



**CONSOLIDATED
COMMISSION ON UTILITIES**

Guam Power Authority • Guam Waterworks Authority
P.O.BOX 2977 • Agana, Guam 96932

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

RESOLUTION NO. 2016-56

**AUTHORIZING THE MANAGEMENT OF THE GUAM POWER AUTHORITY
TO PROCEED WITH THE SOLICITATION FOR THE SUPPLY OF DIESEL FUEL OIL NO.2
FOR THE WATER SYSTEMS DISTRIBUTION SYSTEMS**

WHEREAS, the three (3) year base period and two (2) year extension option for the current supply contract under GPA-011-14 with Morrico Equipment, Inc. for the Supply of Diesel Fuel Oil No.2 for the Water Systems Distribution (hereinafter referred to as "WSD") will expire on March 31, 2017; and

WHEREAS, the Guam Power Authority (hereinafter referred to as "GPA") intends to issue a new Invitation For Bid for the procurement of diesel fuel oil for the WSD generators for a base period of two (2) years, to commence on April 01, 2017 through March 31, 2019, with three (3) additional one-year extension options; and

WHEREAS, the estimated cost of the current diesel fuel oil contract from FY 2014 to FY 2016 is approximately \$500,996 and the cost for the 2-year base period of the next contract is estimated at \$1M; and

WHEREAS, the bid documents for the procurement of a new diesel fuel oil supply contract is attached as Exhibit A; and

WHEREAS, GPA is requesting the approval of the CCU for the issuance of an Invitation for Bid for a new diesel fuel oil supply contract.

NOW THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities, as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

- 1. GPA's request to solicit competitive bids for a new Diesel fuel supply contract through a Multi-Step Bid process is reasonable, prudent and beneficial to its customers.

- 2. GPA is authorized to issue bids to procure a Contractor for the supply of Diesel Fuel Oil No.2 for the WSD.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

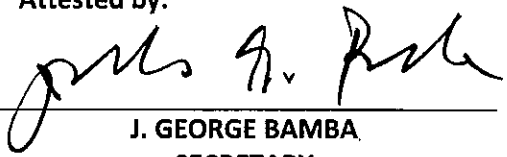
DULY and REGULARLY ADOPTED this 27th day September 2016.

Certified by:



**JOSEPH T. DUENAS
CHAIRMAN**

Attested by:



**J. GEORGE BAMBA
SECRETARY**

1 **SECRETARY'S CERTIFICATE**


2
3 **I, J. George Bamba**, Secretary for the Consolidated Commission on Utilities do hereby certify
4 that the foregoing is a full, true, and correct copy of the resolution duly adopted at a regular meeting
5 of the members of Guam's Consolidated Commission on Utilities, duly and legally held at the meeting
6 place thereof on September 27, 2016 at which meeting of all said members had due notice and at
7 which at least s majority thereof were present, and

8
9 At said meeting said resolution was adopted by the following vote:

10
11 Ayes: 3
12
13 Nays: 0
14
15 Absent: 2
16
17 Abstain: 0
18

19 As of the date of this certification, said original resolution has not been amended, modified,
20 or rescinded since the date of its adoption, and the same is now in full force and effect.

21 **SO CERTIFIED** this 27th day of September, 2016.

22


J. GEORGE BAMBA
Secretary
Consolidated Commission on Utilities

Invitation For Multi-Step Re-Bid

No. GPA- -16

SUPPLY OF DIESEL FUEL OIL NO.2



**GPA WATER SYSTEMS DISTRIBUTION &
GWA EMERGENCY GENERATORS**

Volume II

CONTRACT

TABLE OF CONTENTS

Section	Description	Page
SECTION 1. DEFINITIONS		6
SECTION 2. FUEL OIL TO BE SUPPLIED		9
SECTION 3. CONTRACT TERM		9
SECTION 4. CONTRACT PRICE		9
SECTION 5. INVOICE PRICE DETERMINATION		11
SECTION 6. FUEL OIL DELIVERY		12
SECTION 7. TERMS OF PAYMENT		13
SECTION 8. WARRANTY AND CLAIMS		13
SECTION 9. PRODUCT AND QUALITY		13
SECTION 10. QUANTITY AND QUALITY ASSURANCE		14
SECTION 11. QUANTITY DETERMINATION		15
SECTION 12. SECURITY OF SUPPLY		15
SECTION 13. GOVERNMENT LAWS AND REGULATIONS		16
SECTION 14. PERMITS AND RESPONSIBILITIES		16
SECTION 15. FORCE MAJEURE		17
SECTION 16. NOTICE TO OTHER PARTY		18
SECTION 17. PAYMENT REQUIRED		18
SECTION 18. PRORATION OR EQUITABLE ALLOCATION		18
SECTION 19. ALTERNATE SUPPLY		19
SECTION 20. RESUMPTION OF PERFORMANCE		19
SECTION 21. GOVERNING LAW AND DISPUTES		19
SECTION 22. CONTRACTOR'S INSURANCE		20
SECTION 23. INDEMNITY		23
SECTION 24. TRANSPORTATION		23
SECTION 25. FAILURE TO SUPPLY		24
SECTION 26. FAILUE TO PAY		24
SECTION 27. FAILURE TO COMPLY WITH LAWS		24
SECTION 28. DEFAULT		25
SECTION 29. ATTORNEYS FEES		25
SECTION 30. TERMINATION FOR CONVENIENCE		25
SECTION 31. REMEDIES CUMMULATIVE		28
SECTION 32. COVENANT AGAINST CONTIGENT FEES		28
SECTION 33. NOTICE		28

