



Republic of the Philippines
Province of Pampanga
MUNICIPALITY OF GUAGUA

BIDS AND AWARDS COMMITTEE

CONTRACT AND AGREEMENT

FOR

Improvement of Various Government Facilities within Guagua (Improvement of Rice Mill Warehouse Including Fencing & Road Network) LGU GUA 49-23

KNOW ALL MEN BY THESE PRESENTS:

This contract made and entered into this 30th day of November, 2023 at Guagua, Pampanga, Philippines by and between

The **Municipality of Guagua, Pampanga** represented herein by **HON. ANTHONY JOSEPH S. TORRES**, Municipal Mayor with office address at the Municipal Building, Guagua, Pampanga as the **PARTY OF THE FIRST PARTY** hereinafter called the **MUNICIPALITY** duly authorized for this purpose,

And

FREDMARK BUILDERS AND TRADING, a company/firm duly organized and existing by virtue of the Laws of the Republic of the Philippines with office address at 101 Talang Pulungmasle, Guagua, Pampanga represented by **FREDERICK J. PONIO**, Owner, who has been authorized for this purpose as the **PARTY OF THE SECOND PARTY** hereinafter called the **CONTRACTOR**.

WHEREAS, the MUNICIPALITY is desirous that the certain civil works should be executed by the CONTRACTOR, and has accepted the Bid of the CONTRACTOR for the execution and completion of such Improvement/civil works and the remedying of any defects therein;

WHEREAS, the total amount of award for the contract completion is **Four Million Eight Hundred Sixty Five Thousand Two Hundred Seventy Three Pesos and 14/100 (PhP 4,865,273.14)**.

WHEREAS, the whole Civil Works in this project as covered by this CONTRACT shall be completed within **One Hundred Twenty (120) CD** in accordance with the provisions of the Bid Documents;

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. That in this Contract Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. That the following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
 - (a) The Bid Form accomplished and submitted by the Contractor including the following annexes:
 - I) Sworn Statement
 - II) Bid Prices in the Bill of Quantities
 - III) Detailed Estimates
 - IV) Scope of Work / Specifications
 - V) Equipment Utilization Schedule
 - b) Manpower Schedule/Requirements
 - c) Organizational Chart for the Contract
 - d) Construction Schedule & S-Curve
 - e) Contract Agreement
 - f) Invitation to Bid
 - g) Performance Bond
 - h) Post Qualification Statements
 - i) Notice of Award to Contractor and Contractor's Conforme thereto
 - j) Other pertinent documents as may be required
3. That in consideration of the Payment to be made by the MUNICIPALITY to the CONTRACTOR as hereinafter mentioned, the CONTRACTOR hereby covenants with the MUNICIPALITY to execute and complete the Civil Works and remedy any defects therein in conformity in all respects with the provisions of this CONTRACT.

4. That the MUNICIPALITY hereby covenants to pay the CONTRACTOR in consideration of the execution and completion of the CIVIL WORKS at the unit prices agreed in the TENDER, at the time in the manner prescribed by the CONTRACT and specified in the Bid. It is understood that the quantities listed in the PROPOSAL do not govern final payment, hence payment to the CONTRACTOR will be made only for actual quantities of contract items performed in accordance with the plans and specifications and accepted by the MUNICIPALITY.
5. The Implementing Rules and Regulations of the Republic Act 9184, other existing laws, decrees, executive and administrative orders, circulars issued by proper authorities affecting government construction projects, as well as the guidelines for the completion and payment for Price Escalation on Infrastructure contracts adopted and approved by the Government shall be made and formed as integral part of the Contract.
6. That this contract shall not take effect until the CONTRACTOR has furnished and delivered to the MUNICIPALITY a Performance Bond that is fully acceptable to the MUNICIPALITY in the form and amount as required in the Instruction to Bidders.
7. In case the Contractor refuses or fails to satisfactorily complete the work within the specified contract time, plus anytime extension duly granted and is hereby in default under the CONTRACT, the CONTRACTOR shall pay the Government for liquidated damages, and not by way of penalty, an amount to be determined for each calendar day a delay, until the work is completed and accepted or taken over by the Government.

$$TLD = VUUP \times [(1+occ)^{n-1}] \times K$$

$$VUUP = TCP - VCUP$$

WHERE:

TLD = TOTAL Liquidated Damages, in pesos

VUUP – value of the uncompleted and unusable portions of the contract work as of the expiry date of the contract, in pesos

TCP – Total Contract Price, in pesos

VCUP – value of the completed and usable portion of the contract work as of the expiry date of the contract, in pesos

OCC – prevailing opportunity cost of capital for government projects set by NEDA, which is currently pegged at 15%

N – total number of years that the contract work is delayed after the expiry date of the contract

K – Adjustment factor to cover additional losses

$$= 1 + C + (1 \times n)$$

WHERE:

