or liability whatsoever is accepted for the accuracy or sufficiency thereof or for any errors, omissions or misstatements, negligent or otherwise, relating thereto. Only those particular representations and warranties made by the MTA in a definitive public-private partnership agreement, when and if one is executed, and subject to such limitations and restrictions as may be specified in such agreement, shall have any legal effect.

This Presentation includes certain statements, estimates, targets and projections provided by the MTA with respect to the past, present and anticipated future performance of the MTA. Such statements, estimates, targets and projections reflect significant assumptions and subjective judgments by the MTA's management concerning past, present and anticipated results. These assumptions and judgments may or may not prove to be correct and there can be no assurance that any estimates, targets or projections are attainable or will be realized. None of the MTA, the PPP Authority or the Government or any of their respective directors, officers, partners, employees, advisers, counsel or consultants, or any other person, assumes responsibility for verifying any such statements, estimates, targets and projections. None of the MTA, the PPP Authority or the Government or any of their respective directors, officers, partners, employees, advisers, counsel or consultants, or any other person, shall be liable for any direct, indirect or consequential loss or damages suffered by any person as a result of relying on any statement in or omission from this Presentation and any such liability is expressly disclaimed. In all cases, interested parties should conduct their own investigation and analysis of the MTA, the proposed transaction and the information made available to all shortlisted bidders through this Presentation and the dataroom.

Except where otherwise indicated, this Presentation speaks as of the date hereof. Neither the delivery of this Presentation nor the consummation of the proposed transaction shall, under any circumstances, create any implication that there has been no change in the affairs of the MTA since the date hereof. In furnishing this Presentation, none of the MTA, the PPP Authority or the Government undertakes any obligation to update any of the information contained herein or to correct any inaccuracies which may become apparent.

This Presentation shall remain the property of the MTA and the PPP Authority. The PPP Authority reserves the right to require the return of this Presentation (together with any copies or extracts thereof) at any time.

This Presentation does not constitute an offer or invitation for the sale or purchase of the securities, assets or business described herein or any form of commitment or recommendation on the part of the MTA, the PPP Authority or the Government or any of their respective directors, officers, partners, employees, advisers, counsel or consultants.

Puerto Rico Public-Private Partnerships  
San Juan, Puerto Rico  
January 31, 2019



# Agenda

- I. Introduction
- II. Government Sponsors Overview
- III. Proposed Timeline
- III. Evaluation Criteria / Q&A
- IV. Project Overview / Q&A  
**Coffee Break**
- VI. Term Sheet / Q&A
- VII. Project's Operational & Technical Requirements
- VIII. Questions and Answers

# Introduction

## PROONENT MEETING & SITE VISIT

- This Proponent Meeting is to highlight and discuss certain key features of the Project and specific aspects of the public – private partnership procurement.
- We would like to remind Proponents that any questions or Request for Clarifications (“RFC”) should be made in writing by e-mail to the RFC address contained in the Request for Proposals (“RFP”).
- The Authority reserves the right to respond or to further answer in writing any question asked by the Proponents during the meeting.

**IMPORTANT:** Nothing in this meeting (be it this written presentation or by verbal representation) is intended to override anything to the contrary in the RFP or the Agreement.

