

Administration Services Area - Strategic Projects, Public Procurements, Public Contracts and General Affairs Department Reg. no.

RE.: Art. I, sub-par. 618, and followings of Law of 23.12.2014, no. 190. Transfer of international free trade zone as legally established from the Old Port of Trieste and transfer of areas, buildings and other works belonging to the public marine domain and located within the boundaries of the port area to the available assets of the Municipality of Trieste. Laying out of guidelines for drawing up a strategic plan to enhance areas belonging to the Old Port of Trieste. CIG no. [REDACTED] **CONTRACTOR:** Company [REDACTED]/RTI [REDACTED]/Consortium [REDACTED]

THE ITALIAN REPUBLIC

On this day [REDACTED] of [REDACTED] of the Year of our Lord TWO THOUSAND FIFTEEN - in a room at the City Hall in Trieste, Piazza dell'Unità d'Italia, no. 4

Before me, [REDACTED], the Secretary General of the Municipality of Trieste – in my capacity as the certifier of this document – appeared the following persons, whose identities and qualifications have been duly verified:

1. [REDACTED] - domiciled for the purposes of this deed at the City Hall of Trieste, Piazza dell'Unità d'Italia no. 4, who takes part in and signs this deed in his/her capacity of the legal representative of the Municipality of Trieste – for the purposes and to the intents of art. 107, sub-par. 3, lit. c), of Legislative Decree of 18.8.2000 no. 267 and art. [REDACTED] of the Regulations on Public Procurements and Contracts of the Municipality of Trieste – who declares to only act in the name, on behalf and in the interest of the Municipality of Trieste that he/she represents;
2. Mr. Zeno D'AGOSTINO, born in Verona on 3 (three) January 1968, – domiciled for the purposes of this deed at the headquarters of the Port Authority of Trieste, Via Karl Ludwig von Bruck, no. 3, (tax and VAT ID number 00050540327), who takes part in and signs this deed in his capacity as the Official Receiver of the Port Authority appointed by a decree issued by the Ministry of Infrastructure and Transport reg. no. 00298 of 20.8.2015 and, as such, in his capacity as its Legal Representative;
3. [REDACTED] born in [REDACTED] ([REDACTED]) on [REDACTED] ([REDACTED])19[REDACTED] ([REDACTED]), domiciled for the purposes of this deed at the headquarters of [REDACTED], who takes part in this deed in his/her capacity as the Legal Representative of [REDACTED] [possibly, established by deed index no. [REDACTED] of [REDACTED][REDACTED][REDACTED] certified by Mr. [REDACTED], Notary Public in [REDACTED] (kept on records) and domiciled at [REDACTED] in [REDACTED], via [REDACTED], n. [REDACTED], composed of:
 - [REDACTED] (tax ID number [REDACTED]) having its registered office in [REDACTED], Via [REDACTED] n. [REDACTED], Representative;
 - [REDACTED] (tax ID number [REDACTED]) having its registered office in [REDACTED], Via [REDACTED] n. [REDACTED], Principal;
 - [REDACTED] (tax ID number [REDACTED]) having its registered office in [REDACTED], Via [REDACTED] n. [REDACTED], Principal;

The said appearers, after giving up the presence of witnesses by mutual consent and with my approval, ask me to receive the following

CONTRACT

to be construed in the light of the following recitals.

Whereas pursuant to art. I, sub-pars. 618, of Law of 23.12.2014, no. 190 (2015 Stability Law), published on the Official Journal no. 300 of 29.12.2014 – Ord. Suppl. no. 99,"The Government Ministerial Representative for Friuli Venezia Giulia, by mutual agreement with the President of the Friuli Venezia Giulia Region and the Mayor of Trieste, takes, in cooperation with the relevant institutions, all the measures required to transfer the international free trade zone as legally established from the Old Port of Trieste to other duly identified areas that are functionally and logistically connected with port activities";

