

**Contract Agreement Form for the
Procurement of Infrastructure Project: Upgrading of Drainage Canal at
Phase I and Phase II: Paniquian River**

*[not required to be submitted with the Bid, but it shall be submitted within ten (10) days after
receiving the Notice of Award]*

CONTRACT AGREEMENT

JUN 06 2024

THIS AGREEMENT, made this ____ day of ____ 2024 by and between:

The **AUTHORITY OF THE FREEPORT AREA OF BATAAN (AFAB)**, with office address at the Second Floor, AFAB Administration Building, Freeport Area of Bataan, Mariveles, Bataan, represented herein by its Administrator and Chief Executive Officer, **MOHAMMED HUSSEIN P. PANGANDAMAN**, pursuant to Secretary's Certificate dated 30 May 2023, hereto attached as *Annex "A"*, and hereinafter called "the Procuring Entity and/or Entity";

- and -

ARKCONS A.P.O PHILIPPINES CORP., with office address at Purok Paghidaet Poblacion, Bagumbayan, Sultan Kudarat, represented herein by its Authorized Representative, **GAMIRIN JERICO M. BAJO**, who is likewise duly authorized pursuant to Secretary's Certificate dated 01 March 2024, hereto attached as *Annex "B"*, and hereinafter called the "Contractor and/or Winning Bidder".

WHEREAS, the Entity is desirous that the Contractor execute the **UPGRADING OF DRAINAGE CANAL AT PHASE I AND PHASE II: PANIQUIAN RIVER** (hereinafter called "the Works") and the Entity has accepted the Bid for **Seventeen Million Six Hundred Fifty Three Thousand Six Hundred Thirty One Pesos and Seventeen Centavos (Php 17,653,631.17)** by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, 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 as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - a. Philippine Bidding Documents (PBDs);
 - i. Drawings/Plans;

- ii. Scope of Works and Specifications;
 - iii. Bill of Quantities;
 - iv. General and Special Conditions of Contract;
 - v. Supplemental or Bid Bulletins, if any;
- b. Winning bidder's bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted;

Bid form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes, and all other documents submitted (e.g. Bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;

- c. Performance Security;
- d. Notice of Award of Contract and the Bidder's conforme thereto; and
- e. Other contract documents that may be required by existing laws and/or the Procuring Entity concerned in the PBDs, particularly the AFAB-Bids and Awards Committee (BAC) Resolution No. I-19 S. 2024 dated 11 April 2024 recommending the Award of the Contract to the winning bidder, and the Certificate of Availability of Funds, which are hereto attached as *Annexes "C" and "D"*, respectively, and made integral parts of this Agreement.

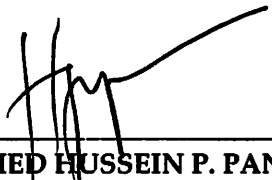
Winning bidder agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, Variation Orders, and Warranty Security, shall likewise form part of the Contract.

3. In consideration for the sum of *Seventeen Million Six Hundred Fifty Three Thousand Six Hundred Thirty One Pesos and Seventeen Centavos (Php 17,653,631.17)* or such other sums as may be ascertained, **ARKCONS A.P.O PHILIPPINES CORP.**, agrees to execute and complete the Works and remedy any defects therein in accordance with its Bid.
4. The **AUTHORITY OF THE FREEPORT AREA OF BATAAN** agrees to pay the above-mentioned sum in accordance with the terms of the Bidding.

IN WITNESS whereof, the parties hereto have caused this Agreement to be executed the day and year first before written.

**AUTHORITY OF THE FREEPORT
AREA OF BATAAN**

**ARKCONS A.P.O PHILIPPINES
CORP.**

By: 

MOHAMMED HUSSEIN P. PANGANDAMAN
Administrator and Chief Executive Officer

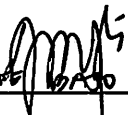
By: 

GAMIRIN JERICO M. BAJO
Authorized Representative

SIGNED IN THE PRESENCE OF:



HAZEL M. GUZMAN



TESSA M. BAJO

ACKNOWLEDGMENT

Republic of the Philippines)
Province of Bataan)
Municipality of Mariveles) S.S.

