



MINISTERIO
DE TRANSPORTE
Y OBRAS PÚBLICAS

Ferrocarril Central



MAINTENANCE CONTRACT PROJECT

DECEMBER 2017

URUGUAY
en marcha

THE PARTIES: ON THE ONE PART, the Ministry of Transport and Public Works, represented by Mr. Víctor ROSSI, with domicile at Rincón No. 561, 8th Floor, hereinafter the Contracting Authority and, OTHERWISE: _____ hereinafter called Contractor Society.

FIRST-BACKGROUND:

1. The Ministry of Transport and Public Works called for an International Public Bidding No for the execution of the railway work: "Central Railway" - Port of Montevideo - Paso de los Toros Station Section.
2. The Executive Power by Resolution dated () awarded the International Public Bid No. to the company()

SECOND - OBJECT OF THE CONTRACT: The purpose of this contract is to maintain the infrastructure, track and deviations of the Port of Montevideo - Paso de los Toros railway section according to the standards indicated in the Technical Bases and annexes of the Central Railway project. The Technical Bases and annexes of the Central Railway Project will be applicable in everything that corresponds to maintenance

The payment of the maintenance will be in regime of availability of the infrastructure for the price established in the fourth article of this contract.

Everything will be governed by the Specifications and Conditions of this tender, the amendments, clarifications and notifications made by the bidding organization, related to the works during the term of the call for bids, the proposal submitted by the Company for the execution of these works and the Service Orders that are given to the Company for the realization of this work and by the laws, decrees and resolutions in force in the matter.

THIRD - AVAILABILITY: In the same act of Reversion of Works foreseen by the Contract of Public Private Participation signed by the parties (Clause 21.6 - PPP Contract), the Tenure Document will be signed. In case of agreement between the parties, the maximum term for signing the same will be 10 business days from the Delivery Document.

FOURTH – PRICE: The maximum daily payment for the works covered by this contract will be US \$ 34,695 (US dollars thirty-four thousand six hundred and ninety-five), with VAT, social laws and any other concept included. The referred value will be fixed throughout the term of this contract and will not allow readjustments.

FIFTH: PAYMENT METHOD. Payments to the contractor will be settled for the expired calendar quarter, for which the Contractor Company will present in each period a request for payment for maintenance of service standards calculated according to the quality and availability indicators included in the Technical Bases, relative to the immediately preceding period. This request will contain the detail of the settlement.

Once the corresponding payment request has been received, within a maximum period of fifteen (15) calendar days from its receipt, the Administration will review the calculations and forward said revision to the contractor, either with the acceptance of the request or with the comments and corrections considered; and request for clarification, if applicable. This response must contain the payment proposal made by the Administration for the reference period. If during this period the Contracting Party does not present its payment proposal, it will be understood that it has accepted the Contractor's proposal.

The contractor may from that moment submit the invoice for the amount that is not in dispute. The Contractor may respond to the request for clarifications and to the review of the settlement calculations, duly corrected, together with a request for definitive payment, or raise any objections that are deemed pertinent. The lack of response from the Contractor within ten days will mean that it accepts the calculation presented by the Administration.

In the event that there have been discrepancies, within a maximum period of ten (10) days from the receipt of the observations issued by the Contractor Company, the Administration will send the final calculations and duly

adjusted for the Contractor Company to proceed to Issue the final invoice, without prejudice to the previous processing of the payment corresponding to the partial invoice for the amount not disputed. The payment to the Contractor Company shall be effective within a maximum period of thirty (30) days from the receipt of each invoice.

SIXTH - TERM. The term of execution of the works will be of 7 years, counted from the subscription of the Delivery Act as established in clause three of this contract.

SEVENTH - WARRANTY OF COMPLIANCE OF CONTRACT. The Contractor Company shall guarantee the faithful performance of the contract through an acceptable guarantee by the Contracting Administration in the amount of 30,000,000 (US Dollars, thirty million). Said guarantee must be constituted at least 15 days before the Reversion Act provided for in clause 21.6 of the Public Private Participation Contract signed by the parties.

