

R.T. Lim Boulevard
Zamboanga City 7000
PO Box No. 360

Tel Nos. 991-2037 to 2039 Fax No. 991-2360

CONTRACT AGREEMENT

NEGOTIATED PROCUREMENT

PROPOSED PORT ZONE DELINEATION (PZD) SURVEY FOR PORTS UNDER PMO-ZAMBOANGA [ZAMBOANGA, PAGADIAN, MALANGAS, BASILAN (ISABELA CITY), IPIL, MARGOSATUBIG, LINTUGOP, OLUTANGA(SOLAR), AND BALAS]

KNOW ALL MEN BY THESE PRESENTS:

DEC 22 2014

This Contract, made and entered into this ___ day of _____, in the City of Zamboanga, Philippines, by and between:

PHILIPPINE PORTS AUTHORITY, a government corporation created under Presidential Decree No. 857, as amended, with principal offices at Bonifacio Drive, South Harbor, Port Area, Manila, and Port Management Office of Zamboanga at R.T. Lim Boulevard, Cawa-Cawa Road, Port Area, Zamboanga City represented herein by its duly authorized Port Manager, LIBERTO C. DELA ROSA, and hereinafter referred to as PPA;

- and -

ENGR. CRISTOPHER M. ESPARRAGO, of legal age, married, Filipino and with business and postal address at BD-10 SSCT Building, Narciso Street, Surigao City, doing business under the firm/style of CM ESPARRAGO SURVEYING SERVICES, represented herein also by ENGR. CRISTOPHER M. ESPARRAGO, Proprietor and General Manager, and hereinafter referred to as CONSULTANT.

WITNESSETH:

WHEREAS, in accordance with Republic Act No. 9184 and its Revised Implementing Rules and Regulations, the PPA advertised/published the Request for Expression of Interest for Consultancy Services for the Proposed Port Zone Delineation Survey involves the determination of the Port Zone Delineation (PZD) Survey of all Ports under the jurisdiction of PMO-Zamboanga in the PPA website, PhilG-EPS, and in the PMO-Zamboanga's Bulletin Board;

WHEREAS, the CONSULTANT submitted his bids for the foregoing project;

WHEREAS, after the opening of bids on December 9, 2014 and the conduct of bid evaluation and post qualification, the bid submitted by the CONSULTANT at its unit and lump sum prices set forth in its proposal was found to be lower than the **Approved Budget for the Contract** in the amount of **Php769,755.60** and declared **Single Rated and Responsive Bid** aggregating in the amount of **Seven Hundred Fifty Eight Thousand Eight Hundred Eighty Eight Pesos (Php758,888.00), Philippine Currency;**

WHEREAS, pursuant to the PMO-Zamboanga BAC Resolution No. 14-2014 dated December 18, 2014 duly approved by the Port Manager, award of the contract was made to the CONTRACTOR in a Notice of Award dated December 19, 2014, in the amount of **Seven Hundred Fifty Eight Thousand Eight Hundred Eighty Eight Pesos (Php758,888.00), Philippine Currency;** after submission of the required documents within the prescribed period and compliance to the conditions stipulated in the IRR;

ENGR. JAY P. FLEBERG
Witness

ENGR. CRISTOPHER M. ESPARRAGO
Consultant

ENGR. JOHNSON D. KHO
ESD Manager
Witness

LIBERTO C. DELA ROSA
Port Manager

WHEREAS, the CONSULTANT duly accepted the award by signing its Conforme on the said Notice of Award;

NOW THEREFORE, for and in consideration of the foregoing premises and the mutual covenants, stipulations and agreements herein contained, the PPA has accepted the bid by the Consultant for the execution and completion of such Consulting Services and the remedying of any defects therein, do hereby agree, and contract witnesseth as follows:

ARTICLE I

CONTRACT DOCUMENTS

1.01 The following documents shall constitute integral parts of this Contract, as fully as if the contents of the said documents are reproduced, incorporated and set forth herein, and shall govern and control in full force and effect the rights and obligations of the Parties, except as otherwise modified by the terms and conditions of this Contract, or by mutual agreement in writing of both parties, to wit:

- (a) Contract Agreement
- (b) Terms of Reference
- (c) Request for Expression of Interest;
- (d) Eligibility Documents (Instruction to Bidders-Part I)
- (e) Bid Documents (Instruction to Bidders-Part II)
- (e) Addenda and/or Supplemental/Bid Bulletins, if any;
- (f) Eligibility requirements, documents and/or statements;
- (g) Technical and Financial Bid 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) Notice to Proceed
- (l) Other contract documents that may be required by existing laws and/or the Entity.

1.02 All Contract documents are and shall remain as the property of the PPA.

1.03 The words and expressions in the Contract shall have the same meanings respectively assigned to them in the Contract Documents referred to above.

ARTICLE II

CONSULTANT'S UNDERTAKING SCOPE OF WORK

2.01 The PPA hereby covenants to pay the Consultant 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 Contract at the times and in the manner prescribed by this Contract.

