

Contract No. EMOD-INFR22-004

Contract for the
Request for Work Order: "CONSTRUCTION OF MATERIALS RECOVERY FACILITY
(E785A93) AND CONSTRUCTION OF WASTE STORAGE FACILITY (E78A92) FOR
PALIMBANG DPP, LOT AWARD BASIS Under PR NO. S3-PLM22-027

KNOW ALL MEN BY THESE PRESENTS:

This contract made and entered into in Davao City, Philippines by and between:

The **NATIONAL POWER CORPORATION SPUG-MINDANAO**, a government-owned and control Corporation duly organized and existing under and by virtue of Republic Act No. 6395, as amended, with its office address at NPC SPUG Mindanao Office at Kumintang Street, Tugbok District, Mintal Davao City, Philippines, herein represented by Department Manager, **Mr. Yahcob H. Darayan**, who is duly authorized to represent it in this transaction, hereinafter referred to as **NPC**;

-and-

GRIDMARC CONSTRUCTION SERVICES, Sole proprietor duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at Blk. 3 L13 Ph2, Gomez St., Don Lorenzo Subd. Brgy. Bato, Toril District, Davao City, Philippines respectively, herein represented by **Mr. Pableo P. Lomotos**, who is duly authorized to represent it in this transaction, hereinafter referred to as **CONTRACTOR**.

WITNESSETH: That-

WHEREAS, on 08 August 2022, NPC advertised the invitation to Bid for the bidding of the Request for Work Order: "CONSTRUCTION OF MATERIALS RECOVERY FACILITY (E785A93) AND CONSTRUCTION OF WASTE STORAGE FACILITY (E78A92) FOR PALIMBANG DPP, LOT AWARD BASIS Under PR NO. S3-PLM22-027, located at Palimbang, Sultan Kudarat.

WHEREAS, Two (2) prospective bidders secured the bidding documents and participated in the bidding conducted on 31 August 2022 on the aforesaid undertaking;

WHEREAS, CONTRACTOR's bid offer is the Lowest Calculated and Responsive Bid thereof;

WHEREAS, NPC accepted the bid of the CONTRACTOR;

NOW, THEREFORE, in view of the foregoing premises and for and in consideration of the mutual covenants and stipulations hereinafter provided, the parties hereto have agreed as follows:

ARTICLE I DOCUMENTS COMPRISING THE CONTRACT

The following documents are hereby incorporated and made part of this contract as though fully written out and set forth herein insofar as they are not inconsistent with the terms hereof:

GRIDMARC CONSTRUCTION SERVICES
CONTRACTOR
PABLEO P. LOMOTOS

and **LESAULA LOMOTOS**
Witness

SIGNED IN THE PRESENCE OF:
RODRIGO U. PULLIDO
Division Manager, EMOD

NATIONAL POWER CORPORATION
NPC
YAHCOB H. DARAYAN
Department Manager, MOD

PABLO R. LOMOTOS

1. Bidding Documents for the Request for Work Order: "CONSTRUCTION OF MATERIALS RECOVERY FACILITY (E785A93) AND CONSTRUCTION OF WASTE STORAGE FACILITY (E78A92) FOR PALIMBANG DPP, LOT AWARD BASIS Under PR NO. S3-PLM22-027, located at Palimbang, Sultan Kudarat.
2. Bid Bulletin No. 2022SPUGEM-003 dated 08 August 2022;
3. CONTRACTOR'S bid offer submitted on 31 August 2022;
4. Bid Evaluation Report by the Technical Working Group (TWG) dated 05 September 2022;
5. Post-Qualification Report by the Technical Working Group (TWG) dated 12 September 2022;
6. Notice of Award dated 14 September 2022; and
7. The performance Security to be filed by CONTRACTOR in accordance with this Contract.

The documents mentioned above shall collectively be referred to as "Contract Documents"

In the event that there is any discrepancy/inconsistency between the provisions of the Contract and the Contract Documents mentioned above, the former shall govern. Should there be any inconsistency/discrepancy, among the Contract Documents; the Document with the latest date shall prevail.

ARTICLE II SCOPE OF CONTRACT

CONTRACTOR shall, in accordance with the provisions of, and subject to the conditions contained in the Contract Documents, fully and faithfully furnish all superintendence, labor, materials, supplies, tools and equipment (in accordance with the requirements of the Plans and Specifications), for the Request for Work Order: "CONSTRUCTION OF MATERIALS RECOVERY FACILITY (E785A93) AND CONSTRUCTION OF WASTE STORAGE FACILITY (E78A92) FOR PALIMBANG DPP, LOT AWARD BASIS Under PR NO. S3-PLM22-027. The Scope of Works and related services to be provided by the CONTRACTOR and the itemized Bill of Quantities are contained in Section VIII of Bidding Documents shall be collectively referred to as "WORK".

