



BAGUIO WATER DISTRICT

"Serving Mankind is Serving God"



BAGONG PILIPINAS

CONTRACT FOR THE EARTHWORK AND REMOVAL OF ACTUAL STRUCTURES/OBSTRUCTION AND SURFACE RESTORATION AND PAVING WORKS - FOR THE INSTALLATION OF 2" Ø PVC X 554 LM DISTRIBUTION LINE ALONG PUROK 3, TAO-EY ALLEY, UPPER GIBRALTAR AND INSTALLATION OF 3" Ø PVC X 283 LM AND 2" Ø GI X 415 LM ALONG PUROK 4, EAST GIBRALTAR, BAGUIO CITY

KNOW ALL MEN BY THESE PRESENT:

This CONTRACT is made and executed 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 -

EZRAH CONSTRUCTION SERVICES, a business duly registered and existing under the laws of the Republic of the Philippines, with principal business address at No. 39 Purok 17, Irisan, Baguio City, represented by its Authorized Managing Officer, **MR. RENATO B. JULIAN**, 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 the 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 Structures/Obstruction and Surface Restoration and Paving Works - for the Installation of 2"Ø PVC x 554 LM distribution line along Purok 3, Tao-ey Alley, Upper Gibraltar and Installation of 3"Ø PVC x 283 LM and 2"Ø GI x 415 LM along Purok 4, East Gibraltar, Baguio City"* under Request for Quotation (RQ) No. 09-JO-152-R in accordance to the provisions of Republic Act (RA) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR);

WHEREAS, in response to **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 **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 the **CONTRACTOR** was determined to be the lone calculated and responsive bid with bid price in the amount

of ONE MILLION SEVEN HUNDRED FORTY-EIGHT THOUSAND ONE HUNDRED TWENTY-SEVEN PESOS AND NINETY-FOUR CENTAVOS (PHP1,748,127.94), 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 **seventy-three (73) working days** 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 **BWD**. **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 the **CONTRACTOR**
 - f. Notice of Award

- g. Performance Security
 - h. Notice to Proceed
 - i. Other pertinent documents that may be required by **BWD**
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 **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 **BWD** of the Certificate of Final Acceptance. In the event that 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 **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 **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 **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 **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 **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. **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 a 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** obligates 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 _____ in the City of Baguio, Philippines.

BAGUIO WATER DISTRICT

Represented by:

signed
ENGR. SALVADOR M. ROYECA
General Manager

EZRAH CONSTRUCTION SERVICES

Represented by:

signed
MR. RENATO B. JULIAN
Authorized Managing Officer

Signed in the presence of:

signed
ENGR. EDMUNDO O. LLANES
Engineering Division Manager

signed
JANE F. PAJARILLO

ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public for and in the City of Baguio, Philippines, this
FEB 05 2025, personally appeared the following:

| Name | ID No. |
|-----------------------------|-------------------|
| 1. ENGR. SALVADOR M. ROYECA | BWD ID No. 155 |
| 2. MR. RENATO B. JULIAN | <u>PRC 115891</u> |

known to me to be the same persons who executed this **CONTRACT FOR THE EARTHWORK AND REMOVAL OF ACTUAL STRUCTURES/OBSTRUCTION AND SURFACE RESTORATION AND PAVING WORKS - FOR THE INSTALLATION OF 2"Ø PVC X 554 LM DISTRIBUTION LINE ALONG PUROK 3, TAO-EY ALLEY, UPPER GIBRALTAR AND INSTALLATION OF 3"Ø PVC X 283 LM AND 2"Ø GI X 415 LM ALONG PUROK 4, EAST GIBRALTAR, BAGUIO CITY** 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 FEB 05 2025 in Baguio City, Philippines.

Doc No. 13;
Page No. 04;
Book No. 1;
Series of 2025.