Whereas pursuant to sub-par. 619 of the said Decree,"Following the measures under sub-par. 618, all areas, buildings and other works belonging to the public marine domain and located within the boundaries of the port area, excluding docks, Adriaterminal and the coastal strip of the Old Port of Trieste, are released from the public ownership and transferred to the available assets of the Municipality of Trieste to be used for the purposes provided for by its urban planning tools. The Municipality of Trieste shall dispose of the areas and buildings released from the public ownership in compliance with the national and European legislation and shall transfer the relevant proceeds to the Port Authority of Trieste so that the

infrastructure of the New Port and the new areas to be used as international free trade zone can be built without prejudice to the rights and obligations resulting from existing concession agreements with a length exceeding four years that are converted, for the portion of areas thereof, in right of use agreements in favour of the holder of the concession for its residual length. The Chairman of the Port Authority, by mutual agreement with the President of the Friuli Venezia Giulia Region and the Mayor of Trieste, sets the boundaries of the areas that remain under the public marine domain”;

Whereas, pursuant to these provisions, representatives from the State Property Office, the Port Authority of Trieste, the Harbourmaster's Office of Trieste, the Interregional Authority for Public Works and the Autonomous Region of Friuli Venezia Giulia, together with the representatives from the Municipality of Trieste, performed any and all technical activities required to identify the dividing line for the public marine domain;

Whereas on 9 July 2015 on 9 July 2015, the “Agreement Report” and the “New Dividing Line Identification Report” were formally signed. The “Final Public Marine Domain Boundary Plan” is enclosed therewith and is an integral and essential part thereof;

Whereas the legislative provisions and the actions aimed at converting, requalifying and enhancing the area of the Old Port of Trieste should be enacted and implemented in order to seize the opportunities for socioeconomic development resulting from such changes;

Whereas one of the main interests of the Municipality of Trieste, pursuant to the said legal provisions, is to assess and pursue any opportunity for enhancement of the areas belonging to the Old Port, also taking into account the provisions laid down in art. 3, sub-par. 2, of Legislative Decree of 18.8.2000, no. 267 as amended and supplemented;

Whereas to this end, it is a priority need to lay out, draft, share and approve a strategic plan to convert and enhance the Old Port as a tool to identify the uses and urban, economic, technological and social characteristics to develop in the area so as to trigger reactions in terms of opportunities, sustainability, attractiveness and interest by institutional and private investors at the international level, whose potentials are to be defined also in terms of energy and water distribution and service infrastructure;

Whereas, for the purposes of drafting the strategic plan, the Municipality of Trieste, by Decision no. [REDACTED] of [REDACTED], identified a partner (advisor) pursuant to art. 125, sub-par. 11, of Legislative Decree no. 163/2006 as amended and supplemented and arts. 331 and followings of Presidential Decree no. 207/2010 through a transparent, impartial, fair, non-discriminatory and proportional procedure based on primary legislation principles, who will be entrusted with the task to provide the relevant professional services;

Whereas by order no. 8/2015 of 15.10.2015 (reg. no. 12/2-19/15) the Port Authority of Trieste and the Municipality of Trieste entered into a convention whereby, inter alia, with a view to mutual cooperation, the Port Authority undertook to cover EUR 70,000.00 + VAT of the fees and charges payable to the Advisor; the said amount shall be directly paid by the Port Authority to the Advisor;

Whereas, following the completion of the negotiated procedure aimed at identifying the Contract, City Council Resolution no. [REDACTED] dd. [REDACTED] awarded the Contract to [REDACTED], based in [REDACTED], Via [REDACTED] no. [REDACTED], on the basis of the technical and economic offer submitted by the bidder and enclosed herewith under letters “A” and “B”, respectively, to be an integral and essential part hereof;

Whereas by notice reg. no. [REDACTED] of [REDACTED] the stakeholders received the notice under art. 11, sub-par. 10, and art. 79, sub-par. 5, of the said Legislative Decree no. 163/2006 as amended and supplemented;

Whereas the Tender Contract with the Contractor [REDACTED] should be entered into; seen and taken into account the provisions laid down in Legislative Decree no. 153/2014; that being stated, the Contracting Parties above agree upon the following:

- **RECITALS**

The recitals and the documents mentioned therein are an integral and substantial part of this deed.

