



GWA RESOLUTION NO. 29-FY2019

**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. 29-FY2018 authorized the total funding of Two Million Three Hundred Thirty-Three Thousand Four Hundred Three Dollars and Thirty Cents (\$2,331,403.30) 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

WHEREAS, GWA issued Change Order No. 1 to Change Order No. 4 for construction management services for the Yigo No. 3 reservoir and extension of construction management

1 services to November 21, 2018 for the Yigo site and the Astumbo site due to the Contractor's
2 delay in completing the project; and

3
4 **WHEREAS**, the Contractor has agreed through a new Memorandum of Understanding
5 (Exhibit A) to pay for the additional construction management cost until Final Completion is
6 achieved for all sites; and

7
8 **WHEREAS**, due to continued delay by the Contractor, the revised final completion date
9 is projected to be August 16, 2019; and

10
11 **WHEREAS**, GWA and GHD have negotiated a time and material price of One Hundred
12 Twenty-Three Thousand One Hundred Ninety Dollars (\$123,190.00) for the continued
13 construction management services described above (Exhibit B); and

14
15 **WHEREAS**, if the project is delayed further than the revised completion date of August
16 16, 2019 by the Contractor, the Contractor shall cover any additional construction management
17 services and all other associated costs until final completion; and

18
19 **WHEREAS**, GWA management is requesting authorization to increase the funding
20 amount for construction management services by One Hundred Twenty-Three Thousand One
21 Hundred Ninety Dollars (\$123,190.00) to bring the total authorized funding to Two Million Four
22 Hundred Fifty-Four Thousand Five Hundred Ninety-Three Dollars and Thirty Cents
23 (\$2,454,593.30); and

24
25 **WHEREAS**, the funding sources to address paying the CM services due to the extended
26 completion date will be from Internal Funded CIP, PW 09-11 "Water System Reservoirs 2005
27 Improvements", and PW 12-05 "Tank Major Repair Yigo No. 1, Mangilao No. 2, and Astumbo
28 No. 1"; and

29
30 **WHEREAS**, money received from the Contractor through a deductive change order from
31 Contractor's contract will be applied to replenish the funding sources used for the additional
32 construction management work; and

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

- 3
- 4 1. The recitals set forth above hereby constitute the findings of the CCU.
 - 5 2. The CCU finds that the terms of the fee proposal submitted by GHD are fair
6 and reasonable.
 - 7 3. The CCU hereby authorizes GWA management to accept the fee proposal of
8 One Hundred Twenty-Three Thousand One Hundred Ninety Dollars
9 (\$123,190.00) (Exhibit B) from GHD and execute a Change Order.
 - 10 4. The CCU hereby approves the total funding amount to Two Million Four
11 Hundred Fifty-Four Thousand Five Hundred Ninety-Three Dollars and Thirty
12 Cents (\$2,454,593.30).
 - 13 5. The CCU approves the funding sources from Internal Funded CIP; PW 09-11:
14 Water System Reservoirs 2005 Improvements; and PW 12-05: Tank Major
15 Repair Yigo No. 1, Mangilao No. 2, and Astumbo No. 1.
 - 16 6. The CCU approves that money received from the Contractor through a
17 deductive change order from the Contractor's contract will be applied to
18 replenish funding sources for the additional construction management work.

19

20 **RESOLVED**, that the Chairman certified and the Board Secretary attests to the adoption
21 of this Resolution.

22

23 **DULY AND REGULARLY ADOPTED**, this 28th day of May, 2019.

24

25 Certified by:

26 Attested by:

27 

28 **JOSEPH T. DUENAS**
29 Chairperson

27 

28 **MICHAEL T. LIMTIACO**
29 Secretary

30 //

31 //

SECRETARY'S CERTIFICATE

I, Michael T. Limtiaco, Board Secretary of the Consolidated Commission on Utilities as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular meeting by the members of the Guam Consolidated Commission on Utilities, duly and 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:

AYES: 5
NAYS: 0
ABSTENTIONS: 0
ABSENT: 0



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Exhibit A

Memorandum

28 February 2019

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

From: Aaron Sutton, GHD Inc.

Tel: (671) 472-6792

Subject: Contract Extension Memorandum of Understanding #2

Job No: W13-001-BND

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

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 is to extend the MOU dated March 16, 2018 agreed upon and signed by all parties. This MOU details the extension of responsibilities for costs as agreed by the GWA and Contractor.