2.02 The Consultant hereby covenants with the PPA to execute and complete the Consulting Services within **FIFTY ONE (51) CALENDAR DAYS** (including Sundays and Holidays), and shall reckoned not later than seven (7) calendar days from the issuance of the Notice to Proceed issued by PPA. and remedy any defects therein in conformity with the provisions of this Contract in all respects, as follows:


ENGR. JAY P. FLORES
Witness


ENGR. CRISTOPHER M.
ESPARRAGO
Consultant


ENGR. JOHNSON D. KHO
ESD Manager
Witness


LIBERTO DE LA ROSA
Proc. Manager


ENGR. JAY P. FLORES
Witness


ENGR. CRISTOPHER M.
ESPARRAGO
Consultant


ENGR. JOHNSON D. KHO
ESD Manager
Witness


LIBERTO C. DELA ROSA
Proc. Manager

SUMMARY OF COSTS

Costs	Amount in Philippine Peso
REMUNERATION	200,500.00
REIMBURSEMENT	225,577.60
MISCELLANEOUS EXPENSES	241,743.84
LOCAL TAXES	91,066.56
Total Amount	758,888.00

TOTAL AMOUNT OF BID (INCLUSIVE OF VAT) IN WORDS: **Seven Hundred Fifty Eight Thousand Eight Hundred Eighty Eight Pesos (Php758,888.00), Philippine Currency.**

2.03 The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel of the Consultant, complies with the Applicable Law. The PPA shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

2.04 No modification of the terms and conditions of this Contract, including any modification of the scope of the Services shall be allowed.

2.05 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works, or consulting services for any project resulting from or closely related to this Contract other than the Services and any continuation thereof provided there is no current or future conflict.

2.06 The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract.

ARTICLE III

PERFORMANCE SECURITY

3.01 Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the Consultant shall furnish the performance security in the following forms:


 ENGR. JAY P. FLORES
 Witness

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
(a) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	Five percent (5%)
(b) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	Thirty percent (30%)


 ENGR. CRISTOPHER M. ESPARRAGO
 Consultant

3.02 The performance security posted in favor of the PPA shall be forfeited in the event it is established that the Consultant is in default in any of its obligations under the contract.

3.03 The performance security shall remain valid until issuance by the PPA of the Certificate of Final Acceptance.

3.04 The performance security may be released by the PPA and returned to the Consultant after the issuance of the Certificate of Final Acceptance subject to the following conditions:

- (a) There are no pending claims against the Consultant or the surety company filed by the PPA;
- (b) The Consultant has no pending claims for labor and materials filed against it.

3.05 In case of a reduction of the contract value, the PPA shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

ARTICLE IV

STANDARD OF PERFORMANCE


 ENGR. JOHNSON D. KHO
 ESD Manager
 Witness

4.01 The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods.

4.02 The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the PPA, and shall at all times support and safeguard the PPA's legitimate interests in any dealings with Sub-Consultants or third parties.

4.03 The Consultant shall furnish to the PPA such information related to the Services as the PPA may from time to time reasonably request.

4.04 The Consultant shall at all times cooperate and coordinate with the PPA with respect to the carrying out of its obligations under this Contract.


 LIBERTO C. DELA ROSA
 Port Manager


ENGR. JAY P. FLORES
Witness

ARTICLE V

REPORTS

5.01 The Consultant shall submit to the PPA the reports, deliverables and documents in English, in the form, in the numbers, and within the time periods required.

ARTICLE VI

LIQUIDATED DAMAGES FOR DELAY

6.01 If the Consultant fails to deliver any or all of the Services within the period(s) specified in this Contract, the PPA shall, without prejudice to its other remedies under this Contract and under the Applicable Law, deduct from the contract price, as liquidated damages, a sum equivalent to one-tenth of one percent of the price of the unperformed portion of the Services for each day of delay based on the approved contract schedule up to a maximum deduction of ten percent (10%) of the contract price. Once the maximum is reached, the Procuring Entity may consider termination of this Contract.


ENGR. CHRISTOPHER M.
ESPARRAGO
Consultant

ARTICLE VII

ENTIRE CONTRACT

7.01 Provisions to the contrary notwithstanding, it is agreed that this is an entire contract for one whole complete work and that the partial payments on account by the PPA or the use of parts of the work or equivalent shall not constitute an acceptance of any part of the work before its entire completion and final acceptance in writing by the PPA.

ARTICLE VIII

CONTRACTOR'S LIABILITY

8.01 The Parties, likewise, hereby agree that the employees of the CONSULTANT are not employees of the PPA; hence, the PPA shall not in any way be liable or responsible for any person injury or damages, including death sustained or caused by any of the employees of the CONSULTANT and/or his SUB-CONSULTANTS or agent or supplier whether or not occurring during the performance of their duties. The CONSULTANT agrees and bind itself to indemnify the PPA for whatever injuries or damages caused or occasioned or contributed to by the failure, negligence or conduct of the CONSULTANT and/or its employees, sub-consultants, agent and supplier arising out of or in connection with or on occasion of the performance of this Agreement. The CONSULTANT shall, at all times, stand solely liable and/or responsible for the enforcement and compliance with all existing laws, rules and regulations and binds itself to save and hold the PPA free and harmless from any and all liability in respect thereof and/or arising there from and/or by reason of this Contract and its implementation.