This guarantee will be constituted with a document with a minimum validity of one year that must be renewed at least 30 days before the end of its effect

In the event that penalties or indemnities payable to the Contractor Company are made effective on the guarantee, the Contractor must replace or extend it, in the corresponding amount, within a period of fifteen days from the execution thereof, otherwise incurring in cause of contractual termination.

The guarantee of faithful fulfillment of the contract will respond for the following concepts:

- A) For the fines imposed on the Contractor Company.
- B) For the expenses incurred by the Contracting Authority as a result of the incorrect execution of the benefits, of the expenses incurred by the Contracting Authority due to the delay of the Contractor Company in complying with its obligations, and for the damages and losses caused to the Contracting Administration
- C) For the seizure that can be decreed in cases of contract termination.
- D) For any other breach incurred by the Contractor Company.

Disregard of the contract compliance guarantee:

The guarantee of faithful fulfillment of the contract corresponding to this contract will be returned within a maximum of sixty (60) days after its termination.

In cases of assignment of contracts will not proceed to the return or cancellation of the guarantee provided by the assignor until it is formally constituted that of the assignee

EIGHTH - ASSIGNMENT OF THE CONTRACT OR SUBCONTRACT. The assignment of this contract, and the subcontracts that have been subscribed or will be subscribed for the fulfillment of the object thereof, may be made only with the written consent of the Contracting Authority.

All contractual changes must be communicated to the insurance company, within the terms stipulated therein at the time of contracting the policy, and in no case within a period not exceeding 10 (ten) days in which they were configured. In case of assignment of contract, the Assignee must constitute the same guarantees as the Assignor

NINTH - ASSIGNMENT OF CREDITS: The eventual assignments of credit will only be considered as consensual, provided that there is a written resolution of the Employer, stating: a) notification; b) reservation of the right to oppose to the Assignee all the exceptions that could have been opposed to the Assignor, even those that are purely personal; c) that the existence and collection of credits by the Assignee will depend and may be made effective, insofar as they are required by contract, by execution of the contracted services and d) any other condition or clarification that the Contracting Party deems pertinent.

The Assignment of the credits can not include in any way, sums corresponding to taxes, including social contributions

TENTH - INSURANCE. The Contractor Company is responsible, in accordance with the regulations in force, for any damage that may occur to the works that are executed or to the infrastructure in general, to the persons who work in them and to third parties, as well as to public or private goods, whether such damages arise from the maneuvers in their facilities or in the infrastructure object of the contract, or other reasons that are attributable to it, their representatives, dependents, subordinates and subcontractors, during the term of the contract.

In this coverage, all the parties involved in the contract will be included as insured, including the Contracting Authority, the Contractor Company and its subcontractors, with the corresponding cross-civil responsibility.

The Contractor Company must have contracted throughout the term of the contract, one or more insurance against all risk operations, including insurance against work accidents and non-contractual civil liability insurance against all risks. The latter for at least () (US dollars)

NINETEENTH - LABOR RESPONSIBILITY. The Contractor Company must comply with all labor and social security obligations, as well as with the measures that in terms of safety and prevention against occupational risks, are required by current regulations

.Independently of the obligations established by the laws and regulations concerning labor, the Contractor shall notify the Contract Supervisor, the list of personnel contracted for the execution of the work and their respective qualifications, and keep it updated at all times.

In order to control compliance with these obligations, the Contractor must deliver to the Contract Supervision when so requested: a) a payroll in which it must indicate the personal data of the employees who have carried out any of the activities The Contractor is obliged, b) the nominated declaration of the work history and receipt of payment to the social security agency (Law No. 16,713 Article 87), c) certificate that proves the regular status of payment of social security contributions to the entity that corresponds (Law N ° 16.170 Article 663), d) proof from the State Insurance Bank that proves the existence of the insurance of work accidents and occupational diseases (Law N ° 16.074), e) the work control form, salary receipts and, where applicable, applicable collective agreement. Employees hired by any subcontractor, shall be considered as employees of the Contractor with respect to the exercise of their activities, responsibilities and obligations arising therefrom for the employee and the employer, in compliance with the provisions of Law No. 18,099 and No. 18,251. Consequently, when the personnel, employees or workers of the Contractor are mentioned, those contracted by any subcontractor are included-

n the event that the Contract Supervision detects errors or omissions, it will notify the Contractor and require them to be corrected. Any fine or infraction applied by third parties for errors or omissions, whether or not detected by the Contract Supervision, will be paid by the Contractor.

