

## CONTRACT AGREEMENT

### For the Consultancy Services for the Conduct of Feasibility Studies / Concept Designs for Bulk Water Supply Projects in Selected Provinces

THIS AGREEMENT made this 7<sup>th</sup> day of January 2019 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, **JOSE MIGUEL R. DE LA ROSA**, and hereinafter referred to as the “**Procuring Entity**”;

- and -

The **JOINT VENTURE OF CEST, INCORPORATED (CEST)** with address at Unit 1404 Prestige Tower, F. Ortigas Jr. Ave., Ortigas Center, Pasig City and **ENGINEERING AND DEVELOPMENT CORPORATION OF THE PHILIPPINES (EDCOP)** with address at 10<sup>th</sup> Floor JELP Building, 409 Shaw Boulevard, Mandaluyong 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 **Consultancy Services for the Conduct of Feasibility Studies / Concept Designs for Bulk Water Supply Projects in Selected Provinces** in the sum of **Seventy-Seven Million Six Hundred Eighty-Nine Thousand One Hundred Ninety-Six Pesos and 86/100 (P77,689,196.86)**, 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. 264 (2018) approved on 20 December 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 22 October 2018, 12 November 2018, and 20 November 2018, respectively;
  - (d) Eligibility requirements, documents and/or statements;
  - (e) Performance Security No. HOM-G(13)31027-GA18 issued on 28 December 2018;
  - (f) NBAC-CS Resolution Nos. 149 (2018), 178 (2018), 186 (2018), 203 (2018), 241 (2018), and 264 (2018);
  - (g) Highlights of the Negotiation Meeting held on 18 December 2018;
  - (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 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 submit a detailed Work and Financial Plan (WFP) to the DILG (*copy furnished NEDA for monitoring purposes and payment processing*) within seven (7) calendar days from the date of commencement as indicated in NTP.
  6. The **Consultant** shall deliver to the **Procuring Entity** (*four (4) hard copies to DILG for review, and two (2) hard copies to NEDA for monitoring purposes and payment processing. An electronic/soft copy shall also be submitted to DILG and NEDA*) the following outputs in the form and within the timeline indicated herein:

Deliverables	Timeline
Draft Inception Report including WFP	One (1) month from receipt of NTP
Final Inception Report including finalized WFP	15 calendar days after receipt of comments from DILG
Source Assessment Report	Due at the end of the fifth (5th) month from receipt of NTP
Monthly Progress Reports	Monthly, within seven (7) calendar days from end of agreed month-period



Deliverables	Timeline
Midterm Report	Due at the end of the seventh (7th) month from receipt of NTP
Draft Final Report	Due on the tenth (10th) month from receipt of NTP
Final Report	Due fourteen (14) working days after receipt from the DILG/NEDA of the evaluation/ comments but not more than twelve (12) months from the receipt of NTP

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

DILG/NEDA shall provide comments on the Draft Inception Report within ten (10) calendar days from submission.

In addition to the above, the Consultant shall submit a *Certification from the Local Government Units* on the visit made in connection with this study on the localities identified in the study.

7. Payment shall be made in accordance with the following delivery schedule:

Deliverables	Payment Schedule
Upon acceptance of the Final Inception Report	15%
Upon acceptance of the Source Assessment Report	15%
Upon acceptance of the Midterm Report	20%
Upon acceptance of the Draft Final Report/s	25%
Upon acceptance of the Final Report/s	25%

8. The Study shall be completed within a period of twelve (12) months, commencing from the date of receipt of the Notice to Proceed (NTP) by the **Consultant**.
9. The hardware and software which were procured for this consulting services shall be in the name of the **Procuring Entity**. Acquiring and using a proprietary hardware and software which will continue after the undertaking on a subscription basis shall be subject for the approval of the **Procuring Entity**.
10. The **Procuring Entity** has the continual access to the proprietary software of the **Consultant** and/or its external consultants, with no additional cost to the **Procuring Entity**. The **Consultant** shall ensure the compatibility version of the software to DILG/NEDA.
11. Where the **Consultant** refuses or fails to satisfactorily complete the work within the specified contract time, plus any time extension duly granted in writing, and is hereby under 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 the Contract, equal to at least one tenth (1/10) of one percent (1%) of the cost of the underperformed portion of the works for every day of delay. Should the amount of

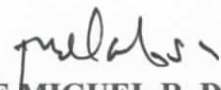
liquidated damages reach 10% of the total contract price, the **Procuring Entity** may terminate the Contract without prejudice to any further action it may lawfully take to recover whatever losses incurred due to non-performance of the **Consultant**.


12. To be entitled to liquidated damages, the **Procuring Entity** need not prove that it 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 any other security posted by the **Consultant**, whichever preference the **Procuring Entity** selects.
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, Philippines.
16. In case of a court suit, the venue shall be the courts of competent jurisdiction in Pasig City, Philippines, 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.

