

**CONSULTANCY AGREEMENT**  
**Contract No. NCWS - KDP 002 - 2018**  
**(for the Review of Detailed Engineering Design and Construction**  
**Management/Supervision of New Centennial Water Source-Kaliwa Dam**  
**Project)**

KNOWN ALL MEN BY THESE PRESENTS:

FEB 07 2018 HIS Consultancy Agreement (Agreement), made this \_\_\_\_\_ day of \_\_\_\_\_, 2019 between:

**METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS)**, a government instrumentality with corporate powers duly organized and existing by virtue of Republic Act 6234, as amended, with principal business office at Katipunan Road, Balara, Quzon City, Metro Manila, represented here by its Administrator **PDDG REYNALDO V. VELASCO (Ret.)** duly authorized for this purpose by the MWSS Board of Trustees by virtue of a Board Resolution attached herewith.

-And -

**THE Joint Venture (JV) of ENGINEERING AND DEVELOPMENT CORPORATION OF THE PHILIPPINES (EDCOP), PACIFIC RIM INNOVATION AND MANAGEMENT EXPONENTS, INC. (PRIMEX), and SMEC PHILIPPINES, INC. (SMEC)**, Philippine corporations, holding principal office at 16<sup>th</sup> Floor, JELP Building 409 Shaw Boulevard, Mandaluyong City, U-502 Manila Luxury Condominium, Pearl Drive, Ortigas Center, San Antonio, Pasig City, and Units 905/906/907, The Orient Square Building, F. Ortigas Jr. Road, Pasig City, respectively, represented here by **ORLANDO M. CABLAYAN**, President of EDCOP, **ELVIRA C. ABLAZA**, President and CEO of PRIMEX, and **RICARDO M. YUZON, JR.**, President of SMEC, authorized for this purpose on the strength of the attached Board Resolutions.

Under the 27 September 2018 Board Resolution 2018-150-CO, the MWSS Board approved the combined technical and financial evaluations results of two shortlisted bidders, namely, (a) Joint venture of EGIS EAU FRANCE, EGIS International S.A. PHILIPPINE BRANCH, and CEST Incorporated, and (b) Joint venture of EDCOP, PRIMEX AND SMEC, for the procurement of consultancy services for the review of the Detailed Engineering Design (DED) and Construction Management/Supervision of the New Centennial Water Source-Kaliwa Dam Project (NCWS-KDP), Contract No. NCWS-KDP 002-2018 with a Total Contract Cost of PhP 322,667,600.00

Furthermore, under the same Board Resolution, the MWSS Board approved the recommendation to declare the joint venture of EDCOP, PRIMEX and SMEC as the bidder with the highest rated bid and to proceed the post qualification process.

Upon careful examination and validation of the documents submitted by the joint venture of EDCOP, PRIMEX AND SMEC, the MWSS Technical Working Group (TWG) in its 29 October 2018 Memorandum declared that the said joint venture passed the post qualification and recommendation that the joint venture be declared as the bidder with Highest Rated Responsive bid.

In its 29 October 2018 Bids and Awards Committee (BAC) Resolution 2018-69, the MWSS BAC approved the (a) declaration of the joint venture of EDCOP, PRIMEX and SMEC as the bidder with the highest rated responsive bid; and, (b) issuance of the Notice of Award.


On the 14 November 2018, the Notice of Award was issued.

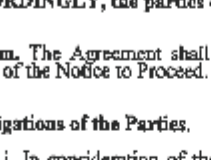
**PDDG REYNALDO V. VELASCO (Ret.)**  
Administrator, MWSS

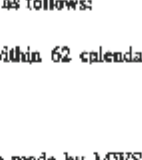
**MRC ORLANDO M. CABLAYAN**  
Authorized Representative,  
Joint Venture of EDCOP, PRIMEX and SMEC Philippines

**MS. ELVIRA C. ABLAZA**  
President and CEO of PRIMEX

**RICARDO M. YUZON, JR.**  
President of SMEC

  
RODRIGO M. VELASCO (Ret.)  
Administrator, MWSS

  
MR. ORLANDO M. CABLAYAN  
Authorized Representative,  
Joint Venture of EDCOP, PRIMEX and SMIEC  
Philippines

  
MS. ELVIRA C. ABLA  
President and CEO of PRIMEX

  
RODRIGO M. YUZON, JR.  
President of SMIEC

ACCORDINGLY, the parties do hereby agree as follows:

a. **Term.** The Agreement shall be completed within 62 calendar months from receipt of the Notice to Proceed.

**b. Obligations of the Parties.**

i. In consideration of the payments to be made by MWSS to the JV as hereinafter mentioned, the JV hereby covenants with the MWSS to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Agreement in all respects.

ii. MWSS hereby covenants to pay the JV 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 Agreement at the times and in the manner prescribed by this Agreement.

c. **Rescission, Cancellation, Termination of Agreement.** In addition to what is enumerated in Clauses 27, 28 and 29 of the General and Special Conditions of the Contract, MWSS shall be entitled to rescind, cancel and terminate this Agreement after giving a written notice to the JV upon the occurrence of any, some or all of following events:

i. The JV shall have committed a breach of any of the stipulations, clauses, terms and conditions specified in this Agreement as determined by MWSS;

ii. The JV abandons the Project or fails to deliver to MWSS the products necessary for the performance of its obligations under the Agreement;

iii. The JV has assigned, transferred, pledged, and subcontracted any portions of the Agreement without the prior written consent or approval of MWSS;

iv. Any material representation made by the JV shall have been false or misleading in any material respect when made; or

v. The JV has committed a breach in any of its obligations or has failed to comply with any of its commitments under this Agreement.