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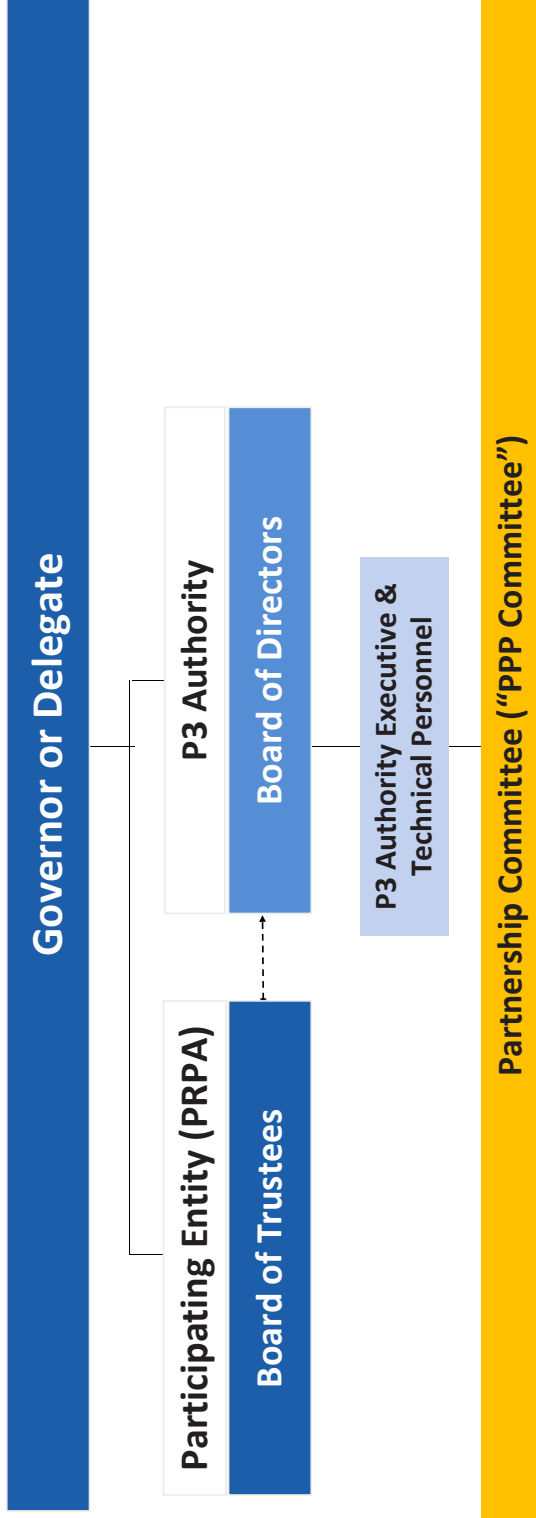
## Government Sponsors Overview

### Maritime Transportation Authority (MTA):

- MTA is a public corporation of the Government of Puerto Rico responsible for the administration, operation and maintenance of the maritime transportation service.
- MTA's ferry operation consists of 2 independent segments:
  - ✓ Metro Service in the San Juan Harbor consisting of a short route that connect Old San Juan with Cataño.
  - ✓ Island Service consisting of seagoing ferries that connect Ceiba, on the eastern coast of the island, with the outlying islands of Vieques and Culebra.
- MTA is ascribed to the Department of Transportation and Public Works (DTOP) and is governed by a Board of Directors comprised of the Executive Director of the Ports Authority, the mayors of Vieques and Culebra and a representative of the public interest named by the Governor upon the recommendation of the mayors of Vieques and Culebra.

5

# P3A – Procurement Governance Structure



**5 Members:**

- 1 Director or delegate of Puerto Rico Fiscal Agency & Financial Advisory Authority (FAFAA),
- 1 Government Official from the Participating Entity with responsibility over the Project,
- 1 Member of the Board of Directors of the Participating Entity,
- 2 Government Officials with Project expertise selected by the P3 Authority Board of Directors

**FUNCTIONS**

- Decision making committee overseeing procurement process,
- Qualifications Process,
- Evaluation and selection of bidders,
- Establish the basic terms and conditions of Project Agreement, y
- Report full process through a Partnership Report.

6

# Proposed Timeline

Date	Activity
December 21, 2018	1st Draft RFP to Proposers
January 29-30, 2019	Site Visits
January 31, 2019	Pre-proposal Conference Meeting
February 11, 2019	2nd Draft RFP to Proposers
February 28, 2019	2nd General Meeting Call or One-on-one Meeting Calls
March 18, 2019	Final RFP to Proposers
April 19, 2019	Due date for submission of Proposals with the Authority no later than 5:00 p.m. (AST) (Proposal Due Date)
May 10, 2019	Selection of Preferred Proposer
May 13 – June 28, 2019	Negotiations with Preferred Proposer
July 1, 2019	Commercial Closing Deadline