The Contract Supervision may order the inspection of the places where the works and / or services are executed in order to verify compliance with safety measures and prevention against work risks.

It is the obligation of the Contractor to report occupational accidents and occupational diseases in accordance with current legal provisions, informing the Contract Supervisor of the events that have occurred, delivering, when appropriate, such complaints

TWELFTH - SOCIAL LAWS. The contributions to the Social Security Bank will be the responsibility of the Contracting Party. Said payments shall be made up to the maximum indicated by the Bidder in his proposal, after the above-mentioned limit has been met, the following payments shall be made by the MTOP through the retention of the corresponding amount of the respective certificate of the Contractor. For the purposes of the award and for the study and comparison of the proposals, the contributions calculated by the Offeror and declared in the offer shall be taken into account. For which the bidders must declare the amount of taxable labor

for each item and the total sum. The liquidation for the purposes of the payment of BPS will be made monthly according to the amount declared in the personnel sheet submitted by the Bidder

The MTOP will not recognize as amounts to be paid to the BPS all those payrolls that are not signed and stamped by the Control Body. The awardee will have a maximum period of 3 business days following the expiration date set by the BPS on a monthly basis, to present the worksheets. The same must be sealed by the BPS and will be presented in Accounting Financial Area-Accounting Department of the MTOP within the indicated period, if not done in time and form it will be the responsibility of the Contractor, the concept of fines and surcharges established by the BPS that will be discounted from subsequent settlements. If you have not submitted returns in the month, for any of the works, you must notify the Financial Accounting Area-Accounting Department in writing.

THIRTEENTH - SUBCONTRACTING. The subcontractors must comply with the legal and regulatory regulations in force, being in all cases the Contractor the only responsible before the Contracting Public Administration for the subcontracts made

FOURTEENTH - COMPLIANCE OF CONTRACTThe Contracting Authority shall be competent to control and supervise compliance with the contract.

Parallel to the self-control tasks exercised by the Contractor, the supervision tasks established here will be carried out.

The Contracting Party will designate the members that will make up the Control Body of the contract; At least one of the members of the Control Body must be appointed by the State Railways Administration.

This is the highest-ranking body in the control function, the technicians that integrate it will exercise their functions in a technically independent manner.

The Contract Supervision will be in charge of the natural or legal person determined by the Contracting Authority

All supervisory tasks detailed below will be carried out by the Contract Supervision or the Control Body, as appropriate, with personnel and equipment of the Contracting Party or by third parties hired for that purpose.

All costs of supervision and control of this contract shall be borne by the Contractor

For concept of contract supervision, the Contractor Company must pay the amount of 856,004 IU (eight hundred fifty-six thousand four indexed units) plus VAT, per month for the duration of this contract. The first payment must be made fifteen (15) days after the Tenure and Initiation Act mentioned in the third clause of this contract, for the amount that corresponds to the days between the date of said act and the last of the month following the day of the act. The following payments must be made in advance: the last working day of each month expires the deadline to pay what corresponds for the following month.

In both cases, the team will be selected taking into account the opportunity, convenience, suitability and nature of the task to be performed.

The supervision will constantly monitor the operation and availability of the infrastructure, through the procedures it deems appropriate for each case; being able to request all the information available to the Contractor and to all the organisms that are part of the national railway system. According to the procedure established in clause 2.5.1 of the Technical Bases, within a period of fifteen (15) calendar days from its receipt, the Construction Supervisor will review the calculations and forward said revision to the Contracting Authority's Control Body.

