



CONSOLIDATED COMMISSION ON UTILITIES  
Guam Power Authority | Guam Waterworks Authority  
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

**GWA RESOLUTION NO. 29-FY2018**

**RELATIVE TO APPROVAL OF CHANGE ORDER TO THE YIGO AND ASTUMBO  
RESERVOIR CONSTRUCTION MANAGEMENT CONTRACT**

**WHEREAS**, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities (“CCU”) has plenary authority over financial, contractual and policy matters relative to the Guam Waterworks Authority (“GWA”); and

**WHEREAS**, the Guam Waterworks Authority (“GWA”) is a Guam Public Corporation established and existing under the laws of Guam; and

**WHEREAS**, GWA is currently working on critical reservoir projects under the 2011 Court Order (“CO”) Paragraph 29 – Storage Tank/Reservoir Repair, Replacement, and Relocation Program; and

**WHEREAS**, Resolution No. 02–FY2015 and Resolution No. 43-FY2017 authorized the total funding of One Million Eight Hundred Forty-Nine Thousand Eight Hundred Forty Dollars and Thirty Cents (\$1,849,840.30) for the construction management services of the Yigo No. 1 reservoir, Yigo No. 3 reservoir, Yigo Elevated booster pump station, and Astumbo No. 1 reservoir construction; and

**WHEREAS**, the original completion date for the Yigo and Astumbo sites are as follows:

- Yigo No. 1 and pump station – October 31, 2017
- Yigo No. 3 – July 31, 2018
- Astumbo No. 1 – October 31, 2017; and

1           **WHEREAS**, GWA issued Change Order No. 1 to Change Order No. 3 for construction  
2 management services for the Yigo No. 3 reservoir and extension of construction management  
3 services to July 29, 2018 for the Yigo site and February 18, 2018 for the Astumbo site due to the  
4 Contractor's delay in completing the project; and

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6           **WHEREAS**, due to continued delay by the Contractor, the revised final completion date  
7 is projected to be November 21, 2018; and

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9           **WHEREAS**, the Contractor has agreed through a Memorandum of Understanding  
10 (EXHIBIT A) and a corresponding contract modification, to pay for the additional construction  
11 management cost for the period of February 19, 2018 to November 21, 2018 for the Astumbo  
12 No. 1 Reservoir site and from July 31, 2018 to November 21, 2018 for the Yigo No. 1 and No. 3  
13 Reservoir site; and

14  
15           **WHEREAS**, GWA and GHD has negotiated a price of Four Hundred Eighty-One  
16 Thousand Five Hundred Sixty-Three Dollars (\$481,563.00) for the construction management  
17 services described above (EXHIBIT B); and

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19           **WHEREAS**, if the project is delayed further than the revised completion date of  
20 November 21, 2018 by the Contractor, the Contractor shall cover any additional construction  
21 management services and all other associated cost until final completion; and

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23           **WHEREAS**, GWA management is requesting authorization to increase the funding  
24 amount by Four Hundred Eighty-One Thousand Five Hundred Sixty-Three Dollars  
25 (\$481,563.00) to bring the total authorized funding to Two Million Three Hundred Thirty-One  
26 Thousand Four Hundred Three Dollars and Thirty Cents (\$2,331,403.30); and

27  
28           **WHEREAS**, the funding source to address paying the CM services due to the extended  
29 completion date will be from Internal Funded CIP, bond funds from PW 09-11 "Water System  
30 Reservoirs 2005 Improvements", and PW 12-05 "Tank Major Repair Yigo No. 1, Mangilao No.  
31 2, and Astumbo No. 1"; and  
32

1           **WHEREAS**, money received from the Contractor through a deductive change order from  
2 Contractor's contract will be applied to replenish the funding sources used for the additional  
3 construction management work; and  
4

5           **NOW BE IT THEREFORE RESOLVED**, the Consolidated Commission on Utilities  
6 does hereby approve the following:

- 7           1. The recitals set forth above hereby constitute the findings of the CCU.
- 8           2. The CCU finds that the terms of the fee proposal submitted by GHD are fair  
9           and reasonable.
- 10          3. The CCU hereby authorizes GWA management to accept the fee proposal of  
11           Four Hundred Eighty-One Thousand Five Hundred Sixty-Three Dollars  
12           (\$481,563.00) from GHD (EXHIBIT B) and execute a Change Order.
- 13          4. The CCU hereby approves the total funding amount to Two Million Three  
14           Hundred Thirty-One Thousand Four Hundred Three Dollars and Thirty Cents  
15           (\$2,331,403.30.)
- 16          5. The CCU approves the funding sources from Internal Funded CIP; bond funds  
17           from PW 09-11: Water System Reservoirs 2005 Improvements; and PW 12-  
18           05: Tank Major Repair Yigo No. 1, Mangilao No. 2, and Astumbo No. 1
- 19          6. The CCU approves that money received from the Contractor through a  
20           deductive change order from the Contractor's contract will be applied to  
21           replenish funding sources for the additional construction management work.  
22