## Evaluation Criteria

RFP Section	Criterion Description	Points
5.4	<b>1. TECHNICAL PROPOSAL</b>	30
5.4.1	Technical Pass / Fail Requirements	—
5.4.2	<b>Qualitative Evaluation</b>	—
	Factor 1 – Ridership and Revenues	5
	Factor 2 – Proposed Approach to Providing Ferry Services	15
	Factor 3 – Past Experience and Related Background	10
5.5	<b>2. FINANCIAL PROPOSAL</b>	—
5.5.1	<b>Pass / Fail Criteria for Financial Proposals</b>	—
	Proposal Security	—
	Completeness of Financial Proposal	—
	Financial Plan	—
5.5.2	<b>Financial Score (PRICE)</b>	70
	<b>TOTAL POINTS</b>	<b>100</b>

## Evaluation Criteria

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### Financial Score

The Financial Score will be evaluated using Form I – Public Funds Amount in Appendix 5. The Financial Score included in the Proposer’s Public Funds Amount present value calculation will be included in the following formula:

### Proposer’s Financial Score =

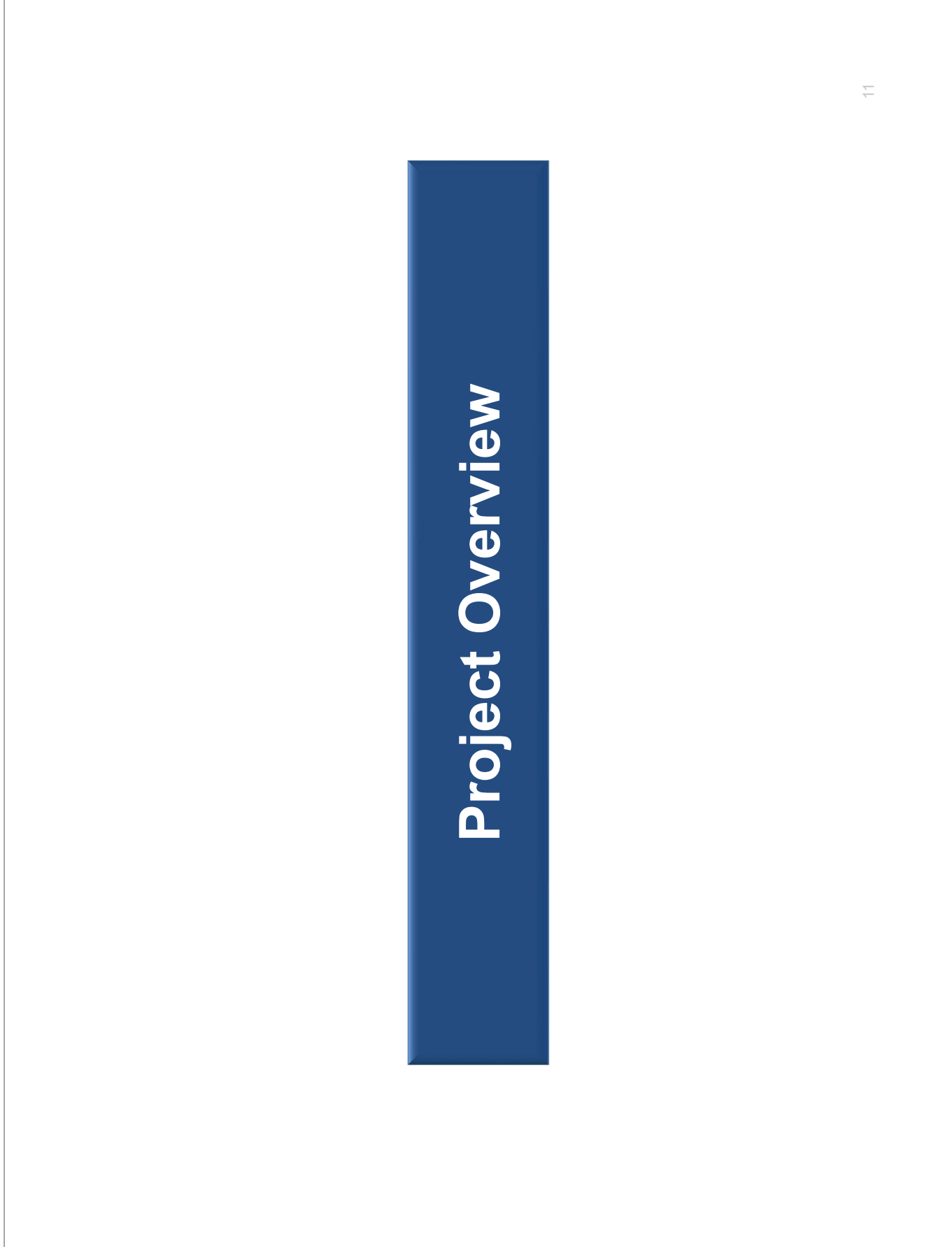
#### Present Value of Lowest Proposer’s Public Funds Amount