The Contract Supervision will make a detailed annual report addressed to the Contractor's Control Body. In this document, in addition to the considerations it deems appropriate, it must inform about the compliance of the Contractor company in relation to the Integral Management of the Infrastructure and the evolution of the different Performance Indicators.

FIFTEENTH - SANITATION REGIME The determination of the applicable sanctions will take place under the principles of legality, due process, equality, proportionality, generality and adequacy to the end.

The deductions and penalties will be discounted indistinctly from the work certificates, the guarantee of faithful compliance with the contract, any other payment owed to the Contractor for any reason, or if nothing is owed, consider them a debt.

The application of such sanctions will proceed without prejudice to the administrative, civil or criminal responsibilities that may correspond to the Contractor vis-à-vis the Contracting Party or third parties, who have been harmed as a result of the breach

SIXTEENTH - INFRACTIONS. Infractions for the purposes of this contract are considered:

- Carry out activities without having obtained the corresponding permits, licenses or authorizations.
- Not to deliver to the Supervision of the Contract proof of the payment of the obligations in labor and social security matters as stipulated in this contract.
- Not to send the documentary information that is required, in time and form, or to send partial information, or whose content has been altered.
- Failure to comply with any of the deadlines established in the Technical Bases.
- Breach of any other obligation, in time and form, established in this contract, in the Administrative Conditions, in the Technical Bases or any other contractual document.
- Be in default with respect to the payment of premiums due for insurance and guarantees required.
- J) Breaches defined in Clause "2.4.2 Penalties" of the Technical Bases that are part of the contractual documents

SEVENTEENTH - TERMINATION. If the railway infrastructure is found to be in good condition and in accordance with the conditions of this tender, provisional administration will be received by the Contracting Authority, starting from the date of the respective minutes, the established liability period for defects

PROVISIONAL RECEPTION. The Supervision of the Contract, will make a report where it will consist in writing and the Contractor and Contractor will be informed, the observations, and a term to correct the observed defects. Upon the expiration of this term or before, if the Contractor so requests, a new acknowledgment shall be made and if it turns out that the Contractor has complied with the orders received, the provisional reception shall proceed. The term agreed by the Supervision of the Contract to make the repairs does not exempt the Contractor from the responsibilities and fines that may have been incurred due to the non-maintenance of the service levels. Not being satisfied the Contractor with the resolved by the Supervision of the Contract, will expose within the term of 7 days the grounds of his disagreement. If you let this term pass without submitting claims, it will be understood that you accept what has been resolved by the Supervision of the Contract and no subsequent claim will be admitted.

With the signature of the act of provisional reception of the work, the Contractor expressly states that it has nothing to claim for any concept to the Contracting Party-

FINAL RECEPTION. The Certificate of definitive reception will be extended by the Contracting Party within 20 days from the lifting of the existing observations which were recorded in the provisional reception.

For the definitive reception, claims that have not been submitted within the same terms stipulated for provisional reception will not be taken into account.

With the signing of the certificate of definitive reception of the work, the Contractor expressly states that it has nothing to claim for any concept to the Employer. The final reception will be subject to the approval of the Contracting Party.

The Contractor's Responsibility for hidden and apparent defects shall survive for all legal purposes, under the terms established in article 1844 of the Civil Code.

EIGHTEENT – TERMINATION. The termination will be governed by the provisions of article 70 of the TOCAF. Likewise, the termination for any reason of the Central Railway Public Private Participation Contract, will cause the termination of this contract with full rights

NINETEENTH: Special Domiciles The parties constitute special domiciles for all the purposes of this Contract in those established as their respective in the heading, having as such, unless express notification of change. For the notifications that are the subject of this contract, the electronic address will be valid

ELEVENTH-EIGHT: The applicable law and the competent jurisdiction in all matters related to this maintenance contract, will be those of the Eastern Republic of Uruguay

IN WITNESS THEREOF and in conformity with the foregoing, the parties grant and sign three copies of the same wording, in the place and on the date indicated supra -ad-referendum of the intervention of the Central Accountant of the General Accounting Office of the Nation and the Auditor Accountant of the Court of Accounts highlighted in this Secretariat of State