ARTICLE III COMMENCEMENT AND COMPLETION PERIOD

CONTRACTOR shall perform its WORK under this Contract is within **Sixty (60) Calendar days**. The contract duration in the calendar days shall be reckoned from the date of effectivity indicated in the "Notice To Proceed".

ARTICLE IV PAYMENTS

For and in consideration of the WORK to be undertaken by CONTRACTOR as specified in the preceding Article II hereof, NPC shall pay the CONTRACTOR in Philippine Currency and in accordance with the Contract Documents, The unit and lump sum prices set forth in "Annex A" hereof in the amount of Philippine Pesos, **Five Hundred Forty Thousand Seven Hundred Sixty-Nine (540,769.00) Pesos** inclusive of value added tax (VAT)

All form of taxes, in addition to the value added tax (VAT) including municipal licenses and permits, and others that may be imposed by the Philippine Government, or any of its agencies and political subdivisions in connection with the Contract shall be for the account of the CONTRACTOR.

SIGNED IN THE PRESENCE OF:

RODRIGO L. FELLIDO
Division Manager, EMOD

Witness

YACOB H. DARAYAN
Department Manager

PABLO P. DOMOTOS

ARTICLE V
PERFORMANCE SECURITY

To guarantee the faithful performance of its obligations under the Contract, CONTRACTOR shall, at its own expense and at the time of the execution of the Contract or immediately thereafter, or upon the receipt of the award or immediately thereafter, post a Performance Security in favor of NPC in the amount equivalent to ten percent (10%) of the total contract price in form of cash, or cashier's/ manager's check or bank draft/guarantee, or irrevocable letter of credit issued by a reputable local Universal or Commercial Bank, provided, however that it shall confirm or authenticated by a reputable local Universal or Commercial Bank, if issued by a foreign bank, or in an amount equal to thirty percent (30%) of the total contract price, in the form of surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.

The Performance Bond shall be valid for the duration of the contract and remain valid and effective until after sixty (60) days from NPC's final acceptance of the project, unless the contract duration is extended, in which case the validity of the performance security shall accordingly be extended.

This performance security shall also be answerable for any damages or penalties or any expenses that NPC may suffer as a result of the failure of the CONTRACTOR to perform its obligation under this Contract including the defects liability period of one year. The performance Security shall be entirely confiscated by NPC upon default of CONTRACTOR.

In case of surety bond, any extension of the Contract time granted to CONTRACTOR, shall be considered as given, and any modification of the contract shall be considered as authorized, as if with the expressed consent of the surety, provided that such extension or modifications falls within the effective period of the said surety bond. However, in the event that the extension of the contract time would be beyond the effective period of the surety bond first posted, It shall be the sole obligation of the CONTRACTOR to post an acceptable Performance Security within ten (10) calendar days after the Contract time extension has been granted by NPC

The Performance Security shall be discharged by NPC and return to the CONTRACTOR only after the required Warranty Security/Guarantee Bond shall have been posted by the CONTRACTOR.

ARTICLE VI
GUARANTEE BOND

To assure that any structural defects in the WORK shall be corrected by the CONTRACTOR, and cover third party liabilities, the CONTRACTOR shall post a Guarantee Bond after the final acceptance of the WORK. This is also a pre-requisite to the discharge and release to the CONTRACTOR of the retention money. The Guarantee Bond shall remain valid bond effective for the period of one (1) year. The Guarantee Bond shall be posted before the release of the ten percent (10%) retention money provided for in the Bidding Documents. This shall be either in the form of Cash Letter credit issued by a Universal or Commercial Bank equivalent to five percent (5%) of the total contract price, or Bank guarantee confirmed by Universal or Commercial bank equivalent to 10% of the total contract price or Surety Bond penal in nature and callable upon demand issued by any Surety or Insurance Company duly certified by the Insurance Commission as authorized to issue such security, equivalent to thirty per cent (30%) of the total Contract Price. The CONTRACTOR shall be held responsible for Structural Defects for the number of years mentioned in the Bidding Documents.

SIGNED IN THE PRESENCE OF:

RODRIGO U. PULLIDO
Division Manager, EMOD

Witness

**ARTICLE VII
LIQUIDATED DAMAGES**

Should CONTRACTOR fail to satisfactorily complete the WORK within the stipulated contract time, plus any time extension duly granted and is hereby in default under this Contract, CONTRACTOR shall pay NPC for liquidated damages not by way of penalty, an amount equal to at least one tenth (1/10) of one percent of the unperformed portion of the works for every day of delay.

A project or a portion thereof may be deemed usable when it starts to provide the desired benefits as certified by NPC.

In this case, if the project will not be fully utilized or operational due to uncompleted portions, the whole project will be deemed unusable, hence VUUP is equal to TCP and VCUP is zero (0).

