

## CONTRACT AGREEMENT

*For the Consulting Services on the Conduct of Feasibility Study (F/S) for the Reduction and Control of Non-Revenue Water (NRW) in Selected Small and Medium Sized Water Districts (WDs)*

THIS AGREEMENT made this 17<sup>th</sup> day of December 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, **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 1404 Prestige Tower, F. Ortigas Jr. Ave., Ortigas Center, Pasig City and **TRACTEBEL, Inc.** with address at Units 201-203, 2<sup>nd</sup> Floor, 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 on the Conduct of Feasibility Study (F/S) for the Reduction and Control of Non-Revenue Water (NRW) in Selected Small and Medium Sized Water Districts (WDs)** in the sum of **Fifty-One Million Six Hundred Twenty-Six Thousand Eight Hundred Sixty-Nine Pesos (P51,626,869.00)**, 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. 213 (2018) approved on 21 November 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 13 July 2018, 27 July 2018, 31 July 2018, and 14 September 2018, respectively;
  - (d) Eligibility requirements, documents and/or statements;
  - (e) Performance Security No. HOM-G (13)31018-GA18 issued on 11 December 2018;
  - (f) NBAC-CS Resolution Nos. 63(2018), 64(2018), 104(2018), 121(2018), 137(2018), 184(2018), and 213 (2018);
  - (g) Highlights of the Negotiation Meeting held on 13 November 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 Local Water Utilities Administration (LWUA) for review (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 LWUA for review and two (2) hard copies to NEDA for monitoring purposes and payment processing. An electronic/soft copy shall also be submitted to LWUA/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 WFP	15 calendar days after receipt of comments from LWUA
Preliminary F/S Report	Due at the end of the fifth (5 <sup>th</sup> ) month from receipt of NTP
Monthly Progress Reports	Monthly, within seven (7) calendar days from end of agreed month-period
Mid-Term F/S Report	Due at the end of the eight (8 <sup>th</sup> ) month from receipt of NTP
Draft Final F/S Report	Due on the eleventh (11 <sup>th</sup> ) month from receipt of NTP
Final F/S 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

LWUA/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 Water Districts and the Local Government Units* on the visit made in connection with this study on the localities identified in the study.

The **Consultant** shall also develop training program and materials for the learning sessions.

7. The monthly progress report shall be the basis for payment of reimbursable items. Billing for the reimbursable items may be requested not more than 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.
8. Payment for 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, and subject to the usual government accounting and auditing requirements:

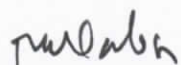
Description	Payment
Upon acceptance of the Final Inception Report	15%
Upon acceptance of the Preliminary F/S Report/s	15%
Upon acceptance of the Mid-Term/Interim Report/s	25%

Description	Payment
Upon acceptance of the Draft Final Report/s	25%
Upon acceptance of the Final Report/s	20%


9. The Study shall be completed within twelve (12) months, commencing from the date of receipt of Notice to Proceed (NTP) by the **Consultant**.
10. 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**.
11. 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 LWUA.
12. 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.
13. Any amendment to this Contract shall be made in writing signed by the **Procuring Entity** and the **Consultant**.
14. 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.
15. 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:

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

Signed in the presence of:

  
**RODERICK M. PLANTA**

  
**EVELYN A. ORDA**

*Delia L. Moreno*



## ACKNOWLEDGMENT

Republic of the Philippines)

) S.S.

**QUEZON CITY**

**DEC 19 2018**

Before me this \_\_\_\_\_ day of \_\_\_\_\_ 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	
<b>LEILA L. FLORES</b> In her capacity as Chief Operating Officer and Authorized Representative of the JV of CEST and TRACTEBEL 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 six (6) 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. 10  
Series of 2018.

**ATTY. ROGELIO J. BOLIVAR**  
NOTARY PUBLIC IN QUEZON CITY  
AM Adm. Not. Com. No. NP-050 1-12-17 until 12-31-2018  
IBP O.R No. 1038271 Jan. 2017 up to Dec. 2018  
PTRO.R No. 5522486 C 1-3-16 until 12-31-2018 / TIN# 125-079-009  
MCLE No. V-0019296 valid from 04/15/2016 until 04/14/2019/PASIG CITY  
Address: 31-F Harvard St, Cubao, Q.C.