JUN 06 2024

BEFORE ME, this _____ of _____ 2024 in Mariveles, Bataan, personally appeared:

| NAME | COMPETENT EVIDENCE OF IDENTITY | DATE & PLACE OF ISSUE/EXPIRY |
|---------------------------------|--------------------------------|------------------------------|
| MOHAMMED HUSSEIN P. PANGANDAMAN | TIN No. 920-163-898-000 | 01/17/2024 |
| GAMIRIN JERICO M. BAJO | TIN No. 903-443-164-000 | 07/10/2012 |


both known to me to be the same persons who executed the foregoing instrument and who acknowledged to me that the same is their free and voluntary act and deed, as well as the entities represented herein.

This instrument refers to a "Contract Agreement Form for the Procurement of Infrastructure Project: Upgrading of Drainage Canal at Phase I and Phase II: Paniquian River" consisting of four (4) pages, including the page whereon this acknowledgment is written, and signed by the Parties and their instrumental witnesses on each and every page thereof and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand on the date and at the place first written above.

Notary Public

Doc. No. 382 ;
Page No. 78 ;
Book No. XIII ;
Series of 2024.


Atty. LORENZO B. CASTILLO
NOTARY PUBLIC until December 31, 2024
For and in the PROVINCE OF BATAAN
Notarial Commission No. 2024-004-ML
1/F FAB Post Office Bldg., Mariveles, Bataan
Roll No. 24642; MCLE VII- 0012139 03/07/22
IBP # 412306 01/09/24; PTR No. 1250310 01/02/24

REPUBLIC OF THE PHILIPPINES)
MARIVELES, BATAAN) SS

SECRETARY'S CERTIFICATE

I, MARISTELLA KATRINA C. GARINO of legal age, Filipino, and with office address at Second Floor, AFAB Administration Building, FAB, Mariveles, Bataan 2106, after having been duly sworn in accordance with law do hereby depose and say:

1. That I am the duly appointed Board Secretary of the Authority of the Freeport Area of Bataan with office at Second Floor, AFAB Administration Building, FAB, Mariveles, Bataan 2106;
2. That as such Board Secretary, I am in possession of the minutes of meetings of the Board of Directors of said agency;
3. That in the special meeting of the Board of Directors of the Authority of the Freeport Area of Bataan held on 29 May 2023, the following resolution was unanimously approved, to wit:

RESOLUTION NO. 2023-31

"WHEREAS, under Republic Act No. 9184 (RA 9184), otherwise known as "The Government Procurement Reform Act," and its Revised Implementing Rules and Regulations (RIRR) provided that the Head of the Procuring Entity (HOPE) for government-owned and controlled corporations is the Governing Board or its duly authorized official;

RESOLVED, as it is hereby resolved, that the AFAB Board of Directors delegates its power under RA 9184 and its RIRR to, and thus authorizes and designates, the AFAB Administrator, as the Head of Procuring Entity;

RESOLVED FURTHER, that in consideration of the Ease of Doing Business, the Deputy Administrator for Support Services (DASS) shall be designated as the Alternate Approving Official for the procurement under Alternative Methods of Procurement (AMP) specifically small value procurement, shopping, emergency cases, agency to agency, lease of venue, scientific, scholarly, artistic and media services, community participation, direct contracting, and online subscription with the threshold amount of One Hundred Fifty Thousand Pesos (Php150,000.00);



RESOLVED FURTHERMORE, that in the absence of the HOPE, the DASS shall be the Approving Official for all AMP regardless of amount provided the items to be procured is/are in accordance with the Approved Annual Procurement Plan;


RESOLVED, FINALLY, as it is hereby resolved, that the Board Secretary be authorized to issue certification(s) relative to the foregoing resolution."


