

CONTRACT AGREEMENT

For the Consulting Services for the Conduct of Feasibility Study of the North Philippine Dry Port Container Rail Transport Service

THIS AGREEMENT made this 3rd 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 SYSTRA PHILIPPINES, INC. (SPI)** with address at 1601 West Tower, Philippine Stock Exchange Centre, Exchange Road, Ortigas Center, Pasig City and **MRAIL, INC. (MRAIL)** with address at 3F Business Solutions Center, Brgy. Ugong, Ortigas Center, Pasig City, herein represented by the President of SPI and authorized representative of the Joint Venture (JV), **MARIA RHIZA SAMSON CASTILLO**, 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 of the North Philippine Dry Port Container Rail Transport Service** in the sum of **Forty-Five Million Two Hundred Twenty-Two Thousand Eight Hundred Eighty-Eight Pesos and 50/100 (P45,222,888.50)**, 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. 266 (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 and 2 issued on 12 and 22 November 2018, respectively;
- (d) Eligibility requirements, documents and/or statements;
- (e) Performance Security/Bond No. G(13) 026528 issued on 21 December 2018;
- (f) NBAC-CS Resolution Nos. 164 (2018), 168 (2018), 196 (2018), 205 (2018), 243 (2018), and 266 (2018);
- (g) Highlights of the Negotiation Meeting conducted on 17 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. The **Consultant** shall transfer all data/information gathered and processed during the conduct of the study to the **End-User/Implementing Agency** and **Procuring Entity**.
4. The **Consultant** shall consider other possible alignments that shall undergo Value Engineering/ Value Analysis (VEVA) to determine the optimal alignment for the project. The **Consultant** shall conduct the study in purview that the project is mutually exclusive from other projects but should consider with and without other relevant project scenarios.
5. The **Procuring Entity** shall provide necessary assistance to the **Consultant** on the endorsements to concerned agencies during the conduct of the study.
6. The availability of the government counterpart personnel shall not prejudice the timely and quality submission of outputs by the Consultant.
7. 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.
8. 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.

9. The **Consultant** shall submit a detailed Work and Financial Plan (WFP) in traceable Excel format to DOTr and PNR for review (copy furnished NEDA for monitoring purposes and payment processing) within ten (10) working days from the date of commencement as indicated in the Notice to Proceed (NTP).
10. The **Consultant** shall deliver to the Procuring Entity *(five (5) hard copies of the deliverables to NEDA for review of concerned entities. Electronic/soft copies of the deliverable documents shall also be submitted to DOTr, PNR and NEDA)* the following outputs in the form and within the timeline indicated herein:

Deliverable ¹	Timeline
Draft Inception Report	Within one (1) month from receipt of NTP
Draft Interim Report	Within one (1) month from acceptance of Inception Report
Draft VE/VA Report	Within one (1) month from acceptance of Interim Report
Draft Final Report	Within one (1) month from acceptance of VE/VA Report
Final Report	Within one (1) month from acceptance of Draft Final Report

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

Description	Payment
Upon acceptance of the Final Inception Report	15%
Upon acceptance of the Final Interim Report	25%
Upon acceptance of Final VE/VA Report	20%
Upon acceptance of the Draft Final Report	20%
Upon acceptance of the Final Report	20%

12. The Study shall be completed within a period of **nine (9) months**, with **6.5 man-months** of work for the **Consultant**, commencing from the date of receipt of the NTP by the **Consultant**.
13. 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**.
14. 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 the **End-User/Implementing Agency** and/or the **Procuring Entity**.
15. 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.

¹ Each deliverable shall be accompanied with a progress report for monitoring purposes.

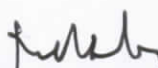
16. Any amendment to this Contract shall be made in writing signed by the **Procuring Entity** and the **Consultant**.

17. 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.


18. 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.

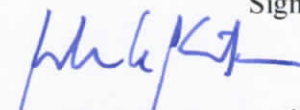
Signed, sealed, and delivered by:


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

Signed, sealed, and delivered by:


MARIA RHIZA SAMSON CASTILLO
President and
Authorized Representative of the JV of
SPI and MRAIL
1601 West Tower, Philippine Stock
Exchange Centre
Exchange Road, Ortigas Center, Pasig City

Signed in the presence of:


RODERICK M. PLANTA


FERDINAND G. INACAY

ACKNOWLEDGMENT

Republic of the Philippines)

PASIG CITY S.S.

Before me this 14 JAN 2019 day of **PASIG CITY**,
personally appeared:

Name	Government Issued Identification Document	Date and Place Issued
JOSE MIGUEL R. DE LA ROSA 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
MARIA RHIZA SAMSON CASTILLO In her capacity as President and Authorized Representative of the JV of SPI and MRAIL 1601 West Tower, Philippine Stock Exchange Centre Exchange Road, Ortigas Center, Pasig City	SSS No. 33-1312882-5	Pasig City, Philippines

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. 14
Page No. 4
Book No. CXIX
Series of 2019.