SECTION 34. INTEREST OF OTHER PARTIES	29
SECTION 35. ASSIGNMENT	29
SECTION 36. TIME	30
SECTION 37. SPECIFICATIONS	30
SECTION 38. AMENDMENT AND WAIVER	30
SECTION 39. DESCRIPTIVE HEADINGS	31
SECTION 40. RELATIONSHIP OF PARTIES	31
SECTION 41. NUMBER AND GENDER	31
SECTION 42. SUCCESSORS IN INTEREST	31
SECTION 43. PARTIAL INVALIDITY	31
SECTION 44. EQUAL OPPORTUNITY CLAUSE	31
SECTION 45. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY.....	32
SECTION 46. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED.....	32
SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES.....	32
SCHEDULE A PRODUCT QUALITY SPECIFICATION	34
SCHEDULE B WSD DELIVERY SITES.....	35
SCHEDULE C GWA EMERGENCY GENERATOR SITES.....	36

CONTRACT

CONTRACTOR

GUAM POWER AUTHORITY

2016

IFB No. GPA- -16

SUPPLY OF DIESEL FUEL OIL NO.2

FORMAL CONTRACT

This Agreement and Formal Contract (“Contract”), is made and entered into on the ____ day of _____, 2016 by and between:

_____, hereinafter referred to as CONTRACTOR, with its principal address at _____;

- and -

GUAM POWER AUTHORITY, hereinafter referred to as the “**Authority**” or “**GPA**”, a Public Corporation with its office located at the Gloria Nelson Public Service Complex, Fadian Mangilao Guam;

RECITALS

WHEREAS, the current contract for the supply of diesel fuel oil will expire on March 31, 2017; and

WHEREAS, GPA seeks to procure a new Diesel Fuel Oil No.2 Contractor for the supply of diesel fuel oil to the GPA power generating plants; and

WHEREAS, GPA has issued an Invitation For a Multi-Step Bid for the Supply of Diesel Fuel Oil No.2 under IFB GPA- -16; and

WHEREAS, CONTRACTOR submitted a bid in response to the Invitation for Bid for the Supply of Diesel Fuel Oil No.2; and

WHEREAS, GPA, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR**. is the lowest responsive and responsible bidder.

WHEREAS, the Consolidated Commission on Utilities has determined that the (CONTRACTOR) is a preferred option for GPA to supply the Diesel Fuel Oil No.2 requirements for the Authority; and

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledged; **CONTRACTOR** and GPA hereby agree as follows:

SECTION 1. DEFINITIONS

- “\$”** The term “\$” refers to currency in U.S. dollars.
- “ASTM”** The term “ASTM” shall mean the American Society for Testing and Materials.
- “API”** The term “API” shall mean the American Petroleum Institute.
- “Barrel”** The term "Barrel" means a volume equivalent to 42 U.S. gallons.
- “Gallon”** The term “Gallon” means a volume in U.S. gallons equivalent to 3.78 liters

or 231 cubic inches.

- “Contract”** The term "Contract" means the Diesel Fuel Oil No.2 Supply Contract executed as a result of IFB GPA- -16.
- “Contract Agreement (Agreement)”** The written agreement between GPA and CONTRACTOR covering the Supply of Diesel Fuel Oil No.2 any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.
- “Contract Documents”** The Contract Agreement, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract Agreement, together with all Modifications issued after execution of the Contract Agreement.
- “Contracting Officer”** The term "Contracting Officer" as used herein means the General Manager of the Guam Power Authority and shall include his authorized representatives.
- “CONTRACTOR”** The term "CONTRACTOR" as used herein means the party or parties who or which shall have duly entered into a contract with the Guam Power Authority to perform the work herein contemplated or his or their authorized assignee.
- “Day”** A calendar day of twenty-four (24) hours measured from midnight to the next midnight.
- “Delivery Time”** The total number of days or the dates stated in the Agreement for furnishing the product.
- “General Manager”** The General Manager is the Chief Executive Officer of the Guam Power Authority. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of the Guam Power Authority.

“Notice” The term "Notice" as used herein shall mean and include all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with contract requirements. Any written notice by either party to the contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box and file the same with the Contracting Officer.

“Procurement Officer” The General Manager of the Guam Power Authority or the General Manager’s designee.

“PURCHASER” The Guam Power Authority with whom CONTRACTOR has entered into the Contract Agreement.

“Seller” The CONTRACTOR.

“Territory” The Territory of Guam.

“OPA’90” means the Oil Pollution Act of 1990 by the U.S. Congress.

“Platt’s Asia-Pacific/ Arab Gulf Marketscan” refers to the source document for the fuel Contract pricing.

“Metric Ton” unit of mass equal to 1,000 kilograms (2,205 pounds)

“Fuel oil” means a liquid hydrocarbon product satisfying the specifications in Section 9.

“Gallon” shall mean a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

“Receiving facility” means the GPA fuel oil receiving facility.

SECTION 2. FUEL OIL TO BE SUPPLIED

CONTRACTOR agrees to furnish and **GPA** agrees to accept and pay for all of **GPA's** fuel oil requirements for power generating plants in Guam for the term of the Contract. The **estimated** total fuel oil requirement is approximately 100,000 gallons and is subject to change. **GPA** shall reasonably notify the Contractor for any changes in the fuel oil requirements.

The first delivery of fuel oil pursuant to the Contract is anticipated to be on or about **April 01, 2017**.

