



BAGUIO WATER DISTRICT

"Serving Mankind is Serving God"



CONTRACT FOR THE EARTHWORK AND REMOVAL OF ACTUAL STRUCTURE/ OBSTRUCTION & SURFACE RESTORATION AND PAVING WORKS FOR THE PROPOSED UPSIZING OF EXISTING 3" Ø DISTRIBUTION LINE ALONG ASIN ROAD, BAGUIO CITY (INSTALLATION OF 6" Ø X 300M PVC MAINLINE) PROJECT

KNOW ALL MEN BY THESE PRESENT:

This CONTRACT is made and executed into by and between:

BAGUIO WATER DISTRICT, a government-owned and controlled corporation (GOCC) duly organized and existing under and by virtue of Presidential Decree No. 198, as amended, with principal office address at 003 Utility Road, Marcoville, Baguio City, represented by its General Manager, **ENGR. SALVADOR M. ROYECA**, hereinafter referred to as **"BWD"**;

- AND -

LAB GENERAL ENGINEERING, a business duly registered and existing under the laws of the Republic of the Philippines, with principal business address in Barangay Sinto, Bauko, Mountain Province, represented by its General Manager, **ENGR. LITO A. BANITO**, hereinafter referred to as the **"CONTRACTOR"**.

WITNESSETH that:

WHEREAS, part of the **BWD's** strategic direction to continuously improve its current water supply is geared towards addressing Baguio's current and future water requirements;

WHEREAS, in line with its objectives, **BWD** has embarked on the augmentation of water supply in areas with limited water through installation of transmission lines;

WHEREAS, Baguio Water District - Bids and Awards Committee (**BWD-BAC**) conducted a public bidding for the project: *"One (1) Lot Earthwork and Removal of Actual Structure/ Obstruction & Surface Restoration and Paving Works for the Proposed Upsizing of Existing 3" Ø Distribution Line along Asin Road, Baguio City (Installation of 6" Ø x 300M PVC Mainline)"* under Request for Quotation (RQ) No. 07-JO-184 in accordance with the provisions of Republic Act (RA) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR);

WHEREAS, in response to the **BWD's** posting, the **CONTRACTOR** submitted complete eligibility requirements, and subsequently submitted its bid to implement surface restoration and paving works for the above-stated project;

WHEREAS, in response to the **BWD's** Invitation to Bid, the **CONTRACTOR** submitted its bid to implement the above-mentioned project and after the conduct of bid evaluation and post-qualification, the bid of **CONTRACTOR** was determined to be the lowest calculated and responsive bid with bid price of **ONE MILLION TWO HUNDRED FORTY-SEVEN THOUSAND SEVEN HUNDRED FORTY-FOUR PESOS AND FORTY-TWO CENTAVOS (Php1,247,744.42)**, inclusive of all applicable government taxes and other charges imposed under applicable laws;

WHEREAS, the **CONTRACTOR** meets all the requirements outlined in the Request for Quotation and Terms of Reference;

NOW THEREFORE, for and in consideration of the foregoing premises and of the mutual covenants and stipulations hereinafter set forth, the parties hereto have agreed and do hereby agree, as follows:

ARTICLE I. Obligation of the Parties

1. The **CONTRACTOR** agrees and binds itself to fully and faithfully provide all supervision, labor, local materials, plant, and equipment which may be required to finish and complete the work following the standards set forth in the Terms of Reference and Drawing Plans.
2. The work called for this Contract shall be completed within **FORTY-FIVE (45) working days¹** including procurement of materials and permits, commencing within five (5) days from receipt of the **CONTRACTOR** of the formal "Notice to Proceed" to be issued by the **BWD**. The **BWD** shall grant extension/s for justifiable reason/s only upon written notice by the **CONTRACTOR** of the reasons for the delay in the implementation of the Contract.
3. The **CONTRACTOR** shall provide and do everything necessary to conform to its obligations under the Contract to the true intent and meaning of the other Contract Documents taken together, whether the same may or may not be shown or described, particularly in the Drawings, Plans, Technical Specifications and Special Provisions; provided, that the same shall be inferred therefrom. Should the **CONTRACTOR** find any discrepancy in the Drawings, Plans, Technical Specifications and Special Provisions, it shall immediately refer the same to the BWD whose decision shall be executory.
4. The **CONTRACTOR** shall implement the project with the least disturbance and restore excavations to their original state, as far as practicable.
5. Both parties acknowledge that this Contract and the relevant Annexes constitute the entire agreement between them and shall completely supersede all other prior understandings, previous communications, or contracts, oral or written, between the parties relating to the subject matter hereof.
6. The parties agree that the following documents shall form and be interpreted and constructed as part of this Contract of Agreement, *to wit*:
 - a. Request for Quotation
 - b. Terms of Reference
 - c. Drawings
 - d. All documentary requirements submitted by the **CONTRACTOR**
 - e. Financial bid submitted by **CONTRACTOR**
 - f. Notice of Award
 - g. Performance Security
 - h. Notice to Proceed
 - i. Other pertinent documents that may be required by **BWD**

¹ Working days shall mean Monday to Saturday, excluding Sundays and holidays.