- **SCOPE OF THE CONTRACT**

The Municipality of Trieste, represented as above, entrusts [REDACTED], which hereby accepts through its legal representative, hereinafter referred to as the “Company”, with the task to provide services for the performance of the following activities: laying out of guidelines for drawing up the strategic plan aimed at enhancing areas, buildings and works in the Old Port of Trieste. The provision of services is entrusted and accepted in full compliance with all laws, regulations and terms resulting both from the applicable legislation in force, the tender documentation and the following documents:

- **Technical offer as submitted by the Company (Annex “A”)**

- **Economic offer and time schedule as submitted by the Company (Annex “B”)**

The Company hereby declares, through its legal representative, that it has duly reviewed with the utmost diligence all the above documentation as well as the documentation made available by the Municipality of Trieste on its website and warrants that the performance of activities will be based on the best cooperation with the Municipality of Trieste and in full compliance with the aim of enhancing the whole area while respecting the public interest.

- **CONTENTS OF SERVICES**

The activities to be performed by the Advisor will basically involve the provision of knowledge, inputs and support to turn the information on the area and the wider territory, including economic and financial data, into useful knowledge for the Municipality of Trieste to make the most appropriate decisions so as to attract potential investments and economic initiatives by domestic and foreign investors. In particular, the activities shall be organised as follows:

STEP 1: Surveys.

This phase shall include:

- Review and analysis of the territorial, economic, demographic, social, technological and logistic context at the local, regional and international level to show strengths, criticalities and needs, to be developed and integrated with possible and feasible solutions, limits and constraints (urban planning, morphology, environment, etc.), risks and opportunities;
- Definition of strategic objectives in terms of settlement, economic impact, employment and environment for the conversion and enhancement of the Old Port;
- Identification and definition of attractiveness and interest indicators for public and private, domestic and international investors in line with the future “mission” to be given to Trieste and the urban interaction and integration between the neighbouring town centre and the Old Port (“Trieste 2030” project”).

STEP 2: This phase shall include:

- Laying out of guidelines for drawing up the strategic plan in line with the *mission* assigned to Trieste with the aim to achieve the following objectives:
 - o Breakdown of areas in the Old Port to be physically modified into the following homogeneous categories:
 - ▢ Preservation or restoration
 - ▢ Requalification
 - ▢ Economic development in each sector (marine, tourist, accommodation, cultural, port, pleasure boating, residential development, etc.)
 - o Breakdown of the actions according to competent authorities (Municipality, Port Authority, Region, etc.) and private investors;
 - o Adequate attraction of human resources;
 - o Adequate attraction of financial resources;
 - o Adequate improvement of citizens’ quality of life;
 - or Available options to implement the actions.

STEP 3: Support and assistance in terms of plan description, sharing, circulation and approval.

In this phase, the Company shall cooperate with the following:

- Introduction of the plan guidelines to institutions, social partners, stakeholders, opinion leaders, associations, etc., so that they can be understood and shared (involvement of stakeholders); - Implementations of or changes to the guidelines based on the results of consultations and exchanges;
- Support when circulating and approving the plan drawn up according to the guidelines;
- *[Additional services, if any, offered during the selection procedure.]*

Each phase shall be developed according to the contents of the technical offer by using the human resources and skills mentioned therein.

- **TIME LIMITS**

The Company undertakes to complete the under art. 3 above as described in its offer in full compliance with the following time limits:

STEP 1 - Surveys: Within [] consecutive calendar days from the date of award;

STEP 2 - Definition and laying out of guidelines on the strategic plan: Within [] consecutive calendar days from the time limit for the completion of STEP 1;

STEP 3 - Support and assistance in terms of plan description, sharing, circulation and approval: The Company undertakes to cooperate with the Municipality of Trieste for [] consecutive calendar days from the date of submission of the guidelines up to the date of approval of the said document by the Municipality of Trieste in the event that the document is approved before the time limit set for this step.

- **PROVISION OF SERVICES**

The Company shall constantly cooperate with the Municipality of Trieste and the Strategic Projects, Public Procurements, Public Contracts and General Affairs Department Manager, who shall always be made aware of any event that is likely to prevent the Company from complying with the time limits above so that any difficulty or criticality can be jointly addressed.