SECTION 3. CONTRACT TERM

The Contract Term shall be for two (2) years to commence on April 01, 2017 and shall continue until midnight of March 31, 2019 and with **GPA's** option to extend the contract for three (3) additional one (1) year term, renewable annually, with mutual agreement of both parties.

SECTION 4. CONTRACT PRICE

The Contract price in U.S. dollars per gallon (\$/gal) for all diesel fuel oil delivered to **GPA** shall be inclusive of all costs and liabilities required to fulfill the contract. The **BID PRICE** is the sum of the **FIXED SERVICE FEE** plus the **BID REFERENCE PRICE**.

The Contract price shall increase or decrease on a cent-for-cent basis by the amount per gallon based from Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm, (Conversion Factor: 42 gallons per barrel).

The **BID REFERENCE PRICE** shall be the average of the effective price posted in the Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm (Conversion Factor: 42 gallons per barrel) for April 01, 2016.

The BID REFERENCE PRICE shall be \$1.097 per U.S. gallon.

BID REFERENCE PRICE

Asia-Pacific/Arab Gulf Marketscan

April 01, 2016

Asia Products		<u>FOB Singapore</u>		
		(Low)	(High)	(MOPS)
Gasoil 10 ppm	(\$/bbl)	46.04	46.08	46.06

Bid Reference Price = \$46.060 per barrel
= \$1.097 per U.S. gallon

The contract price shall be the price indicated in the “BID PRICE”.

BID PRICES:

Option A. SUPPLY AND DELIVERY

Quality must comply with the specifications listed in **Schedule A**.

ULTRA-LOW SULFUR DIESEL (ULSD)				
2-year Base Period		3-Year Extension Options		
1st year	2nd year	1st Year Extn	2nd yr Extn	3rd yr Extn
(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____
(In Words)	(In Words)	(In Words)	(In Words)	(In Words)

B. SUPPLY ONLY (SUPPLIER’S LOADING RACK)

ULTRA-LOW SULFUR DIESEL (ULSD)				
2-year Base Period		3-Year Extension Options		
1st year	2nd year	1st Year Extn	2nd yr Extn	3rd yr Extn
(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____	(\$ in 3 decimals) \$ _____
(In Words)	(In Words)	(In Words)	(In Words)	(In Words)

SECTION 5. INVOICE PRICE DETERMINATION

The price invoiced to the Guam Power Authority shall be adjusted according to the periodic price changes in Platt’s Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm.

The invoice price for the fuel delivered in any month shall be the daily average of the effective spot prices reported for the previous month in the Platt’s Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm (referred to as the Reference Price), plus the Fixed Service Fee described above.

All price postings are at the “Price effective dates.”

INVOICE PRICE CALCULATION FORMULA

INVOICE PRICE = Reference Price + Service Fee

Sample data and calculation:

Delivery Month: May 2016

(1) Sample Calculation of Reference Price:

Reference Price = Average of Previous Month's Daily MOPS
MOPS (Mid-of-Platts) = average of high and low price assessments
Previous Month: April 2016

Average of the Daily MOPS for October 2016: \$49.510 per barrel

Average Price: \$1.179 per gallon (rounded to three decimal places)

Reference Price for April 2016: \$1.179 per gallon

(2) Sample Service Fee:

Fixed Service Fee = \$0.200 per gallon (sample price)

(3) Invoice Price

Invoice Price = Reference Price + Fixed Service Fee

Invoice Price = (\$1.179 + \$0.200) per gallon

Invoice Price = \$1.379 per gallon

This is the invoice price for fuel delivered to GPA for the sample month.

SECTION 6. FUEL OIL DELIVERY

All fuel must be delivered to the plant sites covered in this contract. Title to the fuel shall pass from the **CONTRACTOR** to **GPA** when the fuel oil has passed the **GPA** pipeline flange connecting the tanker truck delivery hose and the **GPA** storage tanks. The **CONTRACTOR** shall be available to deliver the fuel to the point of delivery as designated by GPA within twenty-four (24) hours notice of receiving a request. **CONTRACTOR** must be available to receive and accept delivery requests during the hours of 7:00 A.M. and 5:00 P.M. daily, including weekends and holidays. The **CONTRACTOR** shall provide transfer pumps at its delivery trucks and/or whatever else may be necessary to deliver fuel to **GPA** storage tanks to the height of 45 feet. Fuel deliveries shall be on an "on call" basis and shall be during the hours of 7:00 A.M. and 11:00 P.M. daily, including weekends and holidays. **CONTRACTOR** must exercise its best efforts to deliver fuel to **GPA** to meet operational requirements regardless of the estimates

provided by **GPA**.

All risk of loss, cost and liabilities prior to the time of passage of title of the fuel oil shall be on the **CONTRACTOR**.

SECTION 7. TERMS OF PAYMENT

Invoices for fuel oil delivered pursuant to quantity (fuel oil receipts) and quality prescribed under the terms of this contract shall be submitted no more frequently than weekly, based on the number of gallons of fuel delivered to GPA during the preceding period. The invoices must be supported by fuel oil receipts or receiving tickets including a receipt acknowledgement from a GPA representative. The payment terms are 30 days (net) beginning on the date the invoice is received by the GPA accounts payable section. All payments shall be based on the delivered quantity, corrected to volume (net) at 60 degrees F.

SECTION 8. WARRANTY AND CLAIMS

CONTRACTOR warrants that the fuel oil shall meet the specification prescribed herein under Section 9 and other pertinent sections. If the fuel oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom.

CONTRACTOR shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of oil supply and delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of their negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of fuel oil as specified in Section 4.