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#### Present Value of Proposer’s Public Funds Amount

- For purposes of determining the Financial Score, the present value of the Public Funds Amount will be discounted at 5%.

10



## Objectives

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- Maintain customer and crew safety
- Improve quality and reliability of service
- Increase resources for vessel and terminal maintenance
- Streamline workforce to provide an efficient amount of employees
- Allocate project risks and responsibilities to the party best able to manage them
- Increase revenue by introducing and improving ancillary revenue sources
- Reduce costs through innovation and private sector experience
- Decrease the amount of public funding required to operate the Project by pricing the service to better reflect operating costs
- Modernize public services and build a stronger and more resilient infrastructure

## Description and Term

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### Description:

The Project includes the performance of operations and capital improvements related to the Ferry Services (METRO & ISLAND SERVICE), including, without limitation, the operation, maintenance and improvement of a maintenance facility located in San Juan.

- ✓ The ISLAND SERVICE will be provided from Pier 2 located in the former Roosevelt Roads Naval Station in the Municipality of Ceiba (“Pier 2”).

### Term:

The PPP Agreement shall continue in full force and effect until the 23rd anniversary of the Commercial Closing Deadline (23 years).

- Phase 1 – 3 years
- Phase 2 – 20 years

## Phases of Development

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Private Operator (PO) will perform Ferry Services, which may require the acquisition of new vessels, as well as implementing certain **capital improvements** as required by the PPP Agreement or as identified by the PO.

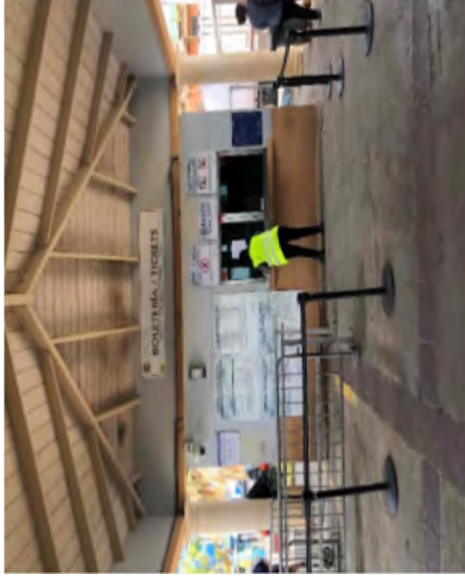
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PO will have the obligation to perform the Ferry Services, as well as implementing certain capital improvements in accordance with performance standards to be set forth in the PPP Agreement or as identified by the PO at the PO's own cost and risk

## Market Overview

### Island and Metro Services:

- The services are used by a mix of visitors and residents, with latter using the ferries for commutation, leisure and other purposes.
- A passenger survey conducted in 2015 found the Island Service passengers to be characterized as:
  - 32% residents of Vieques or Culebra
  - 36% residents of the Puerto Rican mainland
  - 32% from outside Puerto Rico, principally from other parts of the United States
- Ferry passengers not resident of Vieques and Culebra are found to have incomes significantly above average for Puerto Rico, while the Island residents have incomes close to the average for Puerto Rico.