*Leila L. Flores*

AGENDA	KEY ISSUES/CONCERNS/DISCUSSION/AGREEMENTS	INSTRUCTIONS
<p>Contract Negotiation</p> <p>Consulting Services on the Conduct of Feasibility Study (F/S) for the Reduction and Control of Non-Revenue Water (NRW) in Selected Small and Medium Sized Water Districts (WDs)</p>	<p>The following attended the contract negotiation meeting, which was presided by the Chairperson.</p> <p>Mr. Francis Bryan Coballes (End-User);  Mr. Paolo Dala (TWG);  Ms. Geraldine Bayot (TWG);  Ms. Leila Flores (CEST);  Mr. Benedict Evangelista (CEST); and  Mr. Nick Espina Jr. (TRACTEBEL).</p> <p><u>Final List of Participating Water Districts (WDs)</u></p> <p>There is a possibility that a WD will opt out of the project. In such a case, said WD which opted out shall be replaced. Such replacement shall be derived from LWUA's original long list of WDs (as ranked) and should have LWUA's approval.</p> <p><u>Target NRW Level</u></p> <p>The target NRW level for each of the participating WDs was purposely not prescribed in the TOR as it should be based on the financial physical and technical capacities, and the current NRW level of each WD. These considerations, which shall be the basis for determining the appropriate target NRW level of each WD by 2034, will be investigated and/or validated during the Consulting Firm's situational analysis and assessment of the NRW sources. Said situational analysis and assessment should involve <i>primary data gathering</i>, i.e., reflecting data as of year 2018, based on the Consultant's actual field visits to the participating WDs.</p>	

*Revised & Approved*

*Jules*

AGENDA	KEY ISSUES/CONCERNS/DISCUSSION/AGREEMENTS	INSTRUCTIONS
	<p><u>Submission of Draft and Final F/S Report</u></p> <p>The Consulting Firm should be aware of the timeline for submission of Draft and Final F/S Report. Ideally, the preferred timeline is that by November 2019, all works, not necessarily the reports, are all completed by that time.</p> <p><u>TPF7 Time Schedule for Professional Personnel and TPF 8 Activity (Work) Schedule</u></p> <p>It is noted that based on TPF 7, the Value Engineering/Value Analysis (VE/VA) Specialist will be intermittently working from the 2nd week of the 8th month until the 2nd week of the 9th month, whereas TPF 8 specifies that VE/VA will be undertaken from the 3rd week of the 6th month until the 4th week of the 7th month. As such, the Consulting Firm should reconcile their WFP with the schedule of deployment of the VE/VA Specialist.</p> <p><u>Project Office</u></p> <p>The LWUA's preference for the location of the Consultant's project office is close proximity to the former's office. For this, the Consulting Firm may submit a request to LWUA regarding its proposed location or coordinate with the latter regarding the possibility of renting out office space within LWUA premises.</p> <p><u>Equipment/Software procured</u></p> <p>Any equipment to be bought by the Consulting Firm for the project shall be in the name of NEDA and turned over to NEDA. Hard or soft assets shall be turned over to NEDA. For software, NEDA prefers off-the shelf or off-the shelf and modified. If there is subscription requirements, the Consulting Firm needs the concurrence of NEDA because the latter considers subscription requirement after the project, if any. For software developed in-</p>	

*Reza N. Hane*

*Juleen*



AGENDA	KEY ISSUES/CONCERNS/DISCUSSION/AGREEMENTS	INSTRUCTIONS
	<p>house and tweaked, the Consulting Firm shall turn over the same as tweaked or as modified.</p> <p><u>Confidentiality and Non-Disclosure Agreement CNDA</u></p> <p>The parties will come up with an agreement on CNDA, which may be required by other agencies or entities, should the Consulting firm needs information/data from them.</p> <p>Meanwhile, the Feasibility Study report, whether part, partial, draft, and final report of it, are totally the property of NEDA and LWUA. The Consulting firm is prohibited from sharing said data/information to any unauthorized party.</p> <p>After the negotiation, the Chairperson asked the timelines where the Secretariat informed that the Consultant had already submitted their post-qualification documents. These were being reviewed by the TWG. In case there were no adverse findings, the Chairperson said that there would be no more need to present the result of post-qualification evaluation in the NBAC-CS meeting. Instead, the resolution awarding the contract would be approved via ad referendum. The target date for issuance of NTP is December 15 or earlier.</p>	<p>In case there were no adverse findings on the post-qualification evaluation, the resolution awarding the contract to CEST and TRACTEBEL will be approved via ad referendum.</p>

*Revised to Sharon*

*Julien*