SECTION 9. PRODUCT AND QUALITY

Test Methods shall be in conformance with the prescribed procedures set forth by the American Society For Testing and Materials (ASTM) Standards for Petroleum Products, Lubricants, and Fossil Fuels, or alternative tests acceptable and subject to prior authorization by GPA.

The fuel oil delivered to GPA shall have the physical and chemical characteristics as described in **Schedule A**.

Quality determination shall be performed and certified by an independent third party laboratory facility acceptable to GPA. Certificate of Quality (COQ) shall be representative of the product in the Contractor's storage facility in Guam.

SECTION 10. QUANTITY AND QUALITY ASSURANCE

CONTRACTOR'S 'Terminal Loading Rack' meters shall be utilized to determine the quantity of fuel delivered to **GPA** and shall be the basis for the Bill of Lading (BOL). **CONTRACTOR** shall have such meters calibrated no less than annually and shall furnish **GPA** a copy of the certificate of newly calibrated meter(s) within 10 days after the calibration date.

In the event of a dispute over the accuracy of the **CONTRACTOR'S** meters, an independent third party mutually agreeable to both parties will be brought in to perform a recalibration. In the event of a miscalibration, the costs shall be borne by the **CONTRACTOR**. Any loss incurred by **GPA** as a result of miscalibration of meters shall be negotiated and returned to the **AUTHORITY**.

Quantity shall be corrected to the volume at sixty degrees Fahrenheit. Conversion shall be made in accordance with the ASTM-IP Petroleum Measurement Tables (IP-200), Table 6B (latest edition).

Appropriate Certificate of Quality (COQ) reports shall also accompany each delivery and must be presented to the GPA receiving facility. Quality must conform with the requirements specified under Section 9 and schedule A as a condition for acceptance of delivery.

In the event of a dispute over the quality of fuel received by **GPA**, an inspection of fuel oil will be conducted by an appointed third party inspector mutually acceptable to **GPA** and the **CONTRACTOR**.

CONTRACTOR is required to install security seals on valves and compartments of the delivery tanker trucks after product loading is completed. Seals shall remain intact upon inspection by the GPA receiving facility. Seal numbers shall be recorded in the delivery receipt and initialed by an authorized terminal representative. GPA reserves the right to reject deliveries with tampered or missing seals.

CONTRACTOR shall provide a comprehensive summary of the fuel delivery reports. Contractor shall tailor its reports to GPA's needs. Contractor shall submit copy(ies) of all Certificates of Quality (COQ) for the delivery month. Reports shall be submitted to the GPA within five (5) working days after each report month. Contractor shall also submit other reports and/or documentations that is relevant to the contract as may be required by the Authority.

SECTION 11. QUANTITY DETERMINATION

In the event of the variances between the BOL quantity and the GPA receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE-FOURTH (0.25 %) of the gallons established quantity; shortages beyond the 0.25% tolerance shall be covered by the **CONTRACTOR**.

GPA reserves the right to require the intervention of a third party independent inspector for quantity determination. Such inspector shall be mutually acceptable to **GPA** and the **CONTRACTOR**. All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 °F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable. A copy of the load port shore tank measurements shall be included as supplemental documents.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

SECTION 12. SECURITY OF SUPPLY

CONTRACTOR reserves the right to supply fuel oil meeting **GPA** specifications from any source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in Section 4 above.

CONTRACTOR must submit a month-end diesel fuel inventory report to GPA.

GPA reserves the right to audit the Contractor for safety fuel inventory stock compliance. Such audit shall be in accordance with generally accepted accounting practices. ”

SECTION 13. GOVERNMENT LAWS AND REGULATIONS

(a) If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent **GPA** from burning the type of fuel oil to be supplied hereunder, **GPA** shall use its best efforts to obtain an exemption. In the event **GPA** cannot obtain an exemption from such laws and regulations, **CONTRACTOR** shall use his best efforts to furnish **GPA** substitute fuel oil which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute fuel oil causes an increase or decrease in **CONTRACTOR**'s cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by **CONTRACTOR** of the notification of substitute fuel oil in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Governing Law and Disputes"(Section 21). However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract fuel oil specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the parties cannot mutually agree upon the price at which **CONTRACTOR** is to furnish such substitute fuel oil, and **CONTRACTOR** refuses to provide such substitute fuel oil at the Contract price set out herein shall **GPA** then have the option of purchasing from other sources fuel oil at a lower price than that offered by **CONTRACTOR** in such negotiations which complies with such laws and regulations, but in any event, the **CONTRACTOR** shall have no recourse, other than those specified herein.

(b) **CONTRACTOR** shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 14. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 15. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

- (a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;
- (b) Restraints. Arrest or restraint of princes, rulers or peoples;
- (c) Confiscation. Expropriation, requisition, confiscation or nationalization;
- (d) Rationing. Embargoes, export or import restrictions or rationing or allocation, whether imposed by law, decree or regulation or by voluntary cooperation of industry at the insistence or request of any governmental authority or person purporting to act therefore;
- (e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;
- (f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;
- (g) Loss for Tankers. Loss of tanker tonnage due to sinking by belligerents or to governmental taking whether or not by formal requisition;
- (h) Accidents. Accidents to or adjuncts of shipping navigation;
- (i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;
- (j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;

(k) Taking by Government. Unavailability of fuel because of the election of the government of the country of its origin to take royalty product in kind;

(l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 16. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 15, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 17. PAYMENT REQUIRED

Notwithstanding the provisions of Section 15, supra, **GPA** shall not be relieved of any obligation to make payments for any fuel delivered to Guam dock/**GPA** tanks hereunder; however, during the force majeure condition the obligation shall be suspended, except for fuel oil deliveries made prior to the force majeure condition.