C = cost of construction supervision as a percentage, not exceeding 10% of construction cost

i = annual inflation rate

8. Payment by the MUNICIPALITY to the contractor shall be subject to a retention of ten percent (10%) of each approved payment to be released in accordance with Section CI-06 of the Implementing Rules and Regulations, as amended, of Presidential Decree No. 1594.
9. In case the CONTRACTOR lags behind schedule in his work and incurs 15% or more negative slippage, based on his approved PERT/CPM, the employer at his discretion, terminate or rescind the contract pursuant to existing laws, rules and regulations.
10. The provision of R.A. 6685 as implemented by Department Order No. 51, series of 1990 is hereby incorporated as part of this CONTRACT.
11. The CONTRACTOR shall comply with, and strictly observe, all laws regarding workmen's health and safety, workmen's welfare, compensation for injuries, minimum wages, hours of labor and other labor laws as per Ministry Order No. 9, series of 1981.
12. The CONTRACTOR warrants that he has not given nor promised to give any money or gift to any employee of the MUNICIPALITY (or any Philippines Government Instrumentality) to secure this contract.
13. The Joint Guidelines on Change Orders, Extra Work Orders, etc. as provided under the pertinent provisions of the Implementing Rules and Regulations of Republic Act 9184 are hereby incorporated as part of this CONTRACT.
14. The CONTRACTOR guarantees its work against qualitative defects in materials, poor workmanship and the like for a period of one (1) year reckoned from the date of the Certificate of Completion of the WORK issued by the MUNICIPALITY. In case any defect, failure or poor workmanship of any part of the MUNICIPALITY is discovered during the said period, the CONTRACTOR is bound to make good such defect, failure or poor workmanship at no cost or expense to the MUNICIPALITY. In any case, during the same period, the CONTRACTOR shall hold the MUNICIPALITY free and harmless from any liability or damages that may be incurred as a result of any breach of contractor's guarantee or work. It is understood that these stipulations shall not effect the rights and liabilities of the parties under Article 1723 and other provisions of the Civil Code, nor any other existing laws, rules and regulations.

15. The CONTRACTOR shall furnish the MUNICIPALITY with Guarantee Bond issued by the Government Service Insurance System or any reputable insurance companies acceptable to the MUNICIPALITY in sum equivalent to the amount to be released effective for a period of one (1) year from the date of the Certificate of Completion of the Work, subject to the condition, but not limiting the CONTRACTOR'S liability, that any defect or flaw which may arise during the said one (1) year period shall be rectified by the CONTRACTOR promptly upon demand by the MUNICIPALITY.
16. The CONTRACTOR shall at all times during the progress of the work and until the expiration of the guarantee period as provided in Article 14 of the AGREEMENT, arrange for its account a CONTRACTOR'S All-Risk Insurance issued by a surety or insurance company, preferably by the Government Service Insurance System, acceptable to the MUNICIPALITY, as it will protect the CONTRACTOR from any liability and from any other claims for injury to persons including death and damage to property which may arise in the course of operations by the CONTRACTOR and also as will protect the MUNICIPALITY against any physical loss of property.
17. The CONTRACTOR shall submit to the MUNICIPALITY an Affidavit of Merit guaranteeing the payment of wages of the laborers employed in said contract. Moreover, the affidavit made shall be subscribed by said contractor before a Notary Public or other offices authorized by law to administer oaths. The Certificate of Completion will not be accepted until the said affidavit will be furnished.
18. The Notice to Proceed shall not be issued unless the CONTRACTOR submits to the MUNICIPALITY or to its representative the Certificates of such insurance or insurance policies shall be subject to the Municipality's approval for adequacy of protection and acceptability of the insurer or insurers. The Contractor shall, on request by the Municipality, produce all receipts in payment of all insurance premiums.
19. This Agreement becomes binding and valid upon approval by the proper authorities.

IN WITNESS WHEREOF, the parties hereto set their respective hands on the 30th day of November, 2023.

Republic of the Philippines
Province of Pampanga
MUNICIPALITY OF GUAGUA

Party of the First Party
 By:

ANTHONY JOSEPH S. TORRES
 Municipal Mayor

 (Witness)

FREDMARK BUILDERS AND TRADING
101 Talang Pulungmasle,
Guagua, Pampanga

Party of the Second Party
 By:

FREDERICK W. PONIO
 Authorized Representative

Josephine M. Ponio
 (Witness)

Approved this _____th day of **NOV 30 2023**, 2023.

REPUBLIC OF THE PHILIPPINES)
 PROVINCE OF) S.S.
 CITY/MUNICIPALITY OF City of San Fernando, Pampanga

ACKNOWLEDGEMENT

Before me this _____ day of _____, 2023 appeared the following:

NOV 30 2023

NAME	R. C. NO	Date/Place of Issue
ANTHONY JOSEPH S. TORRES	CCI2019 06042603	January 04, 2023/ Guagua, Pampanga
FREDERICK J. PONIO	CCI2021 00879210	JAN. 5, 2023 / CSFP

known to me to be the same persons who executed the foregoing contract and agreement and they acknowledge to me that the foregoing instrument consist of four (4) pages, including this page in which this acknowledgement is written, in their free, voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto affixed my signature and Official Seal this _____ day of **NOV 30 2023** 2023.

[Signature]
 NOTARY PUBLIC
ATTY. LEILA MAE M. ESTABILLO
 NOTARY PUBLIC
 UNTIL DECEMBER 31, 2023
 Unit
 PTR No. 3548619-01-02-23
 Date
 IEP No. 01479 (LIFETIME)
 Place
 CITY OF SAN FERNANDO, (P)
 ROLL No. 41471
 MCLE No. VII-0023623-09-30-27

Doc. No. : 35
 Page No. : 8
 Book No. : LXIX
 Series of : 1075

[Signature]

[Signature]