7. The **CONTRACTOR** guarantees all the materials and/or equipment it will supply, deliver, and use in the construction and workmanship of all its work under this Contract and shall make good any defect/s which may be discovered on its own account.
8. The type of materials and/or equipment proposed to be supplied and used by the **CONTRACTOR** and duly approved by the **BWD** prior to the execution of the Contract cannot be substituted whatsoever anytime during the entire duration of the Contract except only in meritorious cases as may be permitted and duly approved by the **BWD**.
9. The **CONTRACTOR** shall submit the Construction Methodology and Project Implementing Bar Chart & S-Curve before the signing of the Contract.
10. Barricades and warning lights satisfactory to the Engineer shall be provided and maintained for all trenches. All units of barricades, signages, and early warning devices shall be turned over to **BWD** after completion of the Contract.
11. Unless otherwise provided for in the Contract, the **CONTRACTOR** must turn over to BWD all excess, used, unused, and/or reusable materials paid for in the Contract such as formworks, laboratory apparatus, tools, vehicles, equipment, safety gadgets, and devices, among others, which should be in operating condition when turned over.
12. All confidential information provided by a party hereto shall be used by any other parties hereto solely for the purposes of rendering services pursuant to this Contract and, except as may be required in carrying out the terms of this Contract, shall not be disclosed to any third party without the prior consent of such providing party.

ARTICLE II. Liquidated Damages

The **CONTRACTOR** shall pay liquidated damages to **BWD** for each day of delay. The applicable liquidated damages is at least one-tenth (1/10) of a percent of the cost of the unperformed portion for every day of delay. The total amount of liquidated damages shall not exceed ten percent (10%) of the amount of the contract. BWD may deduct liquidated damages from payments due to the **CONTRACTOR**. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of this Contract, BWD shall rescind or terminate this Contract, without prejudice to other courses of action and remedies available under the circumstances. Likewise, the Contract shall automatically be taken over by BWD or award the same to a qualified contractor through negotiation and the erring **CONTRACTOR's** performance security shall be forfeited.

ARTICLE III. Performance Security

1. To guarantee the faithful performance of the **CONTRACTOR** of its obligations under this Contract, the **CONTRACTOR** shall post, in favor of the **BWD**, the required amount of the performance security in any of the acceptable forms prior to the signing of the Contract.
2. The performance security shall remain valid until the issuance by the **BWD** of the Certificate of Final Acceptance. In the event, the

CONTRACTOR fails, refuses, or is unable to submit the documents required under Section 37.1 of the IRR of RA 9184, enter into a contract with BWD, and/or post the required performance security, the effects as provided by Section 40 of the IRR of RA 9184 would apply.

3. It is expressly agreed and understood that any change to be made in Drawings, Plans, Technical Specifications and Special Provisions of this Contract (whether such changes increase or decrease the amount thereof) or any change in the manner or time of payment made by BWD shall in no way annul, release or affect the liability and surety of the security given by the **CONTRACTOR**.

ARTICLE IV. Progress Payments

1. **BWD** will pay the **CONTRACTOR** through progress billing depending on the value of work completed. Progress payments are subject to retention of ten percent (10%) referred to as the "retention money". Such retention shall be based on the total amount due to the **CONTRACTOR** prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of works, as determined by the **BWD**, are completed. If, after fifty percent (50%) completion, the work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall be imposed.
2. In the event that factors beyond the control of the **BWD** shall force the **BWD** to defer the implementation of the Contract, the **CONTRACTOR** shall be paid based on the latest progress billing submitted.

ARTICLE V. Advance Payment

1. **BWD** shall, upon a written request of the **CONTRACTOR** which shall be submitted as a contract document, make an advance payment to the contractor in an amount not to exceed fifteen percent (15%) of the total contract price, to be made in a lump sum or, at the most two, installments the schedule of which shall be indicated in the contract.
2. The advance payment shall be made only upon the submission to and acceptance by the **BWD** of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee, or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by the **BWD**.
3. The advance payment shall be repaid by the **CONTRACTOR** by deducting a percentage from its periodic progress payments a percentage equal to the percentage of the total contract price used for the advance payment.
4. The **CONTRACTOR** may reduce its standby letter of credit or guarantee instrument by the amounts refunded by the Monthly Certificates in the advance payment.