SECTION 18. PRORATION OR EQUITABLE ALLOCATION

If any of the events enumerated in Section 15, supra, have occurred, **CONTRACTOR** shall prorate or otherwise allocate in a fair and equitable manner among its customers, including **GPA**, the supplies of fuel oil **CONTRACTOR** has available for delivery at the time of the occurrence or for the duration of such event taking into account **GPA's** unique situation as Guam's total dependence on fuel oil. **CONTRACTOR** shall also seek an alternative source of fuel oil to fulfill its contractual obligations.

SECTION 19. ALTERNATE SUPPLY

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 15, supra, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition shall exist.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the Contractor, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition of negligence shall exist. If the cost of fuel during such period of negligence shall exceed the Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

SECTION 20. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any fuel to be sold under the Contract for the reasons which fall within the provisions of Section 15, supra, then the party so prevented shall, as to the remainder of the fuel not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 15, supra, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 21. GOVERNING LAW AND DISPUTES

- (a) All controversies between **GPA** and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by **GPA** pursuant to Guam Procurement laws and regulations.
- (b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.
- (c) The **CONTRACTOR** shall comply with any decision of **GPA** and proceed diligently with performance of this Contract pending final resolution by the Superior Court of

Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of **GPA** has made a written determination that continuation of work under the Contract is essential to the welfare of the territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 22. CONTRACTOR'S INSURANCE

Contractor shall not commence work under this contract until he has obtained all insurance required under this section and such insurance has been approved by GPA, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

- A. WORKMEN'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE:** The Contractor shall take out and maintain during the life of this Contract the applicable statutory Workmen's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable State or Territory covering all his employees, and in the case of any work sublet, the Contractor shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees. The Contractor shall secure and maintain, during the life of this Contract, Employer's Liability Insurance with a limit of \$500,000 with an insurance company authorized to write such insurance in all

from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this Contract. GPA shall be an additional insured on Auto Liability policy. Contractor will grant Waiver of Subrogation in favor of GPA. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits:	\$ 1,000,000 Each Person
	\$ 1,000,000 Each Occurrence
Property Damage Limits:	\$ 1,000,000 Each occurrence

D. POLLUTION LIABILITY INSURANCE:

The Contractor shall take out and maintain during the life of the Contract, Pollution Liability Insurance with minimum limits of \$5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of GPA. GPA is to be an additional insured.

E. EXCESS LIABILITY

Excess Liability with limits of \$5,000,000. GPA shall be an additional insured. Contractor shall grant Waiver of Subrogation in favor of GPA.

F. CERTIFICATE OF INSURANCE:

The Contractor shall furnish GPA with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give GPA at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the Contractor shall furnish a Certificates of Insurance evidencing renewal of such coverage to GPA. The Certificates of Insurance shall clearly show this Contract number.

The Contractor shall provide a copy of their Insurance Policy to GPA as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to GPA.

G. SUBCONTRACTOR'S INSURANCE:

The Contractor shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the Contractor under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the Contractor two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph C. above. The Contractor shall furnish one (1) copy of the certificate to GPA.

H. INSURANCE COMPANY AND AGENT:

All insurance policies herein required of the Contractor shall be written by a company duly authorized to do business in the Territory where supply under this Contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

SECTION 23. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any oil spillage caused by it or its agent or **CONTRACTORS** during the process of oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any vessel owned or chartered by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90).

SECTION 24. TRANSPORTATION

CONTRACTOR shall arrange for the transportation of the fuel oil to GPA.

All risk of loss, cost and liabilities prior to the time of passage of title of the fuel oil to shall be on the **CONTRACTOR**. **CONTRACTOR**

CONTRACTOR 's and **GPA**'s rights and duties under Section 23 and Section 24 do not supersede or control the provisions of Section 15 Force Majeure.

SECTION 25. FAILURE TO SUPPLY

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of fuel oil supply or commits any other substantial breach of this Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure fuel oil supply from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 26. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

- (a) Terminate the Contract forthwith or forthwith suspend delivery under the contract until further notice, on notifying **GPA** orally or by notice in writing; or
- (b) Continue to supply fuel oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 27. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR** 's performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or

an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon **THRITY** (30) days written notice.

SECTION 28. DEFAULT

“If the **PARTY** refuses or fails to perform any of their obligations under this agreement, non-breaching **PARTY** shall notify the **PARTY** either by e-mail or in writing within thirty (30) days of the breach. If the **PARTY** does not remedy the breach within thirty (30) days after the date of notification, non-breaching **PARTY** may by giving notice to the other **PARTY** terminate the Agreement in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, **GPA** reserves the right to procure fuel supply from another source upon notification to **CONTRACTOR** either by e-mail or in writing. Fuel to be procured shall be at the prevailing market price at the time of partial termination or suspension.

In the event of termination because of **GPA**'s default, the **CONTRACTOR** shall not be liable for the difference between the contract price and the prevailing market price at the time of termination.

SECTION 29. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 30. TERMINATION FOR CONVENIENCE

(a) Termination.

The delivery of fuel oil supply under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which supply of fuel oil under the Contract is

terminated, and the Contract shall be terminated effective **THREE HUNDRED SIXTY (360)** days after receipt of notice by **CONTRACTOR**.

In the case of termination of this Contract, GPA shall reimburse the **CONTRACTOR** of all the expenses related to the period of the Performance Bond that were not used.