## Market Overview

### Island and Metro Services:

- Prior to Hurricane Maria, ridership had grown, if slowly\*
  - The Metro Service saw a one-time drop in September 2017 following a reduction in service
- Analysis of the ferry market over the pre-Maria period (2007-2016) shows that passenger growth is tied to leisure (including tourism) and employment in the San Juan metropolitan area.
- Fares have been increased significantly for non-Island residents to increase farebox recovery. While Hurricane Maria has made it difficult to identify the full market response, the market is known to be price – inelastic (and revenues will increase)



# Fares and Ticketing Requirements

## Current Island Service Fares

Vieques	\$2.00
Culebra	\$2.25View
Under 11 years	\$1.00
Seniors 60 to 74 years	\$1.00
Seniors 75 and older	free of charge
<b>Prices by loose articles</b>	
Cooler	\$2.00
Bicycle	\$2.00
Backpacks	\$1.00
Tent	\$2.00
Umbrellas	\$1.00
Chairs	\$1.00
Surf board	\$6.00
Boogie board	\$3.00
Boxes	\$1.00
Hand Truck (big)	\$5.00
Hand Truck (small)	\$3.00
Caged animals	\$2.00
Kayak	\$10.00
Cow/Horse	\$4.00
Tires	\$1.00

<b>Freight</b>	
Motorbike/four track	\$7.00
Auto	\$15.00 to \$19.00
SUVs, Pickup, Van-	\$32.00 to \$39.50
Trailers- Linear ft.	\$1.50 to \$2.50 Linear ft.
<b>Trucks by Measure</b>	
Up to 30 ft.	\$19.50 to \$47.00
Over 30t.	\$19.50 to \$47.00
<b>Trucks by Weight</b>	
Up to 30 tons	\$34.50 to \$84.50
Over 30 tons	\$84.51 to \$259.50

## Current Metro Service Fares

Regular Tariff	\$0.50
Seniors 60 to 74 yrs.	\$0.25
Seniors 75 and older	free of charge
Seniors (65 to 75 yrs.)	\$0.25
Disabled	\$0.25
Children (under 3 yrs.)	free of charge

# Fares and Ticketing Requirements

- Approved fares but not yet implemented.

Description	Residents Culebra/Vieques	Non-Residents Culebra/Vieques
<i>Municipal Islands Service</i>		
Vieques	\$2.00	\$11.25
Culebra	\$2.25	\$11.25
Children under 11 years	\$1.00	\$6.00
Adults 60 - 74	\$1.00	\$1.00
Seniors 75 and older	Free of Charge	Free of Charge
Fares		
<i>Metro Area Service</i>		
Regular	\$2.00	
Adults 60 - 74	\$0.50	
Disabled	\$0.50	
Seniors 75 and older	Free of Charge	
Children under 3 years	Free of Charge	

# Fares and Ticketing Requirements

Description	Fares (per ride)	
	Friday-Sunday	Monday-Thursday
Small Cars	\$50.00	\$40.00
Medium Cars	\$50.00	\$40.00
Motorcycles	\$25.00	\$20.00
Four Tracks	\$25.00	\$20.00
Cargo Trucks	\$30.00	\$24.00
Cargo Vehicle (<30 tons ft.)	\$5.00	\$5.00
Construction Vehicles (<30 tons)	\$75.00	\$60.00
Construction Vehicles (>30 tons)	\$125.00	\$100.00
Pickup Trucks and Vans	\$75.00	\$60.00
Trailers (linear ft.)	\$5.00	\$5.00
Bicycle	\$5.00	\$5.00
Handtruck	\$10.00	\$10.00
Kayak	\$10.00	\$10.00
Surf board	\$10.00	\$10.00
Boogey Board	\$3.00	\$3.00
Horse/Cow	\$10.00	\$10.00
Caged animals	\$5.00	\$5.00
Backpack	\$3.00	\$3.00
Cooler	\$5.00	\$5.00
Chair (beach)	\$2.00	\$2.00
Umbrella (beach)	\$2.00	\$2.00
Box	\$5.00	\$5.00

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# COFFEE BREAK

15 MINUTES





# Operational and Technical Requirements Discussion

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# Vessel Information

Name	Year Built	# Passengers	Metro Service
Amelia	1989	143	
Covadonga	1989	143	
La Princesa	2009	150	
La Decima	2008	50	