MARISTELLA KATRINA C. GARINO
Board Secretary

MAY 30 2023

SUBSCRIBED AND SWORN to before me this _____ day of _____ at MARIVELES, BATAAN City, affiant exhibiting to me her P-117 bearing her signature and photograph.

Doc. No. 459
Book No. XV
Page No. 92
Series of 2023


Atty. LORENZO B. CASTILLO
NOTARY PUBLIC until December 31, 2023
For and in the PROVINCE OF BATAAN
Notarial Commission No. 2021-002-ML
1/F FAB Post Office Bldg. Mariveles, Bataan
Roll No. 24642; MCLE VII- 0012139 03/07/22
IBF No. 272149 01/05/23; FTR # 1249198 01/05/23



SECRETARY CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

I, **MISAE L J L. IBANEZ**, of legal age, Filipino citizen and with office address at Balite Drive, Buhangin, Davao City, being duly elected Corporate Secretary of **ARKCONS A.P.O PHILIPPINES CORP.**, a corporation duly organized and existing under and by virtue of the Laws of the Philippines with office address at Balite Drive, Buhangin, Davao City hereby depose and state:


That at the special meeting of the Board of Directors held on February 23, 2024 the following resolution was unanimously approved:

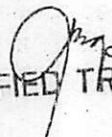
"RESOLVED, that the Corporation will participate in the Bidding Project with the **AUTHORITY OF THE FREEPORT AREA OF BATAAN** for its Goods with the project for **UPGRADING OF DRAINAGE CANAL AT PHASE I AND PHASE II: PANIQUIAN RIVER**, with the bidding reference number **10526430**.

"RESOLVED FURTHER, that **MR. GAMIRIN JERICO M. BAJO**, as he is hereby authorized, to sign and to represent the Corporation in all its transactions with The Authority of the Freeport Area of Bataan in relation to the Corporation's bidding participation."

"RESOLVED FINALLY, that the foregoing authority shall and continue to be in full force and effect until revoked or modified by a resolution to that effect adopted by the Board of Directors of the Corporation, duly attested in a written and notarized certificate, issued by the Corporate Secretary and conveyed in a written notice actually received by The Authority of the Freeport Area of Bataan."

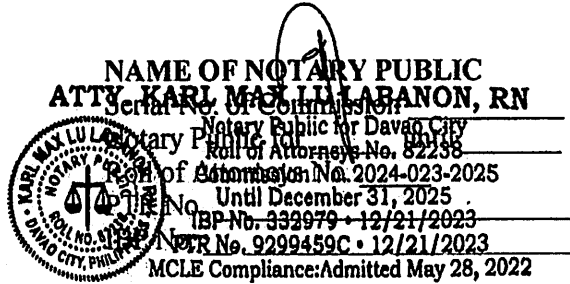
IN WITNESS WHEREOF, I/We have hereunto set my/our hand/s this **1st** day of **March** **2024** at **Davao City, Philippines.**


MISAE L J L. IBANEZ
Corporate Secretary


CERTIFIED TRUE COPY

SUBSCRIBED AND SWORN to before me this 1st day of March, 2024, affiant exhibiting to me his Community Tax Certificate No. 12479124 issued at Davao City, Philippines.

Doc. No. 204
Page No. 1
Book No. 821
Series of 2024




CERTIFIED TRUE COPY

BIDS AND AWARDS COMMITTEE

RESOLUTION NO. I-19 S. 2024

BAC RESOLUTION DECLARING THE LOWEST CALCULATED AND RESPONSIVE BID (LCRB) AND RECOMMENDING THE AWARD OF CONTRACT FOR THE PROJECT "UPGRADING OF DRAINAGE CANAL AT PHASE I AND PHASE II: PANIQUIAN RIVER" TO ARKCONS A.P.O. PHILIPPINES CORP.