(b) **CONTRACTOR's Obligations.**

The **CONTRACTOR** shall incur no further obligations in connection with the terminated fuel oil supply delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of fuel oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for fuel oil supply. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and Contracts, if any, connected with the terminated fuel oil supply delivery. **GPA** may direct the **CONTRACTOR** to assign the Contractor's right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver fuel oil supply not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) **Right to Supplies.**

GPA may require the **CONTRACTOR** to transfer title of fuel oil cargo in transit to Guam at the time of receipt by Contractor of **GPA's** Notice of Termination.

(d) **Compensation.**

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within **ONE (1)** year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** and the **CONTRACTOR** may agree to a settlement provided the **CONTRACTOR** has filed a termination claim supported by cost or pricing data to the extent required by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and

manufacturing materials under the Guam Uniform Commercial Code, and the Contract price of the fuel supply not terminated.

(3) Absent complete agreement under subparagraph (1) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

(i) Fuel oil Contract prices for supplies or services accepted under the Contract by **GPA**;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of fuel oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted fuel oil supplies or services; provided, however, that if it appears that the **CONTRACTOR** would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of Contracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;

(iv) The reasonable settlement costs of the **CONTRACTOR** including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract for the termination and settlement of Contracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial Code.

SECTION 31. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 32. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 33. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving FIFTEEN (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____

SECTION 34. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 35. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter **CONTRACTOR**'s obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the Contract without **GPA**'s consent which may be given or refused at **GPA**'s absolute discretion.

CONTRACTOR and **GPA** shall not transfer or assign its rights and obligations under this contract, in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, the **CONTRACTOR** may transfer or assign its rights and obligations under this contract, in whole or in part, to a US based affiliate (as defined hereinafter), with ninety (90) days prior notice to and at the consent of **GPA**. For the purpose of this contract, "US based affiliate" means any company or legal entity based in the United States of America which (a) controls either directly or indirectly a party hereto, or (b) is controlled directly or indirectly by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such party. "Control" for purposes of the previous sentence means the ability to direct

the management and policies of a company or legal entity, whether through ownership of securities, by contract or otherwise.

SECTION 36. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 37. SPECIFICATIONS

Should **GPA** wish to alter any of the specifications set out in Section 9 and Schedule A, method and terms of delivery, for good cause, it shall give written notice to **CONTRACTOR** within thirty (30) days. If such changes causes an increase or decrease in **CONTRACTOR**'s cost of performance of Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim by **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from the date of receipt by **CONTRACTOR** of the notification of changed specifications. **CONTRACTOR** and **GPA** shall, in good faith, negotiate an equitable adjustment pursuant to the change in specifications. If **CONTRACTOR** and **GPA** fail to agree on the adjustment to be made within thirty (30) days after **CONTRACTOR** receives notice of altered specifications, or if **CONTRACTOR** is unwilling to meet the altered specifications, the parties shall be subject to the provisions under Section 21 (Governing Law and Disputes) clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract fuel oil specifications as changed.

SECTION 38. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind the **AUTHORITY**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 39. DESCRIPTIVE HEADINGS

The descriptive headings of the several Sections and Subsections in this Invitation are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 40. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 41. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 42. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 43. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 44. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 45. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY.

GCA 5 §5630(c) prohibits the **CONSULTANT** against gratuities, kickbacks, and favors to the Territory.

SECTION 46. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

GCA 5 §5253(b) restricts the **CONTRACTOR** against employing convicted sex offenders from working at Government of Guam venues. It states:(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the **CONTRACTOR** has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the **CONTRACTOR** is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA

or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

SECTION 47. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the **IFB-GPA- -16**. This Contract shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority (GPA)**:

John M. Benavente, P.E.
General Manager

DATE

For **(CONTRACTOR)**:

(Company Name and Seal)

CONTRACTOR, Duly Authorized
REPRESENTATIVE OF COMPANY

DATE

APPROVED AS TO FORM:

Graham Botha, Legal Counsel
GUAM POWER AUTHORITY

DATE

SCHEDULE A

PRODUCT QUALITY SPECIFICATION: DIESEL FUEL Oil No. 2 ^A

Property	ASTM Test Method ^B	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	52 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm ² at 40°C	1.9 Min 4.1 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453		ppm (µg/g)	15 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	35 Max
Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	460 Max
Conductivity	D2624	D4308	pS/m	25 Min
Density @ 15°C	D1298	D4052	Kg/m ³	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.5 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp	Visual			Report
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min

^A Follows the minimum requirements for **Ultra-Low Diesel Fuel Oils (ULSD)** listed under ASTM 975-10.

^B These test methods are specified in 40CFR Part 80. Test methods must follow the latest version.

^C Appearance must be clear at ambient temperature and free from undissolved water and sediment.

The Authority may require the supplier to conduct additional test as may be required for plant's performance/efficiency evaluation.