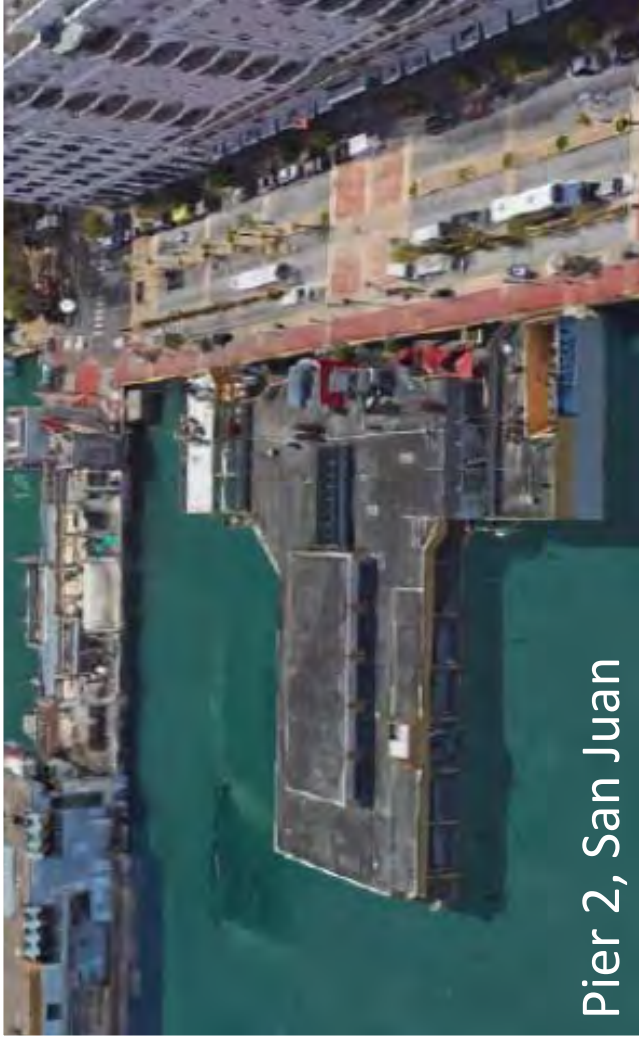
<sup>1</sup> La Decima can also be used for the San Juan Bay to Cataño service or for any emergency or fleet maintenance.

## Island Service

Name	Year Built	# of Passengers	Cargo Capacity
<b>Passenger-Only Vessels</b>			
Cayo Blanco	2009	600	N/A
<b>Passenger + Cargo Vessels</b>			
Cayo Largo	2008	300	300 tons
Isla Bonita	2012	355	450 tons
Isleño	2004	204	250 tons
Santa Maria	1990	137	250 tons

The MTA is in the process of acquiring an additional vessel with capacities similar to those of the Cayo Largo.

## Metro Service: Piers, Docks, and Facilities



Metro Service links Old San Juan and Cataño across San Juan Harbor. The service operates Monday through Friday from 5:45 AM to 10:00 PM, with service headways of 30 minutes. On weekends and holidays, the service operates from 8:00 AM to 10:00 PM, with service headways of 30 minutes.



## Metro Service: Maintenance Base

- **Synchrolift Platform:** approx. area of 6,300 sf
- **Fire Pump Bldg.:** fire pumps, water pumps and accessories.
- **Diesel Tank Dike:** 44'-0" x 33'-9" x 3'-9", w/ three 20,000 gal and one 10,000 gal diesel tank w/ piping, pumps and accessories. The tanks lay on a concrete support anchored to the mat foundation over piles.
- **Control Room & Backup Generator Bldg:** approx. area of 442 sf for electrical generators, day tank, transfer switch and synchrolift system main panel boards. The office space with synchrolift platform control panels are in the upper floor.
- The **restroom and locker room** bldg. is of 1,107 square feet
- **Spare Parts bldg** is 5, 000 sf
- **Maintenance Shop bldg** with is 504 sf



### Isla Grande Maintenance Base

**Site elements include:** mooring devices bumpers, concrete pilasters, pavement, sheet pile wall and concrete bulkhead. An oil-water separator trench runs through the site and consists of concrete slab covers with steel handles.



