



**MEMORANDUM OF UNDERSTANDING****BETWEEN THE****UNIVERSITY OF PUERTO RICO AT MAYAGÜEZ****AND****PUERTO DEL REY, INC.**

**THIS MEMORANDUM OF UNDERSTANDING** is made by and between the University of Puerto Rico at Mayagüez (UPRM), here represented by its Acting Chancellor, Dr. Jorge Rivera and Puerto del Rey, Inc. (PDR), here represented by Mister Daniel W. Shelley, President.

**WHEREAS**, UPRM, through a collaborative agreement with the US National Oceanic and Atmospheric Administration - NOAA, is engaged in developing a Caribbean Integrated Coastal Ocean Observing System – CarICOOS

 **WHEREAS**, UPRM and PDR are aware of the need to augment the number of weather stations in the island of Puerto Rico and making available to public domain;

 **WHEREAS**, UPRM and PDR are interested on using the collected data to improve their research and operation activities;

**WHEREAS**, collaboration between the two institutions will result in mutual benefit;

**NOW, THEREFORE**, in consideration of the mutual understanding set forth, the Parties hereby agree as follows:

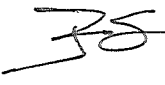

**I. PURPOSE**


- a. This Memorandum of Understanding is intended to facilitate interactions and cooperative initiatives between UPRM and PDR in the areas of research, development, design and augmentation of weather stations in the island of Puerto Rico, which activities are funded by the National Oceanic and Atmospheric

Administration (NOAA) Integrated Ocean Observing System (IOOS), thru the Caribbean Regional Association (CaRA) and its implementation research titled Implementation of the Caribbean Regional Integrated Coastal Ocean Observing System (CarICOOS), which PI is Julio Morell, Investigator of the Marine Science Department of UPRM

- b. This Memorandum of Understanding sets forth a basis for future agreements between UPRM and PDR to initiate and conduct a joint program to promote interdisciplinary communication, cooperation, and collaboration. The program will emphasize collecting, evaluating and sharing technical information of weather data and numerical coastal modeling.

## II. IMPLEMENTATION

 The intent of this Memorandum of Understanding shall be implemented by collaborative planning, and installation of weather instrumentation on existing Navigational Aid (NAV Aid) structures own by PDR. UPRM and its consultant on the CarICOOS project WeatherFLOW, Inc., represented by Jay Titlow, Senior Meteorologist. UPRM and consultant will be assisted by PDR personnel to gain access to the proposed sites in order to perform installation and maintenance work on the weather instrumentation, as needed.  Whereas a formal petition will need to be submitted or scheduled in advance, in order to coordinate the proposed activities, these activities will be coordinated between UPRM and PDR represented by Luis D. Aponte-Bermúdez, Assistant Professor of the Department of Civil Engineering and Surveying and PDR represented by Glenda M. Felix, Dock Master of PDR at the Marina Puerto del Rey.

 The proposed site owned by PDR and contemplated in this agreement is the **North Channel Light 5**, which geographic coordinates are (N 18°17'22.13", W 65°37'54.96"), is located on ~~the west side of~~ the Marina breakwater barrier. At this location, installation of the weather instrumentation will take place on the NAV Aid concrete platform structure. UPRM thru its consultant WeatherFlow Inc. will acquire the necessary equipment and gear to accomplish the installation of the proposed weather station. The

installation job will be at UPRM own risk and expense, and shall not affect the operation and functions of Channel Light 5.

### **III. SUPPLEMENTAL AGREEMENTS**

This Memorandum of Understanding may be supplemented by agreements for specific projects by authorized representatives of UPRM and PDR (e.g., the R&D Center (CID)). Each agreement shall specify: a) Objectives; b) Implementation plan; c) Responsibilities of each institution; d) Budget and funding sources; e) Timetables and evaluation criteria; f) Non-disclosure and intellectual property agreements and; g) When applicable, the costs apportioned to each institution.

The relationship of the parties to this agreement shall not be construed to constitute a partnership, joint venture or any other relationship, other than that of independent contractors.



### **IV. OTHER TERMS AND CONDITIONS**

- a. UPRM and PDR shall each be responsible for their respective costs associated with the activities in this Memorandum of Understanding. Payment for cost associated with future agreements will be subject to negotiations between UPRM and PDR.
- b. Nothing in this Memorandum of Understanding shall obligate UPRM nor PDR individually or collectively, to any current or future expenditure of resources in advance of the availability of appropriations through their respective fiscal authorization procedures.
- c. Both institutions are committed to maintaining records of all reports, timesheets for jobs and all other documents related to the services provided by each and discussed in this agreement, in order that they be available for examination or copying by the Office of Internal Auditors of the University of Puerto Rico, by a firm of outside auditors hired by the University of Puerto Rico, by the Office of the Comptroller of Puerto Rico in its auditing of the University of Puerto Rico as required by law. Audits will be carried out at reasonable times during the course of the services or after their



completion, in accordance with generally recognized auditing practices. Said documents will be kept for a period of no less than six years or until the Office of the Controller of Puerto Rico has made its investigation, whichever occurs first.