SCHEDULE B

GUAM POWER AUTHORITY WATER SYSTEMS DIESEL Delivery Site Locations

A. NorthernWells and Pump Stations

No.	Unit	Feeder	Location	Tank Capacity
1	WBP-21	67	SANTA ROSA BSTR PUMP	350
2	D-10	87	Y SENGSONG ROAD	1020
3	D-12	87	Y SENGSONG ROAD	1020
4	D-1-2	87	DEDEDO BEHIND GWA LAB (GICC)	1680
5	D-13	87	SWAMP ROAD - DEDEDO	1020
6	D-19	87	SWAMP ROAD- DEDEDO	1020
7	D-20	87	SWAMP ROAD- DEDEDO	01020
8	D-21	87	SWAMP ROAD- DEDEDO	01020
9	D-3	87	DEDEDO BEHIND GWA LAB (GICC)	1020
10	D-4	87	DEDEDO BEHIND GWA LAB	1020
11	D-5	87	GUAM INT'L COUNTRY CLUB DEDEDO	1020
12	D-6	87	DEDEDO BEHIND GWA LAB	1020
13	D-7	87	Y SENGSONG ROAD	1020
14	D-8	87	Y SENGSONG ROAD	1020
15	D-9	87	Y SENGSONG ROAD	1020
16	EX-5	87	BEHIND GWA LAB DEDEDO (GOLF	1020
17	F-1	87	FINEGAYAN-POL RTE.3 NCTS	1020
18	F-10	87	FINEGAYAN- POL RTE 3 NCS	1020
19	F-11	87	FINEGAYAN- POL RTE 3 NCS	1020
20	F-12	87	Y SENGSONG MACHANAO C&H FARM	1020
21	F-13	87	BONGBONG MACHANO	
22	F-15	87	CORAZON MACHANO	
23	F-16	87	CORAZON MACHANO	
24	F-17	87	CORAZON MACHANO	
25	F-18	87	CORAZON MACHANO	
26	F-2	87	FINEGAYAN-POL RTE.3 NCS	1020
27	F-3	87	FINEGAYAN-POL RTE.3 NCS	1020

28	F-4	87	FINEGAYAN-POL RTE.3 NCS	1020
29	F-5	87	ASTUMBO COMMUNITY CENTER	1020
30	F-6	87	INTERSECTION OF RTE 3 & Y SENG	1020
31	F-7	87	MAPAS STREET ENTRANCE	1020
32	F-8	87	Y SENGSONG - MACHANAO	1020
33	F-9	87	Y SENGSONG-ENTRANCE MAGIC MT	1020
34	D-11	88	DEDEDO BEHIND GWA LAB	1020
35	D-14	88	DEDEDO - ACROSS WINCHELLS	1020
36	D-15	88	DEDEDO MIDDLE SCHOOL	1020
37	D-16	88	SANTA MONICA-DEDEDO WETTENGEL	1020
38	D-17	88	SANTA MONICA-DEDEDO PUBLIC	1020
39	D-18	88	SANTA MONICA-DEDEDO PUBLIC	1020
40	GHURA 501	89	GHURA 501 HOUSING, DEDEDO	1020
41	ND-4	89	YPAOPAO ESTATE PUMP STATION	620
42	H-1	270	HARMON CLIFF LINE	1020
43	NTP	111	NORTHERN TREATMENT PLANT	15000
44	WBP-17	270	NORTHERN BOOSTER PUMP	350
45	M-14	270	LIGUAN TERRACE, DEDEDO	1020
46	AG-1	330	AGAFA GUMAS	1020
47	AG-2	330	AGAFA GUMAS	
48	WBP-13	330	MATAGUAC BOOSTER PUMP STA	620
49	ND-1	331	YIGO PUMP STATION	2020
50	WBP-9	331	GAYINERO BSTR PUMP STA	350
51	Y-1-2	331	ROUTE 1, YIGO	1680
52	Y-3	331	YIGO MAYOR'S OFFICE	1020
53	Y-4	331	YIGO AMUSEMENT PARK	1020
54	Y-5	331	SIMON SANCHEZ HIGH SCHOOL, YIGO	1020
55	Y-6	331	GHURA 506 HOUSING, YIGO	1020
56	Y-7	331	GAYINERO RD, YIGO ELEM SCHOOL	4650
57	Y-9	331	GAYINERO RD, YIGO ELEM SCHOOL	
58	Y-10	89	AGA BLVD., YPAO ESTATE	
59	Y-12	89	BATULO ST. DEDEDO	
60	Y-14	331	BACK OF ACE HARDWARE	
61	Y-15	67	BEFORE BACK GATE TO ANDERSON	
62	Y-16	89	BEFORE ACE HARDWARE	

	Y-17		JUST PAST YIGO CT	
63	Y-21	89	BEORE ACE HARDWARE	
64	Y-23	331	CHALAN PAHARU, YIGO	

B. CENTRAL WATER WELLS & PUMPS

No.	Unit	Feeder	Location	Tank Capacity
1	A-15	210	UNTALAN MIDDLE SCHOOL-BARRIGAD	1020
2	A-21	210	MANGILAO - MAYOR OFFICE	1020
3	CD-2	210	ASMUYAO MANGILAO PUMP STATION	1020
4	CD-3	210	ASPENGO - BARRIGADA	1680
5	A-28	212	LEYANG BARRIGADA	1020
6	A-14	232	MANGILAO- INTERS. RTE 10 & 15	
7	A-1	250	RT 4 CHALAN PAGO/CHAOT BRIDGE	1020
8	A-10	250	DAIRY ROAD-MAIMAI (DOC)	1020
9	A-11	250	ORDOT-DUMP ROAD	1020
10	A-12	250	ORDOT-DUMP ROAD	1020
11	A-13	250	DAIRY RD. MAIMAI, RTE 4 TO DOC	1020
12	A-18	250	DAIRY RD- DEPT OF AGRICULTURE	1020
13	A-2	250	DAIRY ROAD-MAIMAI	1020
14	A-29	250	AGANA SPRINGS	1020
15	A-3	250	AFAME SINAJANA- RT4 FRONT KUAM	1020
16	A-4	250	DAIRY ROAD - MAIMAI	1020
17	A-5	250	AFAME SINAJANA	1020
18	A-6	250	AFAME SINAJANA	1020
19	A-7	250	RT 4 CHALAN PAGO/ORDOT	1020
20	A-8	250	RT 4 ORDOT-ACROSS GOGUE STORE	1020
21	A-9	250	DAIRY ROAD-MAIMAI (DOC)	1020
22	CD-11	251	MAITE EJECTOR	350
23	A-23-25	252	RT4 McDONALD TO SINAJANA CLIFF	1020
24	CD-13	252	SINAJANA PUMP STATION	620
25	A-26	253	MONGMONG TOTO SOFTBALL FIELD	350
26	M-16	272	RTE 15, MANGILAO	1020