To be entitled to such liquidation damages, NPC does not have to prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due to the CONTRACTOR under the Contract/or collect such Liquidated Damages from the retention money or other security posted by the CONTRACTOR whichever is convenient to NPC. In no case however, shall the total sum of Liquidated Damages exceed ten percent (10%) of the total Contract Price, in which event the Contract shall be automatically taken over by NPC or may award the same to a qualified CONTRACTOR through negotiation and the erring CONTRACTOR's performance security shall be forfeited. The amount of the forfeited Performance Security shall be aside from the amount of the Liquidated Damages that the CONTRACTOR shall pay NPC under the provision of this clause.

**ARTICLE VIII
WARRANTY CLAUSE**

CONTRACTOR hereby warrants that he or his representative has not offered or paid, directly or indirectly, any government officer and NPC official or employee any consideration or commission for the Contract nor has he or his representative exerted or utilized any corrupt or unlawful influence to secure or solicit This Contract for any consideration or commission; that the CONTRACTOR will not subcontract any portion or portions of the Scope of Works of the Contract awarded to him to any official or employee of the NPC and to the relatives within the third degree of consanguinity or affinity of NPC's officials who are directly and indirectly involved in Contract awards or project execution; and that if any commission is being paid to a private person; he shall disclose the name of said person and the amount being paid; and that any violation of this Warranty shall constitute sufficient ground for the rescission or cancellation of this Contract; or the reduction from the Contract Price of the consideration or commissioned paid without prejudice to the filing of any action for the violation of RA No. 3019 as amended (otherwise known as Anti-Graft and Corrupt Practices Act) and/or other applicable laws against the CONTRACTOR and/or his representative and/or the erring NPC official(s) and employee(s)

**ARTICLE IX
VALIDITY CLAUSE**

If any term or condition of this Contract is held invalid or contrary to law, the validity of the other terms and condition hereof shall not be affected thereby.

GRIDMARC CONSTRUCTION SERVICES
CONTRACTOR
PABLO P. DOMOTOS

Witness

and **LEONILA LONOS**

SIGNED IN THE PRESENCE OF:

RODRIGO U. FULLIDO
Division Manager, EMOD

NATIONAL POWER CORPORATION
NPC
YACOB H. DARAYAN
Department Manager

GRIDMARC CONSTRUCTION SERVICES
CONTRACTOR
PABLO P. LOMOTOS

ARTICLE X VENUE OF ACTION

The parties hereto agree that the venue of action for any cause or causes of action which may arise in connection with this Contract shall be exclusively in the proper court of Davao City, Philippines.

NATIONAL POWER CORPORATION

BY:

NPC

Yahcob H. Darayan
Department Manager, MOD

GRIDMARC CONSTRUCTION SERVICES
CONTRACTOR

BY:

Pablo P. Lomotos

SIGNED IN THE PRESENCE OF:

Rodrigo U. Fullido
Division Manager, EMOD

and

LEONILA LOMOTOS
Witness

CERTIFIED FUNDS AVAILABLE

Marigen M. Pactoranan
MARIGEN M. PACTORANAN
Division Manager, AFD MOD

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

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for and in Davao City, Philippines, This 07 OCT 2022 day of 2022, personally appeared Pablo P. Lomotos, with Identification Document in the form of Government ID No. K02-84-021264 issued by LTO at Davao City, known to me and to me pages, including the pages whereon the acknowledgements are written, all pages signed by both parties and their instrumental witnesses and he acknowledged before me that the same is his free and voluntary act and deed and that of the Corporation he represents.

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

Notary Public
Until December 31, 20____
IBP Lifetime No.: ____
PTR No.: ____

ATTY. JOSE BIONISIO N. GUEVARRA, Jr.
Notary Public
Province of Davao del Sur, City of Davao
Notarial Commission valid until December 31, 2____
Guevarra Bldg., De Guzman Street
Toril Proper, Toril District, Davao City
8025 Philippines, Telefax No. (082) 291-408____
Roll No. 42517 / PTR No. 6335587 / 07-11-____

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Book No. CPK111
Series of 2022.

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

ACKNOWLEDGEMENT

OCT 08 2022
BEFORE ME, a Notary Public for and in Davao City, Philippines, This ____ day of
____, 2022, personally appeared _____,
_____, with Identification Document in the form of Government ID No,
_____ issued by _____ at _____, on _____, known to me and to me
known to be the same person who executed the foregoing instrument consisting of ____ () pages,
including the pages whereon the acknowledgements are written, all pages signed by both parties and
their instrumental witnesses and he acknowledged before me that the same is his free and voluntary act
and deed and that of the Corporation he represents.

WITNESS MY HAND AND NOTARIAL DEAL, at the place and on the date first above
written.

Doc. No. 20 :
Page No. 05 :
Book No. 02 :
Series of 2022.

Notary Public
Until December 31, 20____
IBP Lifetime No. :
PTR No. :
Notary Public Commission No. 2019-204-2020 (Extended)
Rel. No. 59086
PTR No. 649984; 01/21/2022; D.C.
IBP No. (on process); Davao Chapter Official
Receipt No. 05739; 01/21/2022; DC
TIN No. 410-778-238
MCLE Compliance No. VI-0009669