## Island Service: Ceiba Pier and Facilities

Connects the islands of Vieques and Culebra to Ceiba on the main island.

In addition to passenger services, the MTA provides vehicle, cargo, and fuel transportation to the islands of Vieques and Culebra.



Pier 2, Ceiba



Local Redevelopment Authority Plan (by in+egra design)

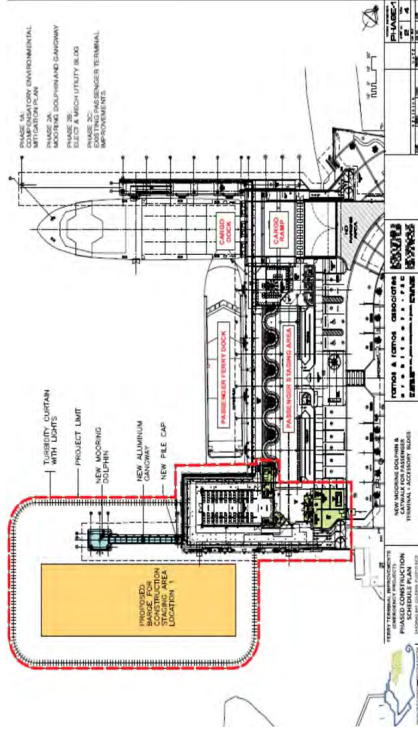


Administration Building

# Island Service: Culebra Piers and Facilities



Sardinas Pier



San Idefonso



# Island Service - Vieques: Pier and Facilities



Mosquito Pier

The **main terminal** approx. 6,297 sft. with: open waiting area with benches, ticket/adm. offices, bathroom and storage areas.

The **passenger shelter** of approx. 15,510 sft. is also a single-story concrete structure, w/: bathroom and adm. offices.

A concrete **cargo platform** with an approximate area of 1,962 sq. ft.

The **parking lot** has an area of approx. 74,289 sft. for 167 vehicles.

An **access road** from the Main Terminal to the Passenger Shelter is part of the property with approx. 1.2 miles of length.



# Island Service Schedule – Phase 1

Route	Departure Times	
	Weekdays	Weekends and Holidays
Ceiba to Culebra	4:00 AM *	9:00 AM
	9:00 AM	3:00 PM
	1:30 PM*	7:00 PM
	only Wed. and Friday	
Ceiba to Vieques	3:00 PM	
	5:00 PM *	
	7:00 PM	
	4:00 AM *	9:00 AM *
Culebra to Ceiba	9:00 AM *	1:00 PM *
	1:00 PM *	4:45 PM *
	4:45 PM *	8:15 PM *
	8:15 PM *	
Vieques to Ceiba	6:00 AM	6:30 AM *
	6:30 AM *	1:00 PM
	1:00 PM	5:00 PM
	1:30 PM *	
Vieques to Ceiba	only Wed. and Friday	
	5:00 PM	
	7:30 PM *	
	6:00 AM *	6:30 AM *
Ceiba	6:30 AM *	11:00 AM *
	11:00 AM *	3:00 PM *
	3:00 PM *	6:30 PM *
	6:30 PM *	

\* indicates trips for passengers and cargo

## Capital Improvements

- The MTA will be responsible for executing all of the planned capital improvements at the terminals and shipyards.
- If other terminal and/or facility capital improvement needs are identified during Phase 1 of the PPP Agreement, the Private Operator (“PO”) shall document those needs and develop a Capital Improvement Plan prior to the start of Phase 2.
- If additional capital improvements are approved, the procurement plans and specifications shall be reviewed and approved by MTA prior to the start of the acquisition process.
- The PO should include the cost of the remaining improvements at Ceiba in the financial proposal.

**The PO shall support MTA and/or other Government efforts to obtain grants to support the terminal capital improvement program. If Government funding is provided for terminal or other facility capital improvements, the Private Operator shall ensure acquisition efforts comply with all funding agency requirements.**

# RFP Process and Documents Q & A



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