Furthermore, the Company shall always make the said Manager aware of any contact with public authorities, bodies or institutions focused on the laying out and drawing up of the said guidelines and shall cooperate with him in this regard.

- **OBLIGATIONS OF THE MUNICIPALITY OF TRIESTE**

The Municipality of Trieste undertakes to procure that its personnel will cooperate with the Company; furthermore, the Municipality of Trieste shall make available all deeds and documents required for full and timely performance of the obligations resulting from the task entrusted to the Advisor. At the Company's request, the Municipality of Trieste shall diligently apply to public institutions or other authorities for the release of data and other information that may be useful to the Company during the performance of its activities.

- **OBLIGATIONS OF THE COMPANY**

In addition to the obligations resulting from any and all contracts governed by the provisions laid down in the Italian Civil Code, the Company will also have the following obligations:

- a. Performing the activities in full compliance with the terms provided in this Contract, the tender documentation and the offer submitted by the Company, in the interest of the Municipality of Trieste and in accordance with its directions;
- b. Ensuring proper performance of the activities by promptly acting in case of issues and notifying the Municipality of Trieste upon request; furthermore, the Company shall guarantee the presence of qualified operators at the City Hall or elsewhere to take part in meetings dealing with the guidelines (drawing up and/or sharing);
- c. Guaranteeing transparency in all contacts with institutions and stakeholders during the performance of the activities and providing any information and documentation in this regard;
- d. Ensuring compliance with the time limits above;
- e. Using the means and resources stated in the technical offer for each activity and bearing any charge for obtaining or using documents that are required for the performance of any activity and cannot be made available by the Municipality of Trieste or other public authorities;
- f. Keeping the upmost confidentiality on data and information that the Company becomes aware of during the performance of its activities.

- **FEES AND TERMS OF PAYMENT**

For the activities stated hereunder, the Municipality of Trieste shall pay the Company an all-inclusive lump sum of € [] + VAT at the legal rate in force, based on the fees stated in the offer by the Company. The amount of € 70,000.00 (EUR seventy thousand/00) + VAT shall be directly paid by the Port Authority of Trieste upon submission of the guidelines. The amount owed by the Municipality of Trieste shall be paid as follows:

- i) First down payment of 50% (fifty percent) upon submission of the document laying out guidelines for drawing up the strategic plan;

- ii) Second down payment of 25% (twenty-five percent) upon completion of the phase of involvement, introduction, circulation, sharing and description of the guidelines;
- iii) The balance shall be paid upon approval of the document by the Municipality of Trieste but, at any rate, after that the time limit of [] days as stated in the offer by the Company if the document is not approved owing to events or circumstances for which the Company cannot be held as liable.

The invoice to the Port Authority of Trieste shall be issued as agreed upon between the Company and the Port Authority. The Port Authority of Trieste shall deliver the Municipality of Trieste a copy of the invoice marked as paid within 15 (fifteen) days of payment. Each payment shall be made within no more than 60 (sixty) days of the electronic submission of the relevant invoice, provided that the invoice is regularly issued and substantially valid as confirmed by the Strategic Projects Department Manager of the Municipality of Trieste. In case of failure to comply with contractual obligations, the Municipality of Trieste reserves the right either not to make down payments or not to pay the balance up to the time when the missing services are properly provided.

- **TRACKING OF FINANCIAL FLOWS**

The Company declares that it is aware of the provisions laid down in art. 3 of Law of 13 August 2010 no. 136 as amended and supplemented and undertakes to comply with all financial flow tracking obligations and to notify the Municipality of Trieste and the Port Authority of Trieste with all the information required by the said legislation. This Contract shall be terminated by full right pursuant to art. 1456 of the Italian Civil Code by simple notice in the event that financial transactions are not performed through banks or Poste Italiane S.p.A.