23           **RESOLVED**, that the Chairman certified and the Board Secretary attests to the adoption  
24 of this Resolution.  
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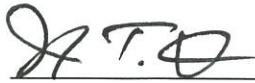
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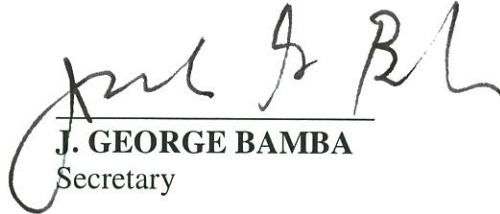
1 **DULY AND REGULARLY ADOPTED**, this 22<sup>nd</sup> day of May 2018.

2  
3 Certified by:

Attested by:

4 

5 **JOSEPH T. DUENAS**  
6 Chairperson

7 

**J. GEORGE BAMBA**  
Secretary

8  
9 **SECRETARY'S CERTIFICATE**

10  
11 I, J. George Bamba, Board Secretary of the Consolidated Commission on Utilities as  
12 evidenced by my signature above do hereby certify as follows:

13  
14 The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular  
15 meeting by the members of the Guam Consolidated Commission on Utilities, duly and  
16 legally held at a place properly noticed and advertised at which meeting a quorum was  
present and the members who were present voted as follows:

17 AYES: \_\_\_\_\_ 4 \_\_\_\_\_  
18 NAYS: \_\_\_\_\_ 0 \_\_\_\_\_  
19 ABSTENTIONS: \_\_\_\_\_ 0 \_\_\_\_\_  
20 ABSENT: \_\_\_\_\_ 1 \_\_\_\_\_



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## Memorandum

16 March 2018

**To:** Abhyash Chand, Pernix Guam, LLC  
Steve Greco, Pernix Guam, LLC  
Tom Cruz, GWA  
Brett Railey, GWA  
Garrett Yeoh, GWA  
Bryan Ryley, GHD Inc.

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**From:** Aaron Sutton, GHD Inc. **Tel:** (671) 472-6792

**Subject:** Contract Extension Memorandum of Understanding **Job No:** W13-001-BND

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**Project:** PW 12-05 GWA Construction of Yigo and Astumbo Reservoir

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This Memorandum of Understanding ("MOU") supplements the Contract between the Guam Waterworks Authority ("GWA") and Pernix Guam LLC ("Contractor") and will be attached to a Modification to that Contract. This MOU results from the meeting held at the Gloria B. Nelson Public Services Building, 688 Route 15, Mangilao, Guam, Multi-Purpose Room, 3rd Floor, on February 2, 2018 and a subsequent discussion on March 6, 2018 concerning the delays of construction of the Yigo Reservoir No. 1 and Astumbo Reservoir. This MOU details the time extensions and responsibilities for costs as agreed by the GWA and Contractor.

**1. Time Extension** GWA shall extend the Substantial Completion dates for the Astumbo Reservoir, Yigo No. 1 Reservoir and Yigo No. 2 Reservoir to October 15, 2018. The Final Completion of Yigo No. 1 & 2 Reservoirs and Astumbo Reservoir shall be achieved no later than November 21, 2018. With respect to the Astumbo Reservoir, Contractor may use the existing waterline to achieve Substantial Completion but the new waterline must be operational to achieve Final Completion.

The time extensions above will cover any and all delays in connection with;

- Change Orders No. 1, 2 and 3,
- the asbestos abatement (Contract Change Request (CCR) No. 12),
- the sub-contractor changes from RPG Construction to HSG Co. Ltd.,
- the construction permit,
- check valve vaults at both sites (CO No. 2),
- flexible pipe fittings (CO No. 2 and CCR No. 14),

- vault size increases (CCR No. 6, 10 and 23),
- Victaulic fittings (CCR No. 13),
- washdown pipe change (CCR No. 16),
- louver and door hardware change (CCR No. 19),
- conduits to the existing tank (CCR No. 20),
- stainless steel pump controller enclosure (CCR No. 22),
- changes resulting from Requests For Information up to and including RFI No. 73 for Yigo and RFI No. 22 for Astumbo.