ATTY. RENATO E. DE JESUS
Notary Public
Until December 31, 2020
ROLL NO. 19939
IBP NO. 05423
PTR NO. 5208701

APPOINTMENT NO. 56 (2019-2020)

Contract Agreement for the Consulting Services for the Conduct of Feasibility Study
of the North Philippine Dry Port Container Rail Transport Service
PIN NO. 122-868-768-000

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

AGENDA	KEY ISSUES/CONCERNS/DISCUSSION	AGREEMENTS
Contract Negotiation Meeting on the Consulting Services for the Conduct of Feasibility Study of the North Philippine Dry Port Container Rail Transport Service	<p>The following authorized representatives attended the negotiation meeting:</p> <ol style="list-style-type: none"> 1. Ms. Christine Stephanie Laumond – Systra-MRAIL; 2. Ms. Gina Anduyan; - Systra-MRAIL; 3. Mr. Sherwin Solano – Systra-MRAIL; 4. Ms. Maria Cresielda Ecalnea – PNR; 5. Ms. Criselle Sune – End-User; and 6. Ms. Kathleen Mangune. <p>The following queries and clarifications were raised:</p> <ol style="list-style-type: none"> 1. Consulting Firm's participation in the project implementation <p>The End-User reiterated the prohibition on the consulting firm to participate in the implementation of the subject consultancy project, which was clearly indicated in Part 2, Section 2, Item A.2.1 of the Instructions to Bidders in the Bidding Documents.</p> <p>The Consultant, the JV of Systra and MRAIL, confirmed that they were aware of such prohibition.</p> 2. Proposed integration of the Tarlac-San Jose & Balagtas-Cabanatuan Spur Line Project and Philippine North Dry Port Project <p>The End-User informed the Consultant that they require the two (2) projects to be mutually exclusive and can stand on their own separately. The acceptability of the results of the projects will be assessed based on their respective TORs.</p> 3. Data Collection <p>The End-User stated that the Consultant should exhaust all available data (primary and secondary) during the conduct of the study. In relation to this, the End-User asked whether the Consultant will be doing the same land title of private bay survey for this project. The Consultant said that they were seeking the assistance of PNR in getting copy of any land titles of private bays for the project.</p> 4. Proposed alignment <p>The following four (4) alternative alignment options were initially identified for the conduct of Value Engineering/Value Analysis (VEVA):</p> 	<ul style="list-style-type: none"> • The Consultant agreed to comply with such requirement. • A Memorandum of Agreement (MOA) between NEDA and the Philippine National Railways (PNR) will be executed on the matter. • The Consultant agreed. • The Consultant agreed to comply on the data collection requirements of the End-User. • PNR will provide necessary assistance during the course of the study.

AGENDA	KEY ISSUES/CONCERNS/DISCUSSION	AGREEMENTS
	<p>a. MICT/North Harbor to Balagtas, Bataan; b. MICT/North Harbor to Sto. Tomas, Pampanga; c. MICT/North Harbor to Clark Freeport and Economic Zone; and d. MICT/North Harbor to Tarlac-San Jose or Balagtas-Cabanatuan Spur Lines.</p> <p>However, alignment options to be subjected to VEVA must not be limited to the above. Instead, the Consultant will be recommending other options based on available information from existing masterplans/studies.</p> <p>5. Government counterpart personnel</p> <p>Clarification is requested on the type of assistance expected from NEDA (e.g., physical, logistics, administrative, endorsement). Furthermore, it may be noted that the availability of NEDA personnel should not affect the timely and quality submission of outputs by the Consultant.</p> <p>6. Request for participation of staff for the VEVA workshop</p> <p>The Consultant requested the participation of one (1) technical representative each from PNR and International Container Terminal Services, Inc. (ICTSI) in the VEVA workshop who will represent the direction of said entities, as well as the desires and background of ICTSI on the project.</p> <p>Likewise, the Consultant requested for a written endorsement from NEDA and/or PNR for the interview of ICTSI officials and the conduct of ocular inspection at MICP as soon as the project starts.</p> <p>7. Access/visit to PNR facilities</p> <p>The Consultant requested assistance in acquiring necessary access to PNR facilities during the conduct of the study/project.</p>	<ul style="list-style-type: none"> • The Consultant agreed. • The Consultant requested assistance on securing endorsements to concerned agencies during the course of the study. • The Consultant to closely coordinate with PNR and NEDA on the confirmation of the number of personnel to participate in the conduct of the VEVA workshop. • The Consultant will request in writing to NEDA/PNR, and NEDA/PNR to endorse said request. • Due to internal procedure and security concern of PNR, a coordination meeting shall be conducted to discuss the request of the Consultant prior to the conduct of the study.

Signed :


JOSE MIGUEL R. DE LA ROSA


MARIA RHIZA SAMSON CASTILLO