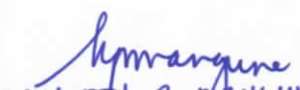
Signed, sealed, and delivered by:

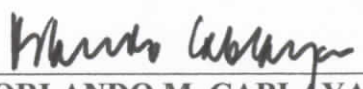
Signed, sealed, and delivered by:

  
**JOSE MIGUEL R. DE LA ROSA**  
Undersecretary  
NEDA Central Support Office  
NEDA-sa-Pasig Building  
No. 12 Saint Josemaria Escriva Drive  
Ortigas Center, Pasig City, Philippines

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

Signed in the presence of:

  
**KATHLEEN P. MANGUNE**

  
**ORLANDO M. CABLAYAN**

## ACKNOWLEDGMENT

Republic of the Philippines)  
QUEZON CITY ) S.S.

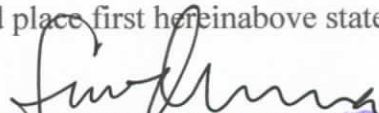
Before me this \_\_\_\_\_ day of 24 JAN 2019 in QUEZON CITY,  
personally appeared:

Name	Government Issued Identification Document	Date and Place Issued
<b>JOSE MIGUEL R. DE LA ROSA</b> In his capacity as Undersecretary NEDA Central Support Office NEDA-sa-Pasig Bldg. No. 12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City	Official Passport No. S0012632A	02 November 2017  DFA Manila, Philippines
<b>LEILA L. FLORES</b> In her capacity as Chief Operating Officer and Authorized Representative of the JV of CEST and EDCOP Unit 1404 Prestige Tower F. Ortigas Jr. Ave., Ortigas Center Pasig City	Passport No. EC0804245	April 10, 2014/DFA NCR Northeast

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. 2107  
Page No. 81  
Book No. 14  
Series of 2019.

  
**ATTY. LUIS M. DE VERA**  
Notary Public, Until Dec. 31, 2019/  
Adm. Matter No. NP-101  
PTR No. 7347038 / 1 / 03 / 2019  
IBP No. AR 41549186 1 / 03 / 2019  
Roll No. 20761  
5th MCLE No. 0009642 / 04/14/2016  
TIN No. 218-145-247





**Highlight of Discussion and Agreements on Contract Negotiation**  
**18 December 2018, 4/F OADG-IP Conference Room, NEDA**

AGENDA	KEY ISSUES/CONCERNS/DISCUSSION	AGREEMENTS
Negotiation Meeting on the Consultancy Services for the Conduct of Feasibility Studies / Concept Designs for Bulk Water Supply Projects in Selected Provinces	<p>The following authorized representatives attended the negotiation meeting presided by Vice-Chairperson Greg Pineda:</p> <ol style="list-style-type: none"> <li>1. Ms. Olga Patron – DILG;</li> <li>2. Mr. Felixberto Chua, Jr. – TWG/DILG;</li> <li>3. Mr. Rogelio Ocampo – TWG/DILG</li> <li>4. Ms. Leila Flores – CEST;</li> <li>5. Mr. Jephthy Albuera – CEST;</li> <li>6. Ms. Geraldine Bayot – TWG/End-User; and</li> <li>7. Mr. Jeremy John Borlongan – TWG.</li> </ol>	
	<p>The following queries and clarifications were raised:</p> <ol style="list-style-type: none"> <li>1. Request for Data and Information</li> </ol> <p>The End-User informed the Consultant that upon the issuance of NTP and subject to a Confidentiality and Non-Disclosure Agreement, the Consultant may request in writing, a certification citing their conduct of the subject study in behalf of NEDA and DILG, which would facilitate such request for information from other agencies.</p>	The Consultant agreed and will comply.
	<ol style="list-style-type: none"> <li>2. Procurement of Assets, Equipment and Proprietary Software</li> </ol> <p>Given that the payment scheme for the subject consulting services is on a lump-sum basis, with a payment schedule on the acceptance of the deliverables, all major purchases shall be made with prior consent of NEDA. In addition, all equipment, materials, etc. acquired shall be turned over to NEDA at the conclusion of the study.</p> <p>The DILG representative asked whether data related on water resource, e.g. assessment, would be shared to DILG. As a matter of procedure, these will be turned over to NEDA.</p>	The Consultant will comply.
	<ol style="list-style-type: none"> <li>3. Facilities</li> </ol> <p>In the submitted technical proposal, it was not clearly stated whether the Consultant intends to set up its project office near DILG. For this, the End-User reiterated that the project office location should be within close proximity to DILG. Also, the Consultant should request concurrence of DILG on the office location considering that the latter prefers a place near DILG office.</p>	The Consultant and DILG will discuss and agree on the office location.
	<ol style="list-style-type: none"> <li>4. Regular Team Meetings</li> </ol> <p>The End-User recommended that meetings be conducted on a monthly basis to keep track of the</p>	The Consultant agreed.




AGENDA	KEY ISSUES/CONCERNS/DISCUSSION	AGREEMENTS
	project's progress, and schedule additional meetings as may be necessary or whenever critical problems are encountered.	
	5. Point Person for the Project	Focal person from NEDA and DILG will be assigned during the kick-off meeting.
	6. Access to LGU sites  It was noted that Mindanao is under martial law and hence, the Consultant may need assistance of the DILG in its access to LGU sites.	The Consultant and DILG focal person/s will coordinate closely with regards to the access of the former to LGU sites.

Signed :

  
JOSE MIGUEL R. DE LA ROSA

  
LEILA L. FLORES