Contract change requests after the date of the Contract Modification including this MOU may be considered to the extent allowed by the Contract Documents provided they are considered reasonable and justified in the opinion of GWA.

2. **Costs** GWA will carry the costs for extended Construction Management services through February 17, 2018 at the Astumbo Reservoir site. From February 18, 2018 to the date of Final Completion, costs for Construction Management services at the Astumbo site shall be borne by the Contractor.

GWA will carry the costs for extended Construction Management services through July 31, 2018 at the Yigo No. 1 and 2 Reservoir sites. From July 31, 2018 to the date of Final Completion, costs for Construction Management services at the Yigo sites shall be borne by the Contractor.

The additional Construction Management services shall be invoiced to GWA by GHD directly, on a time and material basis, and are estimated to be in the total amount of \$8,000 to \$9,500 per week per site for the Astumbo and Yigo sites. GWA and Contractor agree that the total Construction Management costs shall not exceed \$9,500 per week per site, or \$19,000 per week for both sites. On a monthly basis, GWA shall provide a copy of the GHD invoice to Contractor and GWA may deduct the applicable portion of the CM's invoice amount as a deductive change order under the Contract with Pernix.

GWA's agreement to cover the additional costs for Construction Management services through February 17, 2018 (Astumbo) and July 31, 2018 (Yigo) in lieu of assessing liquidated damages is contingent upon Final Completion of all work no later than November 21, 2018. Any delay in the Final Completion dates beyond November 21, 2018 will be considered eligible for liquidated damages at \$4,500 per day per reservoir per site at the discretion of GWA.

In the event that GWA is assessed fines for not complying with the November 11, 2011 Order For Preliminary Relief of the Federal District Court of Guam in Civil Case No. 02-00035 with respect to completion of the Astumbo and Yigo No. 1 and No. 2 reservoirs, Contractor shall reimburse GWA for the full amount of such fines.

Except as revised by this MOU and related Change Order No. 4, all other terms and conditions of the Contract as revised by Change Orders No. 1, 2 and 3, including the provisions for inclement weather in Paragraph 1.10 of Section 01311, shall continue to apply.

By signing this MOU, all parties are agreeing to the above conditions.

**Abhyash Chand**  
Pernix Guam, Inc.  
(Contractor)

**Thomas Cruz, PE**  
Guam Waterworks Authority  
(Owner)

**Aaron Sutton, PE**  
Construction Manager, GHD Inc.

**Bryan Ryley**  
Construction Manager, GHD Inc.

Digitally signed by Bryan J. Ryley  
DN: cn=Bryan J. Ryley, o=Bryan J.  
Ryley, c=United States of America  
o=Construction Management Solutions  
Inc., e=bryan.ryley@ghd.com  
Reason: I am the author of this document  
Location: Guam  
Date: 2018.03.16 15:10:00

Cc: Brett Railey, GWA  
Garrett Yeoh, GWA  
Steve Greco, Pernix



# EXHIBIT B

April 20, 2018

Mr. Tom Cruz , P.E.  
Chief Engineer  
Guam Waterworks Authority  
Gloria B. Nelson Public Service Building  
688 Route 15  
Mangilao, Guam 96913

**RE: Change Proposal 04 (CP-4) for Construction Management Services for PW12-05 GWA Yigo and Astumbo Replacement Reservoirs, GWA Project W13-001-BND Additional CM Services for Astumbo and Yigo No. 1 and 2 Reservoirs Construction Due to Construction Delay**

Dear Mr. Cruz:

GHD is pleased to submit this proposal for an amendment to our Scope of Work and Fee for the above referenced project. This scope of work defines the construction management services that will be provided by GHD Inc. and their subconsultants for additional CM services due to construction delays of Astumbo and Yigo No. 1 and 2 Reservoirs. The additional scope for **CP-04** as discussed with GWA is detailed below. The original project scope will be charged on a time and material (T&M) basis per the fees in the table below.

## **SCOPE OF WORK**

**General:** GHD shall provide additional Construction Management (CM) Services for the nine (8) month period of February 19, 2018 through October 15, 2018, with final completion and closeout services to November 21, 2018 for the Astumbo Reservoir and an additional four (4) month period, from July 30, 2018 to October 15, 2018, with final completion and closeout services to November 21, 2018 for the Yigo No. 1 and 2 Reservoirs. This is based on the construction schedule submitted by the Contractor for the month of December 2017. The original contract completion date for CM services was for twelve (12) months following the notice to proceed for the Contractor on December 5, 2016 with an extended month for closeout. This CP is in conjunction with a Memorandum of Understanding (MOU) dated March 16, 2018 and signed by GHD, Pernix and GWA. The October 15, 2018 substantial completion date and November 21, 2018 final completion date are agreed upon in the MOU.