- **DEPOSIT**

To cover all contractual obligations, the Company, pursuant to art. 113 of Legislative Decree no. 163/2006 as amended and supplemented, established the final deposit by bank guarantee [] issued on [] by [] and amounting to EUR [] ([]/00) [possibly decreased by 50%, if the Company has already a corporate quality system certification in compliance with national and European regulations]. Penalties owed by the Company shall be deducted from the deposit. The Company will be obliged to replenish the deposit amount within 15 days of the relevant notice.

- **RESPONSIBILITIES OF THE COMPANY**

The Company is the sole and direct responsible for the contents of the documents submitted as well as the data and information included therein.

- **CONFIDENTIALITY CLAUSE**

The Company shall keep confidential any information it should become aware of during the performance of the services. The material produced during the performance of this Contract shall belong by full right to the Municipality of Trieste. The Municipality of Trieste, at its sole choice, will be entitled to use it or not and to make the changes/adjustments that it deems the most appropriate through any means and in any manner. The Company will not be entitled to oppose, unless the essential criteria on which the material is based are substantially modified; in this case, the changes shall be agreed upon between the Municipality and the Company.

The Company hereby expressly gives up any right on the material resulting from this Contract. The material shall remain the sole property of the Principal that will be entitled to freely dispose of it.

ART. 6) – COLLABORATORS

Without prejudice to the obligation to use the human and professional resources stated in the offer, the Company will be entitled to cooperate with other subjects. However, in this case, the Company shall remain the sole and direct responsible and guarantor to the Municipality for the services provided.

It is understood that the use of and cooperation with other persons for the performance of the activities falling within this task shall be governed by direct and exclusive agreements between the Company and the persons concerned. All the relevant expenses shall be borne by the Company.

In this event, the Municipality will be relieved from any responsibility and the only acknowledged Contracting Party shall be the Company.

Any collaborator having professional functions with external relevance shall be notified in advance to the Municipality of Trieste for approval.

Collaborators shall only be paid by the Company. Their activities shall not imply any additional cost to the amount mentioned under art. 8.

- **PENALTIES**

In case of delays on the terms stated under art. [☞] for which the Company can be held liable, a penalty of 1 per thousand of the fees payable for the provision of services shall be applied. The same penalty shall be applied in case of documentation lacking quality in the opinion of the Strategic Projects Department Manager. In case of other defaults that do not entail the termination of this Contract and are not force majeure events, the Municipality shall send a formal notice stating the amount of the penalty to be applied (in proportion to severity) within the limits of art. 298 of Presidential Decree no. 207/2010 as amended and supplemented. The notice shall grant the Company a time limit for its reply. If the reply is totally or partially inappropriate, or if the Company, being formally notified, does not remedy the default within the time limit set in the notice, the Municipality shall deduct the penalty as recalculated, where required, from the deposit or shall reduce accordingly the amounts payable to the Company

- **CONTRACT TERMINATION FOR SERIOUS CAUSE**

This Contract shall be terminated by full right pursuant to art. 1456 of the Italian Civil Code, also with no warnings, for the following causes:

- i. Failure to start the activities within the time limit set in this Contract, which is regarded as essential unless postponed or delayed for justified reasons by the Municipality;
- ii. Failure to replenish the deposit amount within 15 (fifteen) consecutive days of the receipt of the relevant request from the Municipality in case of deduction;
- iii. Application of penalties globally exceeding 10% of the fees payable, irrespective of the seriousness of the cause that has led to a penalty;
- iv. Misstatements discovered after the signing of this Contract entailing failure to comply with the criteria laid down in art. 38 of Legislative Decree no. 163/2006 as amended and supplemented;
- v. Application of restrictive measures pursuant to Legislative Decree no. 231/01 as amended and supplemented;
- vi. Failure to comply also partially with the non-assignability clause or unauthorized sub-contracting pursuant to art. 298, sub-par. 2, of Presidential Decree of 5/10/2010 no. 207 as amended and supplemented;
- vii. Failure to comply with the tracking clause;
- viii. Any other default not mentioned above that makes the continuation of the activities impossible because the conditions for trusting the Company are irrevocably and seriously breached.

In all cases of Contract termination, the Company will be entitled to definitively retain the deposit established without prejudice to its right to obtain compensation for damage.