WHEREAS, the Authority of the Freeport Area of Bataan (AFAB) advertised the Invitation to Bid on 05 February 2024 for the project: "Upgrading of Drainage Canal at Phase I and Phase II: Paniquian River" at the Philippine Government Electronic Procurement System (PhilGEPs), the AFAB website, and in the BAC bulletin board of the AFAB pursuant to Section 21.2 of the Revised Implementing Rules and Regulations (RIRR) of R.A. No. 9184;

WHEREAS, in response to the said advertisement, five (5) bidders purchased bid documents;

WHEREAS, in response to the said advertisement, three (3) bidders purchased bidding documents and submitted their bids before the deadline for bid submission on 05 March 2024;

WHEREAS, the bid proposals of the hereunder bidders were found to be complying with the eligibility requirements:

| Name of Bidder | Bid Amount as Read |
|--|---|
| Arkcons A.P.O. Philippines Corp. (Arkcons) | Php 17,653,631.17 (Original bid of Php 19,399,594.69 less 9% discount) |
| JD Roces Build and Arts Services (JD Roces) | Php 19,143,659.57 |
| SBD Builders | Php 19,622,826.24 |

WHEREAS, the detailed evaluation of the bid conducted on 11 March 2024, resulted in the following:

| Name of Bidder | Bid Evaluation Result |
|----------------|---|
| Arkcons | <p>1) Lacking materials in detailed estimates:</p> <ul style="list-style-type: none"> • Item 3.1 – Construction foreman was provided instead of project engineer; No backhoe with breaker, no crane • Item 4.1 – Construction foreman was provided instead of project supervisor/engineer; No backhoe with breaker; insufficient cement/sand • Item 4.2 – Construction foreman was provided instead of project engineer; No dumptruck <p>2) Bid amount as calculated: Php 17,653,996.92.</p> |

| Name of Bidder | Bid Evaluation Result |
|----------------|--|
| JD Roces | <p>1) As indicated in item II of the Specifications, the required PCAB License Classification is General Engineering GE-2 (Irrigation or Flood Control). However, the PCAB License submitted does not indicate Irrigation or Flood Control.</p> <p>2) Lacking materials in detailed estimates:</p> <ul style="list-style-type: none"> •Item 3.1 – No backhoe with breaker; No crane •Item 4.1 – No backhoe with breaker; Insufficient cement •Item 4.2 – The chainsaw provided is for rental only. No chainsaw to be turned over to the authority <p>3) Bid amount as calculated: Php 19,143,454.26</p> |
| SBD Builders | <p>1) Lacking materials in detailed estimates:</p> <ul style="list-style-type: none"> •Item 2.1 – No materials for the provision of safety and health program •Item 2.4 – No materials for the topographic survey <p>2) Bid amount as calculated: Php 19,622,605.44</p> |

WHEREAS, a Notice of Bid Evaluation Result dated 12 March 2024 was issued and sent on the same date, and was duly received by Ms. Rhea Lyka L. David of Arkcons on 13 March 2024;

WHEREAS, Arkcons sent a Request for Reconsideration dated 14 March 2024 which was received by the Records Section on 18 March 2024;

WHEREAS, the Bids and Awards Committee (BAC) granted the request for reconsideration as indicated in BAC Resolution No. I-14 s. 2024 dated 21 March 2024;

WHEREAS, a Notice of Bid Evaluation Result dated 12 March 2024 was issued and sent on the same date, and was duly received by Mr. Virgilio Mangalo Jr. of JD Roces on 13 March 2024;

WHEREAS, no request for reconsideration from JD Roces was received within the three calendar day prescribed period to file;

WHEREAS, a Notice of Bid Evaluation Result dated 12 March 2024 was issued and sent on the same date, and was duly received by Mr. Avendano of SBD Builders on 16 March 2024;

WHEREAS, no request for reconsideration from SBD Builders was received within the three calendar day prescribed period to file;