ARTICLE VI. **Indemnity**

1. The **CONTRACTOR** agrees and binds itself to indemnify the **BWD** for whatever injuries and/or damages the latter suffered by reason of the failure, negligence, and/or delay on the part of the **CONTRACTOR** and/or its employee/s in the performance of their obligations.
2. The **BWD** shall be free from any liability for whatever injuries and/or damages suffered by any party due to the fault or negligence of the **CONTRACTOR**.

ARTICLE VII. **Dispute Resolution**

1. Any dispute arising from the execution of or in connection with this Contract shall be resolved through ad hoc arbitration, which shall be administered by one (1) arbitrator. The sole arbitrator shall be identified by raffle from a list of three (3) arbitrators that shall be submitted by each party.
2. This Contract shall be governed and construed in accordance with the laws of the Republic of the Philippines. The venue of all actions arising from this Contract shall be brought exclusively to the jurisdiction of the appropriate courts of Baguio City, Philippines.

ARTICLE VIII. **Compliance with Existing Laws**

1. This Contract shall be governed by and construed in accordance with the provisions of Republic Act (RA) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR), PD 198, as amended, and all other general and other special laws of the Republic of the Philippines so long as applicable to this Agreement.
2. The **CONTRACTOR** obligates itself to comply with all existing laws, executive orders, administrative orders, letters of instruction, letters of implementation, rules and regulations issued or to be issued by competent agencies, or authorities of the Philippine Government which may have particular application to this Contract, which are deemed part and parcel of this Contract and govern the relations of the parties herein.
3. It is also understood that any failure of the **BWD** to demand compliance with any of the terms and conditions of this Contract shall not be considered as waiver on the part of the **BWD** for enforcement of this Contract, nor shall it relieve the **CONTRACTOR** of any of the obligations provided thereunder.
4. The **CONTRACTOR** obligated itself to comply with all existing laws, executive and administrative orders, rules and regulations issued or to be issued by competent authorities.
5. Any breach or violation of either party of the obligations and covenants under this Contract shall entitle the aggrieved party to rescind or cancel this Contract, after fifteen (15) calendar days written notice to the affected party. In addition, the party that breached or violated this Contract agrees and is obligated to pay actual damages incurred by the other party.

ARTICLE IX. Termination of Contract

1. **Termination due to CONTRACTOR's default.** In the event of termination due to **CONTRACTOR's** non-performance of its obligations, **BWD** shall set a termination date in writing and **CONTRACTOR** shall refund to **BWD**, within fifteen (15) calendar days from receipt of notice thereof, the applicable Contract Price from termination date on a pro-rated basis. Refund to **CONTRACTOR** is without prejudice to the **BWD'S** right to claim damages and claim against the performance security of **CONTRACTOR**.
2. **Termination due to BWD's default.** The **CONTRACTOR** may terminate this Contract upon service to the **BWD** of a written notice within (30) days from the intended date of termination, stating the grounds thereof. This is without prejudice to the **BWD's** availment of legal remedies, claims, and other reliefs by reason of damages it has sustained if the termination is caused by the **CONTRACTOR's** non-performance of its obligation under this Contract.
3. **Termination for other causes.** **BWD** may terminate this Contract, in whole or in part, at any time for its convenience if it has determined the existence of conditions that make project implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, force majeure or changes in law and National Government policies.

ARTICLE XII. Separability

1. If, for any reason, any provision of this Agreement is declared unconstitutional or contrary to law, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.
2. Any failure of the **BWD** to enforce its rights and privileges under this Contract shall not be construed as a waiver or renunciation of such rights and privileges.

ARTICLE XIII. Effectivity

This Contract takes effect on _____ and shall be deemed revoked upon the completion of the services.

IN WITNESS WHEREOF, the parties have hereunto set their hands this ____ day of NOV 18 2024 2024 in the City of Baguio, Philippines.

BAGUIO WATER DISTRICT

Represented by:

signed

ENGR. SALVADOR M. ROYECA
General Manager

LAB GENERAL ENGINEERING

Represented by:

signed

ENGR. LITO A. BANITO
General Manager

Signed in the presence of:

signed

ENGR. EDMUNDO Q. LLANES
BWD Engineering Division Manager

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
City of Baguio) S.S.

BEFORE ME, a Notary Public for and in the City of Baguio, Philippines, this
day of NOV 18 2024 2024, personally appeared the following:

| Name | ID No. |
|-----------------------------|----------------------------|
| 1. ENGR. SALVADOR M. ROYECA | BWD ID No. 155 |
| 2. ENGR. LITO A. BANITO | <u>TIN No. 926-068-630</u> |

known to me to be the same persons who executed this **CONTRACT FOR THE EARTHWORK AND REMOVAL OF ACTUAL STRUCTURE/ OBSTRUCTION & SURFACE RESTORATION AND PAVING WORKS FOR THE PROPOSED UPSIZING OF EXISTING 3" Ø DISTRIBUTION LINE ALONG ASIN ROAD, BAGUIO CITY (INSTALLATION OF 6" Ø X 300M PVC MAINLINE) PROJECT** and that they acknowledged to me that the same ~~is their~~ own free act and voluntary deed and of the entities they represent.