- **WITHDRAWAL FROM THE CONTRACT**

The Municipality will be entitled to unilaterally withdraw from this Contract at any time without prior notice for public interest grounds by registered letter with return receipt or certified electronic mail to the Company within 30 days of the date of withdrawal. As from the date on which withdrawal is effective, the Company shall cease the provision of any contractual service that is not underway. In case of withdrawal, the Company will be entitled to be paid for the services that have been regularly provided according to the fees and terms agreed upon between the Parties. The Company hereby expressly waives any right to future claims, including compensation, and additional fees or allowances and/or reimbursement of expenses, also by way of exception to the provisions laid down in art. 1671 of the Italian Civil Code.

- **CONTRACT ASSIGNMENT**

This Contract shall not be assigned either entirely or partially under penalty of invalidity pursuant to art. 118 of Legislative Decree no. 163/2006 as amended and supplemented.

- **INCOMPATIBILITY**

Up to the time when all contractual services are provided, the Company shall be subject to all the causes for incompatibility provided for by legal and regulatory provisions in force. In this regard, the Company, through its legal representative, declares that it is not involved in any situation that is likely to entail conflicts of interest with the Municipality and the public interests pursued by the Municipality. The Company undertakes to promptly notify the

Municipality with any cause for incompatibility or change in the conditions stated above with reference to both the Company itself and its collaborators.

- **DISPUTES**

Any dispute arising from or in connection with the enforcement and constructions of this deed that cannot be settled administratively shall be exclusively deferred to ordinary courts. The Parties hereby submit to the exclusive jurisdiction of the Courts of Trieste.

- **REFERENCE**

With reference to all issues that are not expressly dealt with in this Contract, reference is made to the provisions laid down in the Italian Civil Code as well as in any other applicable law or regulation currently in force.

- **INFORMATION ON PERSONAL DATA PROCESSING**

Pursuant to Legislative Decree of 30 June 2003 no. 196, the Parties mutually acknowledge that their personal data collected for the purposes of this contractual relationship shall only be processed to meet contractual needs and the relevant legal obligations as well as to effectively manage their commercial relations. Personal data shall be processed by manual and electronic information and communication means; persons authorised to perform these tasks and permanently identified, duly trained and regularly informed about the obligations arising from Legislative Decree of 30 June 2003 no. 196; by implementing security measures that are suitable to ensure the data subject confidentiality and to avoid access by unauthorized persons or third parties. Personal data shall be disclosed if their disclosure is required by legal provisions in force. Furthermore, personal data may be transmitted to professionals or advisors, financial institutions, insurance companies and debt collection agencies. The Parties mutually acknowledge that art. 7 of Legislative Decree of 30 June 2003 no. 196 provides for special rights in this regard. In particular, the Parties will be entitled to obtain the following from the relevant controller: confirmation of whether their personal data has been stored and its transmission in a clearly understandable format; knowledge of the origin of the data itself, rationale and purposes on which processing is based; controller's personal details; data deletion, anonymisation or blocking in case of breach of legal provisions; data updating, rectification or supplementing, where required; lastly, either Party will have the right to oppose, for legitimate grounds and in writing, to the processing of data by the other Party. The data controller for the Principal is the Municipality of Trieste.

- **ELECTION OF DOMICILE**

For the purposes of this Contract and pursuant to the law, the Company declares that it has elected its tax domicile at [REDACTED], where all formal notices on this contract shall be sent and regarded as regularly served. The Company also authorizes the service of contractual notices by certified electronic mail to the following address: [REDACTED] This Contract is subject to VAT. Therefore, its registration is applied a fixed tax rate pursuant to art. 40 of Presidential Decree of 26 April 1986, no. 131. This Contract comprises [REDACTED] ([REDACTED]) annexes. I, the undersigned Secretary General, have read this Contract to the Contracting Parties by omitting the annexes, whose contents are known to and expressly accepted by them, as they confirm to me. The Contracting Parties declare that the Contract fully represents their will and they sign it with me. The Contract consists of [REDACTED] sheets typed by a trustworthy person on [REDACTED] full pages and up to here of this page.