The extended CM services included in this Change Proposal will be billed on a Time and Material basis. GHD's invoices will be paid by GWA directly, and the same amount will be deducted from Pernix's contract as agreed upon in the before mentioned MOU.





**Details:** The Scope of Work will provide an extension of the construction phase tasks detailed in our original Scope of Work that relate to the construction of Astumbo and Yigo No. 1 and 2 Reservoirs. No additional QA testing and survey service are included as they were covered in the original Scope of Work and Change Order No. 2.

**Data and Assumptions:**

- a. These CM Services are being provided for the construction of improvements shown on the construction plans and included in the bid schedule that was awarded to Pernix at the Astumbo and Yigo No. 1 and 2 Reservoir sites. If additional improvements are added to the construction contract then fees for additional CM Services will be negotiated with GWA.
- b. For the Astumbo Reservoir, it is understood that the intent is for GHD to provide eight (8) consecutive months (171 work days or 238 concurrent calendar days) of half-time Resident Engineer (RE)/Project Manager (PM) services and eight (8) consecutive months of full time onsite inspection. RE/PM services have been estimated at 20 hours per week and onsite inspector at 40 hours per week up to a maximum of \$9,500 per week. Five and a half (5.5) additional consecutive weeks (27 work days or 37 concurrent calendar days) of reduced time will be provided for the final completion time period per the MOU. During final construction phase (after substantial completion) of construction, GHD will provide RE/PM services estimated at 10 hours per week and onsite inspector at 20 hours per week. This is based upon a standard 40 hour work week.

For the Yigo No. 1 and 2 Reservoirs, it is understood that the intent is for GHD to provide two and a half (2.5) consecutive months (54 work days or 76 calendar days) of half-time Resident Engineer (RE)/Project Manager (PM) services and two and a half (2.5) consecutive months of full time onsite inspection. RE/PM services have been estimated at 20 hours per week up to a maximum of \$9,500 per week. Five and a half (5.5) additional consecutive weeks (27 work days or 37 concurrent calendar days) of reduced time will be provided for the final completion time period per the MOU. During final construction phase (after substantial completion) of construction, GHD will provide RE/PM services estimated at 10 hours per week and onsite inspection at 20 hours per week. This is based upon a standard 40 hour work week.

- c. GWA agrees to negotiate with GHD for change orders for additional construction phase services for substantial completion beyond October 15, 2018 and final completion beyond November 21, 2018 at either site due to construction delays, adverse weather delays, or any other reason not due to the negligent acts of GHD until final acceptance of the project is achieved.

**Our time and material fees are summarized in the following Fee Schedule:**

**FEE SCHEDULE FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES FOR  
ASTUMBO AND YIGO NO. 1 AND 2 RESERVOIRS**

TASKS	TOTALS
Original Contract Amount	\$1,387,982
Contract Amount with CO #1	\$1,422,905
Contract Amount with CO #2	\$1,820,471



Contract Amount with CO#3	\$1,849,840.30
CP-04 Astumbo Reservoir CM Services from Construction Delay	\$335,377
CP-04 Yigo Reservoirs CM Services from Construction Delay	\$123,254
<b>SUBTOTAL COST</b>	<b>\$458,631</b>
GUAM GRT (at 5%)	\$22,932
<b>TOTAL CHANGE PROPOSAL COST</b>	<b>\$481,563</b>
<b>AMENDED CONTRACT AMOUNT</b>	<b>\$2,331,403.30</b>

\* Work which exceeds the scope of this proposal will be brought to your attention for review, approval and fee adjustment. Such extra services, will be performed on a time and materials basis (per our Fee Schedule in effect at the time services are performed), or for a mutually agreed upon lump sum fees. Work performed will be billed monthly based on estimated percent complete. Payment is due within 30 days of receipt and acceptance of the invoice. We stand ready to provide the professional services necessary to assist GWA in this endeavor.

Sincerely,

Aaron Sutton  
Construction Manager

Reviewed by

Bryan Ryley  
Construction Manager

Attachments: GHD Change Proposal Fees for Astumbo and Yigo sites dated 04/20/2018

Cc: file