1. **Time Extension** – The Substantial Completion date of October 15, 2018 and Final Completion date of November 21, 2018 for the Astumbo Reservoir, Yigo No. 1 Reservoir and Yigo No. 2 Reservoir extended by the MOU dated March 16, 2018 have expired.

Contract change requests 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** – Costs for Construction Management services at the Astumbo and Yigo sites shall be borne by the Contractor from November 21, 2018 until Final Completion is achieved as defined by GWA.

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 \$3,500 to \$4,500 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.

Further delays in the Final Completion of the project 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. 10 and future related Change Order(s), all other terms and conditions of the Contract as revised by Change Orders No. 1, through 9, 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 Raley
Construction Manager, GHD Inc.

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



Exhibit B

May 8, 2019

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 06 (CP-6) 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-06** as discussed with GWA is detailed below. The additional 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 four and a half (4.5) month period of April 1, 2019 through August 16, 2019. This is expected to cover services for substantial completion to final completion and closeout services of the Yigo No. 1 and 2 Reservoirs. This is based on expected schedule as stated by the Contractor for the delivery and completion of punch list items. This CP is in conjunction with a Memorandum of Understanding (MOU) dated March 16, 2018 and MOU dated February 28, 2019, both signed by GHD, Pernix and GWA. The extended October 15, 2018 substantial completion date and November 21, 2018 final completion date as agreed upon in the MOU dated March 16, 2018 has expired. From then to the March invoice, the CM services have been deducted from the budget allotted in Change Order #4.

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 MOUs.

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 Yigo and Astumbo Reservoirs, it is understood that the intent is for GHD to provide four and a half (4.5) consecutive months (20 weeks) of part-time, as-needed Resident Engineer (RE)/Project Manager (PM) services and four and a half (4.5) consecutive months of part-time onsite inspection averaging three (3) days per week. RE/PM services have been estimated at 8 hours per week and onsite inspector at 24 hours per week up to a maximum of \$5,000 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 final completion beyond August 16, 2019 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#4 | \$2,331,403.30 |
| CP-06 Yigo and Astumbo Reservoir CM Services from Construction Delay | \$117,324 |
| GUAM GRT (at 5%) | \$5,866 |
| TOTAL CHANGE PROPOSAL COST | \$123,190 |
| AMENDED CONTRACT AMOUNT | \$2,454,593.30 |

* 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,

A handwritten signature in black ink, appearing to read "Aaron Sutton".

Aaron Sutton
Construction Manager

Reviewed by

A handwritten signature in black ink, appearing to read "Bryan Ryley".

Bryan Ryley
Construction Manager

Attachments: GHD Change Proposal Fees for Astumbo and Yigo sites dated 05/08/2019