BIDS AND AWARDS COMMITTEE
RESOLUTION NO. 181-2024
Request for Quotation (RQ) No. 09-JO-152-R
One (1) Lot Earthwork and Removal of Actual Structures/Obstruction and Surface Restoration and Paving Works - for the Installation of 2" Ø PVC x 554 LM Distribution Line along Purok 3, Tao-ey Alley, Upper Gibraltar & Installation of 3" Ø PVC x 283 LM and 2" Ø GI x 415 LM along Purok 4, East Gibraltar, Baguio City

WHEREAS, the Baguio Water District-Bids and Awards Committee (BWD-BAC), in accordance with the provisions of Republic Act (RA) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR), conducted the bidding for the project: *One (1) Lot Earthwork and Removal of Actual Structures/Obstruction and Surface Restoration and Paving Works - for the Installation of 2" Ø PVC x 554 LM Distribution Line along Purok 3, Tao-ey Alley, Upper Gibraltar & Installation of 3" Ø PVC x 283 LM and 2" Ø GI x 415 LM along Purok 4, East Gibraltar, Baguio City*, with required scope of work and specifications under RQ No. 09-JO-152-R dated 13 September 2024, under a two-envelope system of bidding;

WHEREAS, the approved budget cost for the contract (ABC) is Php1,761,916.07/lot;

WHEREAS, **EZRAH CONSTRUCTION SERVICES (EZRAH)** and **LAB GENERAL ENGINEERING (LAB)** submitted their bids and during the opening of the technical bids on 08 October 2024, it was determined that both bidders submitted complete documentary requirements thus, their bids were rated "*passed*".

WHEREAS, upon evaluation by the Technical Working Group, it was determined that **EZRAH** and **LAB** submitted complying offers. However, upon post-qualification and verification of the equipment units of **LAB**, it was determined that its equipment units are not readily available as they are being utilized for multiple ongoing projects of **LAB** with the same project duration thus, its bids were rated "*non-complying*";

WHEREAS, **LAB** was informed through a letter dated 09 December 2024 of its "*non-complying*" declaration and was given a period of three (3) calendar days upon receipt of the said letter to file its request for reconsideration. However, the period granted has already lapsed and no request was received by the BWD-BAC; thus, the "*non-complying*" declaration of **LAB** has become final. (*Copy of the letter is hereto attached as Annex "A"*);

WHEREAS, with the complying offer of **EZRAH**, its financial bid was opened and the bid as read and calculated is as follows:

| NAME OF BIDDER | BID PRICE | % VARIANCE FROM ABC | ABC |
|-----------------------------|-----------------|---------------------|-----------------|
| EZRAH CONSTRUCTION SERVICES | Php1,748,127.94 | 0.8% | Php1,761,916.07 |

WHEREAS, upon post-qualification, careful examination, validation, and verification of all the documents submitted by and of the financial bid of the complying bidder, **EZRAH CONSTRUCTION SERVICES** was rated "*post-qualified*"; thus, its financial bid is determined to be the lone 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 Structures/Obstruction and Surface Restoration and Paving Works - for the Installation of 2" Ø PVC x 554 LM Distribution Line along Purok 3, Tao-ey Alley, Upper Gibraltar & Installation of 3" Ø PVC x 283 LM and 2" Ø GI x 415 LM along Purok 4, East Gibraltar, Baguio City* to **EZRAH CONSTRUCTION SERVICES** in the amount of One Million Seven Hundred Forty-Eight Thousand One Hundred Twenty-Seven Pesos and Ninety-Four Centavos (Php1,748,127.94), inclusive of all government taxes, for being the lone calculated responsive bidder.

UNANIMOUSLY APPROVED (17 December 2024)

signed


Gerovani L. Piza
Vice-Chairperson

signed


Engr. Jake D. Bawing
Member

signed


Joana D. Carame
Member

signed
Engr. Janel J. Bilangcod
Member

signed
Engr. Dominic T. Agusdan
Member

signed
Atty. Chelsea S. De la Rosa
Member

signed
Atty. Ma. Luisa C. Tenedero
Chairperson

Attested by:

signed
Apple Jane P. Aviles
Secretariat

signed
Sharlene M. Durante
Secretariat

Approved by:

signed
Engr. Salvador M. Royeca
General Manager