

## CONTRACT AGREEMENT

*For the Conduct of Feasibility Study for the Pasig River Ferry System Project*

**THIS AGREEMENT** made this 28th day of August 2018 in Pasig City, Philippines, by and between:

The **NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA)** with address at NEDA-sa-Pasig Bldg., No. 12 Saint Josemaria Escriva Drive, Ortigas Center, Pasig City, herein represented by its Undersecretary, **ROLANDO G. TUNGPALAN**, and hereinafter referred to as the **"Procuring Entity"**;

- and -

The **JV of CEST, INCORPORATED and SCIENCE & VISION TECHNOLOGY, INCORPORATED (SVTI)** represented by **CEST, Inc.**, with address at 1404 Prestige Tower, F. Ortigas Jr. Avenue, Ortigas Center, Pasig City, herein represented by its President, **LEILA L. FLORES**, and hereinafter referred to as the **"Consultant"**;

**WHEREAS**, upon the invitation of the **Procuring Entity**, the **Consultant** submitted proposal/bid for the Procurement of Consulting Services for the Conduct of Feasibility Study for the Pasig River Ferry System Project in the sum of **Thirty-One Million, Eight Hundred Fifty-Six Thousand, Five Hundred Ninety-Nine Pesos and 20/100 (PhP31,856,599.20)**, inclusive of all applicable government taxes and charges, professional fees, and other incidental and administrative costs, hereinafter referred to as the **"Contract Price"**;

**WHEREAS**, the **Procuring Entity** subsequently accepted the proposal/bid of the **Consultant** pursuant to the NEDA Bids and Awards Committee for Consulting Services (NBAC-CS) Resolution No. 90-2018 approved on 07 August 2018.

**NOW THEREFORE**, the **Procuring Entity** and the **Consultant** have agreed on the following terms and conditions:

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Contract, to wit:
  - (a) Bidding Documents, consisting of:
    - i. Request for Expression of Interest;
    - ii. Instructions to Proponents/Bidders;
    - iii. Proposal/Bid Data Sheet;
    - iv. General and Special Conditions of Contract; and
    - v. Terms of Reference;
  - (b) Proposal/Bid forms, including all the documents/statements contained in the Proponent's/Bidder's proposal/bidding envelopes, as annexes, and all other documents/ statements submitted (e.g., proponent's/bidder's response to request for clarifications on the proposal/bid), including corrections to

the proposal/bid, if any, resulting from the Procuring Entity's proposal/bid evaluation;

- (c) Bid Bulletin Nos. 1, 2, 3, and 4 issued on 18 May 2018, 18 June 2018, 20 June 2018, and 25 June 2018, respectively;
- (d) Eligibility requirements, documents and/or statements;
- (e) Performance Security (*SICI Bond No. G(13)100803*);
- (f) NBAC-CS Resolution Nos. 90-2018; 73-2018; 45-2018, 38-2018, 21-2018, and 17-2018;
- (g) Highlights of the Negotiation Meeting held on 20 July 2018;
- (h) Abstract of Bids/Quotation;
- (i) Notice of Award with the Consultant's *conforme* thereto;
- (j) Notice to Proceed;
- (k) Addendum and/or Supplement to the Contract, if any; and
- (l) Other contract documents that may be required by existing laws and/or the Procuring Entity.

3. The **Consultant** shall deliver to the **Procuring Entity** the following outputs in the form and number as well as within the timeline indicated herein. A *detailed Work and Financial Plan (WFP)* shall be submitted by the **Consultant** to the Implementing Agency for review (copy furnished NEDA for monitoring purposes and payment processing) within **15 days** from the date of commencement as indicated in the NTP.

The deliverables for the study as enumerated below shall be prepared by the **Consultant** and shall be cleared by Team Leader. The **Consultant** shall submit **12 hard copies** of the deliverables to Procuring Entity for review of concerned entities. Electronic/soft copies of the deliverable shall also be submitted to DOTr and NEDA.

| Output/Deliverable   | Timeline  |
|--|---|
| <b><i>Draft Inception Report with approved WFP</i></b> , which shall include the detailed work program for the scope of work, a detailed schedule for all work, including field work related to applicable tasks.                      | Within three (3) weeks from the date of receipt of NTP.   |
| <b><i>Final Inception Report</i></b> , which shall include provisions pertaining to the fulfillment of the Study conditions listed in this TOR as well as approaches and methodologies to be utilized in the development of the study. | Within one (1) week after the date of receipt of the comments/recommendations of the Executing Agency (EA). |
| <b><i>Draft Interim Report</i></b>   | Within eight (8) weeks from the date of receipt of NTP.   |
| <b><i>Final Interim Report</i></b>   | Within one (1) week after the date of receipt of the comments/recommendations of the EA.                    |
| <b><i>Draft Final Report</i></b> (including draft bid documents and draft CA)  | Within 13 weeks from the date of receipt of NTP.  |
| <b><i>Final Report</i></b> , which should contain all pertinent findings concerning the scope of works of the projects   | Within two (2) weeks after the date of receipt of the comments/recommendations of the EA.                   |



Note: It is noted that while the commencement of activities is anchored on the receipt of NTP, a turnaround period on submission of deliverables is considered in the timeline.