This document consists of seven (7) pages (exclusive of documents indicated in Item Article I.6 of this Contract), including this page wherein this acknowledgment is written and signed on each and every page hereof by the concerned parties and their instrumental witnesses.

WITNESS MY HAND AND NOTARIAL SEAL this NOV 18 2024 in Baguio City, Philippines.

Doc No. 84;
Page No. 18;
Book No. I;
Series of 2024.

signed

FRANCESSE LOUISE E. GENER
Notary Public for and in the City of Baguio
until December 31, 2025
Notarial Appointment No. NC-52-NEW-24
PTR No. 6891038/ 01.05.2024/ Baguio City
IBP No. 400982/ 01.04.2024/ Baguio City
Suite 3/F Tan Building, 37A Session Road
francessegener@gmail.com/+639531805802
Roll of Attorneys No. 80998

BIDS AND AWARDS COMMITTEE
RESOLUTION NO. 141-2024
Request for Quotation (RQ) No. 07-JO-184
One (1) Lot Earthwork and Removal of Actual Structure/ Obstruction & Surface Restoration and Paving Works for the Proposed Upsizing of Existing 3” Ø Distribution Line along Asin Road, Baguio City (Installation of 6” Ø x 300M PVC Mainline)

WHEREAS, the Baguio Water District-Bids and Awards Committee (BWD-BAC), in accordance with the provisions of Republic Act (RA) No. 9184, conducted the bidding for the project: *One (1) Lot Earthwork and Removal of Actual Structure/Obstruction & Surface Restoration and Paving Works for the Proposed Upsizing of Existing 3” Ø Distribution Line along Asin Road, Baguio City (Installation of 6” Ø x 300M PVC Mainline)*, with required scope of work and specifications under RQ No. 07-JO-184 dated 22 July 2024;

WHEREAS, the approved budget cost for the contract (ABC) is Php1,474,553.15/lot;

WHEREAS, **JA AKILITH AND SONS CONSTRUCTION CORPORATION** and **LAB GENERAL ENGINEERING** submitted their bids and during the opening of the technical bids on 19 August 2024, it was determined that the bidders submitted complete documentary requirements; thus, their bids were rated “*passed*”;

WHEREAS, upon evaluation by the Technical Working Group of the offers of the bidders, it was determined that the bidders submitted complying offers; thus, their financial bids were opened on 10 September 2024 and the bids as read and calculated are as follows:

| NAME OF BIDDER | BID PRICE (per lot) | % VARIANCE FROM ABC | ABC (per lot) |
|---|------------------------|------------------------|------------------|
| JA AKILITH AND SONS CONSTRUCTION CORPORATION | Php1,470,580.13 | 0.27% | Php1,474,553.15 |
| LAB GENERAL ENGINEERING | Php1,247,744.42 | 15.38% | Php1,474,553.15 |

WHEREAS, upon post-qualification, careful examination, validation, and verification of all the documents submitted by and of the financial bids of the complying bidders, **LAB GENERAL ENGINEERING** was rated “*post-qualified*”; thus, its financial bid is determined to be the lowest calculated responsive bid;

NOW THEREFORE, on motion duly seconded, be it

RESOLVED, as it is hereby resolved, to recommend to the Head of the Procuring Entity (HoPE) awarding the project: *One (1) Lot Earthwork and Removal of Actual Structure/Obstruction & Surface Restoration and Paving Works for the Proposed Upsizing of Existing 3” Ø Distribution Line along Asin Road, Baguio City (Installation of 6” Ø x 300M PVC Mainline)* to **LAB GENERAL ENGINEERING** in the amount of One Million Two Hundred Forty-Seven Thousand Seven Hundred Forty-Four Pesos and Forty-Two Centavos (Php1,247,744.42), inclusive of all government taxes, for being the lowest calculated responsive bidder.

UNANIMOUSLY APPROVED (23 September 2024)

signed

Geovani L. Piza

Vice-Chairperson

signed

Engr. Janel J. Balangcod

Member

signed

Engr. Redentor N. Sawey

Member

signed

Engr. Dominic T. Agusdan

Member

signed

Atty. Ma. Luisa C. Tenedero

Chairperson

signed

Joana D. Caramé

Member

signed

Atty. Chelsea S. De la Rosa

Member

signed

Apple Jane P. Aviles

Secretariat

signed

Sharlene M. Durante

Secretariat

Attested by:

Approved by:

signed

Engr. Salvador M. Royeca

General Manager