The decision to rescind, cancel, and terminate this Agreement, for any, some, or all of the above events shall be at the sole discretion of MWSS, and the written notice to the JV shall be the sole necessary and sufficient condition for such termination.

**d. Dispute Settlement.**

i. If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of this Agreement, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

ii. Any and all disputes arising from the implementation of this Agreement shall be submitted to arbitration in the Philippines according to the PDRCI Arbitration Rules as at present in force.

e. **Hold Harmless.** The JV shall hold MWSS free and harmless from and against any and all claims, liabilities, obligations, costs and expenses, arising from or in connection with damages or personal injury to third persons, JV's employees, agents and invitees occasioned by the act, negligence or fault of or omission of JV, its agents, employees or invitees.

**f. Construction.**

i. 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.

ii. The following documents shall be attached, deemed to form, and be read and construed as part of this Agreement, to wit:

(a) General and Special Conditions of Contract;

(b) Terms of Reference

- (c) Request for Expression of Interest;
- (d) Instructions to Bidders;
- (e) Bid Data Sheet;
- (f) Addenda and/or Supplemental/Bid Bulletins, if any;
- (g) Bid forms, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes;
- (h) Eligibility requirements, documents and/or statements;
- (i) Performance Security;
- (j) Credit line issued by a licensed bank, if any;
- (k) Notice of Award of Contract and the Bidder's conforme thereto;
- (l) Other contract documents that may be required by existing laws and/or MWSS.

**g. Separability.** If any stipulations, clause, term or condition of this Agreement is held invalid or contrary to law, the validity of the other stipulations, clause, terms and conditions hereof shall not be affected thereby.

**h. Modification.** The Parties hereby agree to amend or modify any provision of this Agreement, which might declared invalid or contrary to law, to conform to the subject and objective thereof. No amendment or modification to this Agreement shall be valid or binding on either party unless stipulated in writing observed and executed with the same formality as this Agreement.

**i. Authority of the Parties.** The Parties represent that they have the requisite power, authority and capacity to enter into this Agreement and to perform their obligations and undertakings according to the terms and conditions thereof.

IN WITNESS WHEREOF the parties thereto have caused this Agreement to be executed the day and year first before written.

Binding Signature of MWSS:



**PDDG REYNALDO V. VELASCO (Ret.)**  
 Administrator  
 Metropolitan Waterworks and Sewerage System

Binding Signature of JV of EDCOP, PRIMEX and SMEC Philippines:



**MR. ORLANDO M. CABLAYAN**  
 President of EDCOP




**MS. ELVIRA C. ABLAZA**  
 President and CEO of PRIMEX




**MR. RICARDO M. YUZON, JR.**  
 President of SMEC

In the presence of: (Witness)



Elyzer R. Limbang

In the presence of: (Witness)



Donald J. Palomar

9

**ACKNOWLEDGEMENT**

REPUBLIC OF THE PHILIPPINES)  
 MANDALUYONG CITY ) S.S.

BEFORE ME, a notary public for and in MANDALUYONG CITY this \_\_\_ day of  
 FEB 07 2019, 2019, personally appeared:

NAME	GOV'T ISSUED ID	ID NO. / DATE ISSUED
REYNALDO VICENTE VELASCO	DFA PASSPORT	01/06/75
MR. ORLANDO M. CABLAYAN	DFA PASSPORT	01/22/74
ELVIRA C. ABLAZA	DFA PASSPORT	02/09/77
RICARDO M. YUZON, JR.	DFA PASSPORT	02/11/75

known to me to be the same persons who executed the foregoing instrument and they acknowledge to me that the same are their own free and voluntary act and deed.

This Consultancy Agreement, consisting of four (4) pages, including this Notarial acknowledgement, duly signed by both parties and their instrumental Witness on each and every page thereof, refers to the Consultancy Services for the Review of Detailed Engineering Design and Construction Management/Supervision of the New Centennial Water Sources-Kuliwa Dam Project denominated as Contract No. NCWS-KDP 002-2018.

WITNESS MY HAND AND NOTARIAL SEAL on the date and place first above-written.

PROG REYNALDO V. VELASCO (Ret.)  
 Administrator, MWSS

MR. ORLANDO M. CABLAYAN  
 Authorized Representative,  
 Joint Venture of EDCOF, PRIMEX, and SIMEC  
 Philippines

MS. ELVIRA C. ABLAZA  
 President and CEO of PRIMEX

RICARDO M. YUZON, JR.  
 President of SIMEC

NOTARY PUBLIC  
 Until December 31, 2019  
 PTR No. \_\_\_\_\_  
 Issued at \_\_\_\_\_  
 Issued on \_\_\_\_\_  
 TIN No. \_\_\_\_\_

Doc. 455 :  
 Page. 01 :  
 Book. 11 :  
 Series of 2019.

**ATTY RAMON L. CARPIO**  
 NOTARY PUBLIC  
 NP 0479-17 2018-2019 Comm. Expires Dec. 31, 2019  
 Reg of Attorney's No. 22172  
 IBP No. AR4432534 Jan. 28, 2019 Quezon City  
 PTR No. 2581103 Jan. 28, 2019 Mandaluyong City  
 TIN 106-918-537  
 MCLE V-Compliance No. 8917242, 933513  
 2nd Flr. JELP Business Solutions Center  
 406 Shaw Blvd., Mandaluyong City