WHEREAS, the TWG conducted post-qualification for Arkcons, and based on the report dated 04 April 2024, the bid of Arkcons was found to be non-responsive and therefore disqualified based on the following grounds:

| Requirements/Conditions | Findings |
|---|--|
| <p>Section 34 of the RIRR of RA 9184:</p> <p><i>"x x x to determine whether the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents."</i></p> | <p>Primary Homes, the bidder's declared procuring entity for its SLCC, cannot be contacted. The bidder also manifested that they no longer have contact with the entity. Hence, the validity of the declared SLCC cannot be determined or ascertained.</p> |

| Requirements/Conditions | Findings |
|--|--|
| Section 34.3.b of the RIRR of RA 9184 <i>"ii) Verification of availability and commitment, and/or inspection and testing for the required capacities and operating conditions, of equipment units to be owned/leased/under purchase by the bidder for use in the contract under bidding x x x"</i> | The equipment checked by the TWG during the virtual PQ is not the same equipment that will be used by the bidder for the project. The bidder said that they will purchase new equipment for the project. |

WHEREAS, the BAC overruled the recommendation of the TWG and resolved to declare Arkcons A.P.O. Philippines Corp. as post-qualified per BAC Resolution No. I-18 s. 2024 dated 05 April 2024;

WHEREAS, pursuant to DBM Circular Letter No. 2010-9, the issuance of corresponding Notice of Award (NOA) for the contracts for the projects funded through GAA shall only be made upon receipt of Special Allotment Release Order (SARO) from the DBM;

WHEREAS, during the Budget Fora on 23 January 2024, it was clarified that Section 4.1.1.2 of the National Budget Circular (NBC) No. 532 dated 02 January 2024 states that:

"When covered with the pertinent special provisions in the GAA, appropriations under an agency which are authorized to be released directly to another, as implementing agency, shall no longer require the issuance of SAROs for memo entries."

NOW, THEREFORE, we, the Members of the Bids and Awards Committee, hereby RESOLVE as it is hereby RESOLVED:

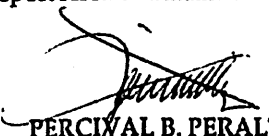
- a. To declare ARKCONS A.P.O. PHILIPPINES CORP. as the Bidder with the Lowest Calculated and Responsive Bid for the project *"Upgrading of Drainage Canal at Phase I and Phase II: Paniquian River Upgrading of Drainage Canal at Phase I and Phase II: Paniquian River"*;
- b. To use the Bid Amount as Read of Php 17,653,631.17 as the contract amount per Section 34.4 of the RIRR of RA 9184;
- c. To recommend for approval by the Administrator and Chief Executive Officer of the Authority of the Freeport Area of Bataan as Head of the Procuring Entity of the foregoing findings.

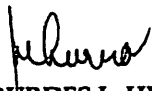
RESOLVED this 11th day of April 2024 at the Freeport Area of Bataan, Mariveles, Bataan, Philippines.

Shelly

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Authority of the Freeport Area of Bataan Bids and Awards Committee

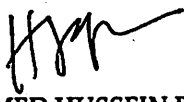

PERCIVAL B. PERALTA
BAC Chairperson


MA. LOURDES L. HERRERA
BAC Vice-Chairperson


DONIA G. ALONZO
BAC Member


CRISTINA F. RODRIGO
BAC Member


CHARLES M. RAMONES
BAC Member



MOHAMMED HUSSEIN P. PANGANDAMAN
Administrator/Chief Executive Officer/Head of Procuring Entity
Approved on APR 11 2024


Digitally signed by
Pangandaman
Mohammed Hussein
Pacasum

C E R T I F I C A T I O N

This is to certify that the Authority of the Freeport Area of Bataan (AFAB) has available budget allocation in Capital Outlay (FY 2024 GAA) under the Board-approved Corporate Operating Budget for FY 2024 to defray the necessary expenses for the project: **Upgrading of Drainage Canal for Phase 1 and II (Paniquian River)** as approved under Secretary's Certificate Resolution No. 2023-01.

Issued this 29th of November 2023.


CHARLES M. RAMONES
Department Manager A, Finance


Note:
Board Approved Budget: 20,000,000.00
ABC: 19,999,590.12
Unallocated: 409.88