ENGR. JOHNSON D. KHO
ESD Manager
Witness

ARTICLE IX

ACCOUNTING, INSPECTION, AND AUDITING

9.01 The Consultant shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in


LIBERTO DE LA ROSA
Proc. Manager


ENGR. JAVIER P. FLORES
Witness

such form and detail as shall clearly identify all relevant time changes and costs, and the bases thereof;
permit the PPA, or its designated representative at least once for short-term Contracts, and annually in the case of long-term Contracts, and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Procuring Entity;

9.02 The Consultant shall permit the PPA to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors approved by the PPA, if so required.

9.03 The basic purpose of this audit is to verify payments under this Contract and, in this process, to also verify representations made by the Consultant in relation to this Contract. The Consultant shall cooperate with and assist the PPA and its authorized representatives in making such audit. In the event the audit discloses that the Consultant has overcharged the PPA, the Consultant shall immediately reimburse the PPA an amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the PPA determines to constitute corrupt, fraudulent, or coercive practices, and under the Applicable Law, the PPA shall terminate this Contract.

9.04 The determination that the Consultant has engaged in corrupt, fraudulent, coercive practices shall result in the PPA seeking the imposition of the maximum administrative, civil and criminal penalties up to and including imprisonment.


ENGR. CRISTOPHER D. ESPARRAGO
Consultant

ARTICLE X

FINAL PAYMENT

10.01 The final payment shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the PPA. The Services shall be deemed completed and finally accepted by the PPA, and the final report and final statement shall be deemed approved by the PPA as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the PPA, unless the PPA, within such ninety (90)-day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections within a maximum period of ninety (90) calendar days, and upon completion of such corrections, the foregoing process shall be repeated.

10.02 Any amount which the PPA has paid or caused to be paid in accordance with this clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the PPA within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the PPA for reimbursement must be made within twelve (12) calendar months after receipt by the PPA of a final report and a final statement approved by the PPA in accordance with the above.


ENGR. JOHNSON D. KHO
ESD Manager
Witness

ARTICLE XI

BUDGETARY REQUIREMENT

11.01 The parties hereto hereby adopt and incorporate herein by reference, Letter of Instruction No. 767 dated 16 November 1978 issued by the Office of the President, as implemented by the Letter Circular dated 7 December 1978 of the Minister of Budget.

11.02 The Consultant shall bear the cost of notarization of this Contract.


LIBERTO FELI ROSA
Proc. Manager

ARTICLE XII

EFFECTIVITY

12.01 This Contract shall become effective after the same shall have been signed by the Parties hereof.

IN WITNESS WHEREOF, the Parties have hereunto signed this Contract on the date and place first herein above written.

PHILIPPINE PORTS AUTHORITY

CM ESPARAGO SURVEYING SERVICES

By:

By:


LIBERTO C. DELA ROSA
Port Manager


ENGR. CHRISTOPHER M. ESPARRAGO
Proprietor, Gen. Manager/Consultant

WITNESSES:


ENGR. JOHNSON D. KHO
ESD Manager


ENGR. JAY R. PLORES
Contractor's Witness

ACKNOWLEDGEMENT

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


ENGR. JAY P. FLORES
Witness

BEFORE ME, A Notary Public for and in the City of Zamboanga, Philippines, personally appeared the following persons with their respective Community Tax Certificates, to wit:

NAME	TIN NO.
<u>LIBERTO C. DELA ROSA</u>	<u>108-602-670</u>
<u>ENGR. CRISTOPHER M. ESPARRAGO</u>	<u>181-116-999-000</u>


ENGR. CRISTOPHER M. ESPARRAGO
Consultant

who are known to me to be the same persons who executed and signed the foregoing instrument and who acknowledged to me that the same is their true and voluntary acts and deeds, and that of the entity which they respectively represent.

This instrument is a Contract/Agreement for the *Proposed Port Zone Delineation Survey involves the determination of the Port Zone Delineation (PZD) Survey of all Ports under the jurisdiction of PMO-Zamboanga* consisting of Eight (8) pages, including this page where the Acknowledgment is written. Page 1 to 6 is signed on the left margin thereof, page 7 is signed at the corresponding spaces provided therefor by the Parties and their instrumental witnesses, and page 8 is sealed with my notarial seal.

WITNESS MY HAND AND SEAL this DEC 22 2014 day of 2014, 2014 at Zamboanga, Philippines.


ENGR. JOHNSON D. KILO
ESD Manager
Witness


CELESTINO K. MORADOS
NOTARY PUBLIC
Until December 31, 2014
PTR No. 0775576 - 01/02/14
IBP No. 896561 - 01/02/14
ROLL No. 49913

Doc. No. 007;
Page No. 91;
Book No. 92;
Series of 1914;

CONTRACT No. ZAM02-2014
LSD/fDK/thom2014


LIBERTO C. DELA ROSA
Port Manager