4. The **Consultant** shall accommodate up to 10 counterpart technical personnel (mix of NEDA, DOTr, and MMDA), who shall be detailed to the project. The government counterpart staff may be assigned in the project office as part of the Study Team for the entire contract duration, but may be recalled by the agency when necessary.
5. In consideration of the payments to be made by the **Procuring Entity** to the **Consultant**, the **Consultant** hereby covenants to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Contract in all respects.
6. The **Procuring Entity** hereby covenants to pay the **Consultant** in consideration of the execution and completion of the Consulting Services, the Contract Price or such other sum as may become payable under the provisions of this Contract at the time and in the manner prescribed by this Contract.
7. Billing for reimbursable items shall be on a monthly basis, based on the actual expenses incurred and supported by official receipts/documents or certification of actual expenditures made under oath.
8. Billing for *non-reimbursable items, including professional fees*, shall be in accordance with the following delivery schedule, *upon recommendation and endorsement of Implementing Agency and NEDA*, subject to usual government accounting and auditing requirements:

| Output/Deliverable                              | Payment Schedule                                  |
|---|---|
| Upon acceptance of the Inception Report and WFP | 15% of the total costs for non-reimbursable items |
| Upon acceptance of the Interim Report           | 30% of total cost for non-reimbursable items      |
| Upon submission of Draft Final Report           | 30% of total cost for non-reimbursable items      |
| Upon submission of the Final Report             | 25% of total cost for non-reimbursable items      |
| <b>TOTAL</b>                                    | <b>100%</b>                                       |

9. An advance payment may be made to cover mobilization costs, but shall not exceed FIFTEEN PERCENT (15%) of the contract amount. The advance payment shall be made only upon the submission to and acceptance and confirmation by NEDA of an irrevocable standby letter of credit of equivalent value from a commercial bank; or a bank guarantee of equivalent value issued by an entity acceptable to NEDA.
10. The advance payment shall be repaid by the **Consultant** by deducting from his subsequent billings/payments such sum as agreed upon during contract negotiations until fully liquidated within the duration of the contract.


11. A retention payment of ten percent (10%) shall be withheld. It shall be based on the total amount due to the **Consultant** prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of the Study, as determined by NEDA, is completed. If, after fifty percent (50%) completion, the study is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall be imposed.

The total "retention money" shall be due for release upon approval of the Final Report. The **Consultant** may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to NEDA, provided that the project is on schedule and is satisfactorily undertaken. Otherwise, the ten percent (10%) retention shall be made. Said irrevocable standby letters of credit, bank guarantees and/or surety bonds, to be posted in favor of NEDA shall be valid for the duration of the contract.


12. The Study shall be completed within a period of four (4) months commencing from the date of receipt of the **Consultant** of the NTP. Monthly meetings will be convened to track the progress of the study vis-à-vis the timelines of deliverables.
13. This Contract shall not create an employer-employee relationship between the **Procuring Entity** and the **Consultant** nor shall the services rendered herein be considered as government service. The **Consultant** shall not be entitled to benefits enjoyed by the regular personnel of the government.
14. Any amendment to this Contract shall be made in writing signed by the **Procuring Entity** and the **Consultant**.
15. Should any dispute related to this Contract and/or rights of the Parties arise, the same shall be submitted to mutual consultation, mediation and arbitration, in the order of application. The venue of the proceedings shall be in Pasig City.
16. In case of a court suit, the venue shall be the courts of competent jurisdiction in Pasig City, to the exclusion of all other courts.

**IN WITNESS WHEREOF**, the parties have caused this contract to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.

Signed, sealed, and delivered by:

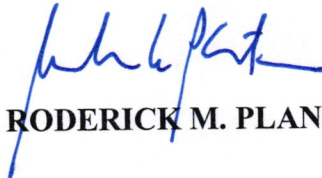
  
**ROLANDO G. TUNGPALAN**  
Undersecretary  
NEDA National Development Office II  
- Investment Programming  
NEDA-sa-Pasig Building  
No. 12 Saint Josemaria Escriva Drive  
Ortigas Center, Pasig City

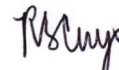
Signed, sealed, and delivered by:

  
**LEILA L. FLORES**  
President  
CEST, Incorporated  
1404 Prestige Tower  
F. Ortigas Jr. Avenue  
Ortigas Center, Pasig City



Signed in the presence of:

  
**RODERICK M. PLANTA**

  
**ROSEMARIE S. CRUZ**

### ACKNOWLEDGMENT

Republic of the Philippines)  
**CITY OF MAKATI** S.

Before me this SEP 05 2018 day of CITY OF MAKATI,  
personally appeared:

| Name  | Government Issued Identification Document    | Date and Place Issued |
|---|--|-----------------------|
| <b>ROLANDO G. TUNGPALAN</b><br>In her capacity as<br>Undersecretary<br>NEDA National Development Office II<br>– Investment Programming<br>NEDA-sa-Pasig Bldg.<br>No. 12 Saint Josemaria Escriva Drive<br>Ortigas Center, Pasig City | NEDA<br>Identification Card<br>ID No. 776092 |                       |
| <b>LEILA L. FLORES</b><br>In her capacity as<br>President<br>CEST, Incorporated<br>1404 Prestige Tower<br>F. Ortigas Jr. Avenue<br>Ortigas Center, Pasig City   | SSS ID<br>03-7814153-6                       |                       |

all known to me and to me known to be the same persons who executed the foregoing instrument consisting of five (5) pages including this page, together with the documents deemed and construed part of this Contract, on which this acknowledgment is written, duly signed by their instrumental witnesses, and they acknowledged to me that the same is their own free and voluntary act and deed as well as that of the entities which they represent.

**WITNESS MY HAND** on the date and place first hereinabove stated.

Doc. No. 34  
Page No. 8  
Book No. 1810  
Series of 2018.

**ATTY. JOSHUA D. LADUZ**  
Notary Public for Makati City  
Appointment #. M-62 until 12/31/2019  
PTR No. 6607878, Jan. 3, 2018, Makati  
Roll No. 45790, IBP Lifetime Roll No. 04897  
MCLE No. V-0019692/ 4-15-2016  
G/F Fedman Suites, 199 Salcedo Street  
Legaspi Village, Makati City