

CONTRACT AGREEMENT

*For the Conduct of Feasibility Study for the Sanitation Concept Design
for Non-Mandamus Water Districts*

THIS AGREEMENT made this _____ day of **OCT 26 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 **JOINT VENTURE (JV) OF CEST, INCORPORATED (CEST)** with address at Unit 1404 Prestige Tower, F. Ortigas Jr. Road, Ortigas Center, Pasig City and **TRACTEBEL, INC. (TRACTEBEL)** with address at Unit 201-203, 2F Hanston Building, F. Ortigas Jr. Road, Ortigas Center, Pasig City, herein represented by the Chief Operating Officer of CEST and authorized representative of the Joint Venture, **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 Sanitation Concept Design for Non-Mandamus Water Districts in the sum of **Fifty-Four Million Three Hundred Nine Thousand Four Hundred Ten and 53/100 Pesos (PHP54,309,410.53)**, 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. 154-2018 approved on 12 October 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, and 3 issued on 17 July 2018, 31 July 2018, and 14 August 2018, respectively;
 - (d) Eligibility requirements, documents and/or statements;
 - (e) Performance Security(*SICI Bond No. HOM-G (13)30980-GA18*);
 - (f) NBAC-CS Resolution Nos. 33-2018, 36-2018, 51-2018, 59-2018, 76-2018, 124-2018 and 154-2018;
 - (g) Highlights of the Negotiation Meeting;
 - (h) Abstract of Bids;
 - (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. 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.
 4. 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.
 5. The **Consultant** shall deliver four (4) hard copies to the Local Water Utilities Administration (LWUA) for review, two (2) hard copies to the NEDA, and an electronic/soft copy of the following outputs in the form and within the timeline indicated herein:

Deliverables	Timeline
Draft Inception Report including Work and Financial Plan (WFP)	One (1) month from receipt of NTP
Final Inception Report including WFP	15 calendar days after receipt of comments from LWUA
Preliminary Concept Design Report	Due at the end of the fifth (5 th) month from receipt of NTP
Monthly Progress Reports	Monthly, within seven (7) calendar days from end of agreed month-period
Mid-Term Report	Due at the end of the eight (8 th) month from receipt of NTP
Draft Final Report	Due on the eleventh (11 th) month from receipt of NTP

Deliverables	Timeline
Final Report	Due fourteen (14) working days after receipt from the LWUA/NEDA of the evaluation/comments but not more than twelve (12) months from the receipt of NTP

6. The **Consultant** shall submit a detailed WFP to the LWUA for review (copy furnish NEDA for monitoring purposes and payment processing) within seven (7) calendar days from date of commencement as indicated in the Notice to Proceed (NTP).
7. During the negotiation meeting held on 27 September 2018, the **Procuring Entity** and the **Consultant** agreed that the **Consultant** shall submit 30 Preliminary Concept Design Reports, 30 Draft Final Reports and 30 Final Reports, one for each Water Districts. In addition, the **Consultant** shall submit a Masterfile/Executive summary of all the Final Reports.
8. The monthly progress report shall be the basis for payment of reimbursable items. Billing for the reimbursable items may be requested once a month based on the actual expenses incurred and supported by official receipts/documents. In the absence of official receipts/documents when claiming for reimbursable costs, the **Consultant** shall submit a certification of actual disbursements made under oath.
9. Payment of remuneration/non-reimbursable items shall be made in accordance with the following delivery schedule, and upon recommendation and endorsement of the LWUA, as the Implementing Agency, to NEDA:

Description	Payment
Upon acceptance of the Final Inception Report	15%
Upon acceptance of the Preliminary Concept Design Report/s	30%
Upon acceptance of the Mid-Term/Interim Report/s	20%
Upon acceptance of the Draft Final Report/s	15%
Upon acceptance of the Final Report/s	20%
	100%


10. The Study shall be completed within twelve (12) months, commencing from the date of receipt of NTP.
11. 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.
12. Where the **Consultant** refuses or fails to satisfactorily complete the work within the specified contract time, plus any time extension duly granted and is hereby in default under the Contract, the **Consultant** shall pay the **Procuring Entity** for liquidated damages, and not by way of penalty, an amount, as provided in the

conditions of Contract, equal to at least one tenth (1/10) of one percent (1%) of the cost of the unperformed portion of the works for every day of delay. Should the amount of liquidated damages reach ten percent (10%) of the **Contract Price**, the **Procuring Entity** shall, at its own discretion, terminate the Contract without prejudice to any further action it may take to recover whatever losses incurred due to non-performance of the **Consultant**.


13. To be entitled to such liquidated damages, the **Procuring Entity** does not have to prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due to the **Consultant** under the Contract and/or collect such liquidated damages from the retention money or other securities posted by the **Consultant**, whichever is convenient to the **Procuring Entity**.
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:

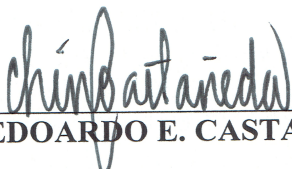

ROLANDO G. TUNGPALAN
Undersecretary
NEDA National Development Office
- Investment Programming
NEDA-sa-Pasig Building
No. 12 St. Josemaria Escriva Drive
Ortigas Center, Pasig City

Signed, sealed, and delivered by:


LEILA L. FLORES
Chief Operating Officer and
Authorized Representative of the JV
of CEST and TRACTEBEL
Unit 1404 Prestige Tower,
F. Ortigas Jr. Road, Ortigas Center
Pasig City

Signed in the presence of:


RODERICK M. PLANTA


CHINO EDOARDO E. CASTANEDA

ACKNOWLEDGMENT

Republic of the Philippines)
) S.S.

PASIG CITY


Before me this _____ day of **OCT 26 2018** in **PASIG CITY**,
personally appeared:

Name	Government Issued Identification Document	Date and Place Issued
ROLANDO G. TUNGPALAN In his capacity as Undersecretary NEDA National Development Office – Investment Programming NEDA-sa-Pasig Bldg. No. 12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City	Passport No. S0010671A	DFA Manila 11 October 2017
LEILA L. FLORES In her capacity as Chief Operating Officer and Authorized Representative of the JV of CEST and TRACTEBEL Unit 1404 Prestige Tower, F. Ortigas Jr. Road, Ortigas Center, Pasig City	Passport No. EC0804245	DFA NCR Northeast 10 April 2014

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.

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Book No. 5
Series of 2018.


JEFFREY A. MARAÑO
Notary Public for Pasig City
Appointment No. 241 (2017-2018)
Until December 31, 2018
IBP Membership No. 019822 / Jan. 03, 2018/ Manila
PTR O.R. No. 3474233/03 Jan. 2018/ Pasig City
Roll of Attorney's No. 69074
Suite 408 Prestige Tower, F. Jr. Ortigas Rd.,
Ortigas Center, Pasig City
MCLE Compliance No. V1-0008919/04 June 2018