Cc: file

| Phase Letter and Task Number | Task Description | Principal Engineer (Paul) | PM/Resident Engineer (Aaron) | Structural/Special Inspector (Aaron) | CM Safety Officer (Mark) | Civil Inspector/Structural (Peter) | Admin (Quinn) | Amount |
|------------------------------|---|---------------------------|------------------------------|--------------------------------------|--------------------------|------------------------------------|---------------|---------|
| HOURLY LABOR RATES | | 245 | 205 | 205 | 95 | 146 | 60 | |
| B | CONSTRUCTION PHASE TASKS | | | | | | | |
| B1.0 | Implement & Maintain Project Controls | | | | | | | |
| B2.0 | Project Correspondence | | | | | | | |
| B2.1 | Daily Construction Reports (assumes 3 days/wk @ 20 wks = 39 logs) | - | 10 | | | 60 | - | 10,810 |
| B2.2 | Material Testing Logs | | | | | - | - | |
| B2.3 | Progress Photo Log | | | | | 20 | - | 2,920 |
| B2.4 | Videography & Live Video Feed (not included) | | | | | - | - | |
| B3.0 | Submittals & Shop Drawings (assumes 0) | | | | | | | |
| B3.1 | Contractor Project Schedules (assumes 1 ea.) | | | | | 2 | - | 292 |
| B3.2 | CM Master project Schedule | - | - | | | | | |
| B4.0 | Payment Requests (assumes 3) | | 2 | | | 9 | | 1,724 |
| B4.1 | Payroll Reports (assumes 3) | | | | | 4 | | 584 |
| B5.0 | Project Meetings | | | | | | | |
| B5.1 | Pre-construction Conference | - | - | | | - | | |
| B5.2 | Progress Meetings (10 x 2 hours each plus prep & minutes) | - | 30 | | | 45 | | 12,720 |
| B5.3 | As-built Drawing Reviews | | | | | | | |
| B5.4 | Other Meetings | - | - | | | | | |
| B6.0 | Request for Information (assumes 0 RFIs at 2 hours each) | | | | | | | |
| B7.0 | General Compliance Monitoring | | | | | | | |
| B7.1 | Labor Laws (see Task B4.1) | | | | | | | |
| B7.2 | Permit Compliance | | | | | | | |
| B7.3 | Insurance (see Task A5) | | | | | | | |
| B8.0 | Claims and Disputes (see Tasks B8.1 to B8.7) | | | | | | | |
| B8.1 | Claim Records (assumes 1 potential claim incidents) | | | | | | | |
| B8.2 | Claims Reviews & Interpretations | | | | | | | |
| B8.3 | Change Order Review (assumes 1 CO's) | - | 2 | | | 4 | | 994 |
| B8.4 | Design Changes (assumes 0 design changes) | - | - | | | | | |
| B8.5 | Design Change/Verification Request (DCVR) | - | - | | | | | |
| B8.6 | Change Order Negotiation with Contractor | - | - | | | | | |
| B8.7 | Change Order Documents (see task 9.0) | | | | | | | |
| B9.0 | Project Records & Document Management/Communication | | 80 | | | 120 | - | 33,920 |
| B10.0 | Construction Inspection and Quality Control Monitoring | | | | | | | |
| B10.1 | Onsite Inspector (see notes) | | 36 | | | 216 | - | 38,916 |
| B10.2 | Special Inspections | | | | | | | |
| B10.3 | Testing | | | | | | | |
| B10.3.1 | Contractor Testing (part of Task B10.1) | | | | | | | |
| B10.3.2 | CM/CQA Testing (also see expenses) | | | | | | | |
| B10.3.3 | GWA Testing (part of Task B10.1) | | | | | | | |
| B10.3.4 | Acceptance (part of Task B10.1) | | | | | | | |
| B11.0 | Construction QA Survey Services (also see expenses) | | | | | | | |
| B12.0 | Project Closeout | | | | | | | |
| B12.1 | Punchlist Development | - | | | | | | |
| B12.2 | Project Closeout Inspections | - | 8 | | | 6 | | 2,516 |
| B13.0 | Training and Warranty Periods | | | | | | | |
| B13.1 | Training | | | | | | | |
| B13.2 | Warranties | | | | | | | |
| | CONSTRUCTION PHASE SERVICES HOUR SUBTOTAL | - | 168 | - | - | 486 | - | |
| | CONSTRUCTION PHASE SERVICES SUBTOTAL | - | 34,440 | - | - | 70,956 | - | 105,396 |
| | CONSTRUCTION PHASE EXPENSES SUBTOTAL | | | | | | | |
| | CONSTRUCTION PHASE SERVICES & EXPENSES TOTAL | - | 34,440 | - | - | 70,956 | - | 105,396 |
| C | POST CONSTRUCTION SERVICES | | | | | | | |
| C1 | Final Report | - | 16 | | | 40 | | 9,120 |
| C2 | Record Drawings | | 8 | | | 8 | | 2,808 |
| | POST CONSTRUCTION PHASE SERVICES HOUR SUBTOTAL | - | 24 | - | - | 48 | - | |
| | POST CONSTRUCTION PHASE SERVICES SUBTOTAL | - | 4,920 | - | - | 7,008 | - | 11,928 |
| | POST CONSTRUCTION PHASE EXPENSES SUBTOTAL | | | | | | | |
| | SUBTOTAL POST CONSTRUCTION SERVICES | - | 4,920 | - | - | 7,008 | - | 11,928 |
| ALL | SUBTOTAL HOURS | - | 192 | - | - | 534 | - | |

| Phase Letter and Task Number | Task Description | Principal Engineer (Paul) | PM/Resident Engineer (Aaron) | Structural/Special Inspector (Aaron) | CM Safety Officer (Mark) | Civil Inspector/Structural (Peter) | Admin (Quinn) | Amount |
|------------------------------|------------------|------------------------------|---------------------------------|---|-----------------------------|---------------------------------------|------------------|---------|
| ALL | SUBTOTAL | | | | | | | 117,324 |
| ALL | GRT AT 5% | | | | | | | 5,866 |
| ALL | GRAND TOTAL | | | | | | | 123,190 |