- d. Neither party shall use the name of the other institution, its initials, stamp, logos, seal, or any other identifying emblem or distinctive symbol of the other institution without the express written authorization of the institution to which said objects belong.
- e. Neither the parties shall assume any liabilities to each other. As to liability to each other the parts do not waive any defense as a result of this agreement. Likewise, this provision shall not be construed to limit the University of Puerto Rico's rights, claims or defenses which arise as a matter of law pursuant to any provisions of this agreement. Additionally, this Memorandum of Understanding shall not be construed to limit the sovereign immunity of the Commonwealth of Puerto Rico and the University of Puerto Rico.
- f. Each of the parties consents to exempt and exonerate the other party (the party to be indemnified) from responsibility in the case of any judicial or extrajudicial claim, and to provide indemnity for damages and/or mental or moral anguish that may be suffered by any person or legal entity, when said damages are alleged to have been caused by the negligent, reckless, and/or culpable actions, conduct, or omissions of the other party (the party that shall provide indemnity), its agents or employees, when such damages shall have occurred totally or partially during the realization of this Agreement.


## V. TERM OF AGREEMENT

This Memorandum of Understanding shall be effective when signed by authorized representatives of both UPRM and PDR. This Memorandum shall remain in force until the duration of the CarICOOS research project, which is June 30, 2011, unless terminated according to the provisions of paragraph VIII below. This Memorandum of Understanding shall be renewable for additional time period as mutually agreed upon by representatives of UPRM and PDR.


## **VI. EQUAL OPPORTUNITY**

UPRM and PDR subscribe to the policy of Equal Opportunity and will not discriminate on the basis of race, sex, age, political orientation, ethnicity, religion, or natural origin. UPRM and PDR shall abide by these principles in the administration of this Memorandum of Understanding, and neither entity nor any of its representatives shall knowingly impose criteria for the exchange of scholars, staff, or students that would violate the principles of nondiscrimination.

## **VII. MODIFICATION**

 This Memorandum of Understanding may be modified only in writing by authorized representatives of UPRM and PDR. Modifications shall be incorporated by reference and made a part of this Memorandum of Understanding.

## **VIII. TERMINATION**

 This Memorandum of Understanding may be terminated at any time by written mutual agreement or upon 90 days advanced notice by either Party.

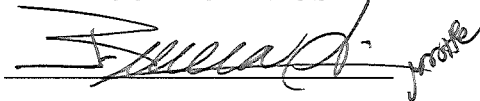
## **IX. FORCE MAJEURE**

In the event that the performance of the obligations under this Memorandum are prevented by reason of Force Majeure, the parties shall be released from their obligations and neither party shall be responsible for any damage sustained and have no further recourse against the other party. Force Majeure shall mean accident before and after the installation of the equipment, fire, earthquake, hurricane, flood, Act of God or natural disaster, epidemics or pandemics, nuclear explosions, strike, work stoppages, or other labour disturbance, riots or civil commotions, vandalism, war or other act of any nation, terrorism, power of government, or government agency, or any other cause which is beyond the control of the parties.

**X. GOVERNING LAW**

In any dispute regarding the terms of this Memorandum, shall be constructed according to the laws of the Commonwealth of Puerto Rico.

UNIVERSITY OF PUERTO RICO,  
MAYAGUEZ CAMPUS



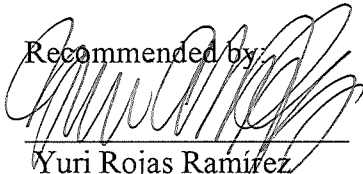
Jorge Rivera Santos,  
Acting Chancellor  
UNIVERSITY OF PUERTO RICO,  
MAYAGUEZ CAMPUS  
Date: November 30, 2009  
City: Mayaguez

PUERTO DEL REY, INC.

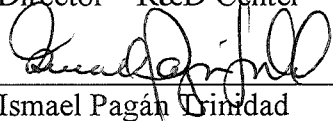


Mr. Daniel W. Shelley,  
President  
PUERTO DEL REY, INC.  
Date: 12/16/09  
City: Fajardo, PR.

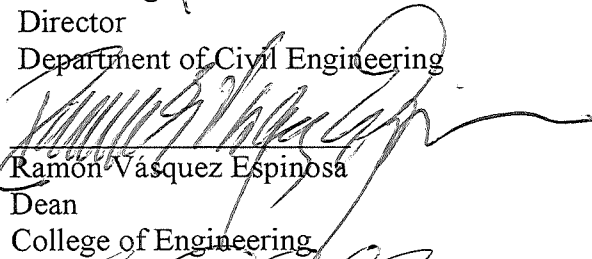
Recommended by:



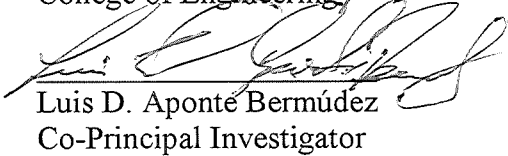
Yuri Rojas Ramirez  
Director - R&D Center



Ismael Pagán Trinidad  
Director  
Department of Civil Engineering



Ramón Vázquez Espinosa  
Dean  
College of Engineering



Luis D. Aponte Bermúdez  
Co-Principal Investigator