27	ATP	282	AGANA TREATMENT PLANT	15000
28	A-31	283	AGANA HEIGHTS RESERVOIR	1020
29	A-32	283	AGANA HEIGHTS USNH INCINERATOR	1020
30	A-17	294	PUBLIC HEALTH- MANGILAO	1020
31	A-19	294	RTE 4 PAGO - MANIBUSAN'S PLACE	1020
32	CD-10	294	TAI MANGILAO PUMP STATION	3250
33	M-12	310	HARMON LOOP ROAD	1020
34	M-17A	311	PEREZ QUARRY, BELOW BARRIGADA	1680
	M-20-A	311	PEREZ QUARRY, BELOW BARRIGADA	
	M-21	311	AIRPORT ROAD, NEXT TO GAS STA.	
35	M-17B	311	PEREZ QUARRY, BELOW BARRIGADA	1680
36	EX-11	322	LATTE HEIGHTS ESTATE, MANGILAO	1020
	M-23	322	CARNATION LANE	
37	M-1	322	LATTE HEIGHTS, MANGILAO	1020
38	M-2	322	LATTE HEIGHTS, MANGILAO	1020
39	M-3	322	LATTE HEIGHTS, MANGILAO	1020
40	M-4	322	LATTE HEIGHTS, MANGILAO	1020
41	M-5-15	322	BELOW LATTE HEIGHTS,	1680
42	M-6	322	BELOW LATTE HEIGHTS,	1020
43	M-7	322	BELOW LATTE HEIGHTS,	1020
44	M-8	322	CARNATION ROAD TO RTE. 15	1020
45	ND-11	322	LATTE HEIGHTS VILLAGE PUMP STA	350
46	ND-2	322	MACHECHE SUBDIVISION PUMP STA	620
47	ND-5	322	LATTE HEIGHTS DOUBLE TROUBLE	620
48	ND-6	322	LATTE HEIGHTS SUNRISE VILLA	350
49	ND-7	322	LATTE HEIGHTS SUBMARINE PUMP	350
50	WBP-11	322	LATTE HEIGHTS BSTR PUMP STA	620
51	WBP-4	322	BARRIGADA BOOSTER PUMP STA	
52	M-9	322	RTE. 15, LATTE HEIGHTS	
53	M-18	310		
54	M-21	311		
55	M-23	322		1020

C. SOUTHERN WATER WELLS & PUMPS

No.	Unit	Feeder	Location	Tank Capacity
1	WBP-18	294	PAGO BOOSTER PUMP STATION	2020
2	WBP-22	220	SINIFA WATER BOOSTER PUMP	620
3	WBP-20	223	SANTA RITA SPRING BSTR PUMP	1020
4	WBP-23	223	TRUMAN BOOSTER PUMP	1020
5	WBP-25	260	WINDWARD HILL BOOSTER PUMP	1680
6	MJ-1	261	MALAJLOJ, INARAJAN	350
7	WBP-12	261	MALAJLOJ BOOSTER PUMP STA	1020
8	WBP-5	262	BRIGADE BOOSTER PUMP STA	1680
9	SD-10	340	UMATAC-MERIZO PUMP STATION 17	350
10	SD-11	340	UMATAC-MERIZO PUMP STATION 18	350
11	SD-12	340	UMATAC-MERIZO PUMP STATION 19	1020
12	SD-13	340	UMATAC-MERIZO PUMP STATION 20	620
13	SD-6	340	UMATAC-MERIZO PUMP STATION 13	620
14	SD-7	340	UMATAC-MERIZO PUMP STATION 14	620
15	SD-8	340	UMATAC-MERIZO PUMP STATION 15	620
16	SD-9	340	UMATAC-MERIZO PUMP STATION 16	350
17	WBP-14	340	MERIZO BOOSTER PUMP	1020
18	WBP-15	340	TUGUAN BOOSTER PUMP- UMATAC	350
19	SD-4	341	UMATAC-MERIZO PUMP STATION 11	620
20	SD-5	341	UMATAC-MERIZO PUMP STATION 12	620
21	WBP-1	341	AGAT-UMATAC BSTR PUMP STA.	350
22	WBP-2	341	AGAT-UMATAC BSTR PUMP STA.	350
23	WBP-24	341	UMATAC VILLAGE BOOSTER PUMP	1020
24	CD-1	P-7	ASAN PUMP STATION	1020
25	CD-19	P-7	PITI PUMP STATION	620

D. PORTABLE GENERATOR UNITS

No.	Unit	Feeder	Location	Tank Capacity
1	2412		DEDEDO COMPOUND	150
2	2413		AGANA POWER PLANT	150
3	2414		AGANA POWER PLANT	150
4	2415		AGANA POWER PLANT	150
5	2416		AGANA POWER PLANT	150
6	2417		AGANA POWER PLANT	150
7	2418		AGANA POWER PLANT	150
8	2419		AGANA POWER PLANT	150
9	2420		AGANA POWER PLANT	150
10	2421		AGANA POWER PLANT	200