



CONSOLIDATED COMMISSION ON UTILITIES

Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagåtña, Guam 96932 | (671) 648-3002 | guamccu.org

GUAM WATERWORKS AUTHORITY WORK SESSION

CCU Conference Room
8:30 a.m., October 15, 2024

AGENDA

1. CALL TO ORDER
2. GWA ISSUES FOR DECISION
 - 2.1 [Resolution No. 01-FY2025 – Relative to Approving the Guam Waterworks Authority Fiscal Year 2025 Operations and Maintenance Budget](#)
 - 2.2 Resolution No. 02-FY2025 – Relative to Approving the Procurement for Laboratory Testing Services
 - 2.3 [Resolution No. 03-FY2025 – Relative to Approval of the Liquid Chlorine Supply Contract for Water Production and Treatment Facilities Island-Wide](#)
 - 2.4 [Resolution No. 04-FY2025 – Relative to Approval to Procure Project Management and Design Services Contract for Sewer Transmission System Condition Assessment and Design Island-Wide](#)
 - 2.5 [Resolution No. 05-FY2025 - Relative to Approval of Amendment for the Indefinite Delivery/Indefinite Quantity Professional Project/Construction Management Services Contract for Island-Wide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project for AECOM Technical Services, Inc.](#)
 - 2.6 [Resolution No. 06-FY2025 - Relative to Approval of Amendment for the Indefinite Delivery/Indefinite Quantity Professional Project/Construction Management Services Contract for Island-Wide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project for Brown and Caldwell](#)
 - 2.7 [Resolution No. 07-FY2025 - Relative to the Amendment and Approval of Position Classification Specification for the Network Analyst and Network Systems Administrator Positions](#)
3. [GWA GM REPORT](#)
 - 3.1 [Administration](#)
 - 3.2 Compliance
 - 3.3 [Engineering / Capital Improvement Program](#)
 - 3.4 Financial
 - 3.5 [Operations](#)
 - 3.6 Other
4. OTHER DISCUSSION
5. ANNOUNCEMENTS
 - 5.1 Next CCU Meetings: October 17, 2024 - GPA WS at 8:30 a.m.
October 22, 2024 - CCU Regular Board Meeting at 5:30 p.m.

Agenda for Guam Waterworks Authority Work Session
October 15, 2024
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6. EXECUTIVE SESSION
 - 6.1 [Litigation Matter](#)
7. ADJOURNMENT



Issues for Decision

Resolution No. 01- FY2025

Relative to Approving the Guam Waterworks Authority Fiscal Year 2025 Operations and Maintenance Budget

What is the project's objective and is it necessary and urgent?

The resolution's objective is to obtain approval of the Fiscal Year 2025 budget based on rates and expenses as adjusted by the Public Utilities Commission (PUC) under Docket 24-05 on September 24, 2024. Approval is necessary and urgent to sustain GWA's continued efforts to modernize infrastructure, comply with federal mandates, and to ensure the proper maintenance of assets, which is critical for maintaining service reliability and supporting the long-term sustainability of GWA's infrastructure.

An interim budget under Resolution 32-FY2024 was previously authorized to allow for operational expenses in case the PUC did not approve GWA's request before the start of the fiscal year on October 1. With PUC approval now in place, the FY2025 budget must be adopted to ensure continued financial stability and operational functionality.

Where is the location?

Not Applicable

How much will it cost?

Based on the new rates approved for all lifeline and non-lifeline water and wastewater customers classes, projected revenues for FY2025 are \$138.4 million, net of bad debt, with an additional \$1.5 million in interest income.

Operating costs are projected at \$97.6 million (excluding depreciation), which includes:

- \$34.9 million for utilities,
- \$35.2 million for gross salaries and benefits,
- \$13.7 million for administrative and general expenses,
- \$9.3 million for contractual costs, and
- \$4.5 million for retirees.

Additionally, the budget includes \$38.9 million in debt service payments, \$12.5 million for revenue-funded capital expenses, and maintains a 1.32x debt coverage ratio as required by the rate covenants. These financial provisions ensure GWA meets both its operational and regulatory obligations while maintaining financial stability.

When will it be completed?

This resolution covers the period of FY2025 from October 1, 2024, through September 30, 2025.

What is the funding source?

Rate revenues serve as the budget's primary fund source

The RFP/BID responses (if applicable):

Not Applicable



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Guam Power Authority | Guam Waterworks Authority
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GWA RESOLUTION NO. 01-FY2025

**RELATIVE TO APPROVING THE GUAM WATERWORKS AUTHORITY FISCAL
YEAR 2025 OPERATIONS AND MAINTENANCE BUDGET**

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", "Authority"); and

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

WHEREAS, in March 2024 the CCU adopted Resolution 11-FY2024 *Relative to Approving the Five-Year Financial Plan and Capital Improvement Program*; and

WHEREAS, on June 6, 2024, GWA filed as Docket 24-05 its *FY2025 - 2029 Five-Year Financial Plan and Rate Increase Request* which included estimated annual budgets and capital improvement projects to provide for the continued modernization, operation, maintenance, and repair of GWA's water and wastewater systems; and

WHEREAS, GWA requires sufficient revenues to meet projected costs driven primarily by obligatory investments for system reliability, federal regulatory compliance, 2011 Federal Court Order, 2024 US EPA Partial Consent Decree and which must concurrently meet rate covenants delineated by GWA's bond indenture; and

WHEREAS, both GWA and PUC met requirements for a rate increase as required by the Rate Payer Bill of Rights through rate payer notifications and public hearings; and

WHEREAS, upon compliance with the *Rate Payers' Bill of Rights*, completion of seven (7) months of meetings with PUC consultants Georgetown Consulting Group (GCG), a Joint

1 Stipulated agreement between GWA and GCG was subsequently submitted to the PUC on
2 August 28, 2024; and

3
4 **WHEREAS**, the Joint Stipulation as submitted and signed by GWA and GCG was
5 approved and adopted by the PUC and the PUC authorized the following rate increases: for
6 FY2025 effective October 1, 2024, an 11.5% rate increase for basic lifeline and non-lifeline rates
7 across all rate classes of water and wastewater customers; for FY2026 effective October 1, 2025
8 a 10.75% increase for all non-lifeline water and wastewater rates, and a 7.75% increase at the
9 start of each fiscal year for FY2027, FY2028 and FY2029 for all non-lifeline water and
10 wastewater rates; and

11
12 **WHEREAS**, the authorized rate increases for FY2026 through FY2029 are not final and
13 are subject to change and approval following annual true-up proceedings; and

14
15 **WHEREAS**, the CCU adopted GWA Resolution No. 32-FY2024 *Relative to Approving*
16 *an Interim FY2025 First Quarter Operations & Maintenance Budget* on August 27, 2024, as the
17 PUC Rate Hearing scheduled for September 24, 2024, did not provide sufficient time to prepare
18 the FY2025 budget resolution based on the PUC Rate Order; and

19
20 **WHEREAS**, the adoption of the FY2025 budget is crucial for sustaining GWA's
21 continued efforts to modernize infrastructure, comply with federal mandates, and ensure the
22 reliability of water and wastewater services for the island of Guam; and

23
24 **WHEREAS**, the FY2025 approved 11.5% rate increase for all lifeline and non-lifeline
25 water and wastewater rates across all customer classes establish revenue projections of \$138.4
26 million, net of bad debt. Additionally, GWA expects to generate \$1.5 million in interest income;
27 and

28
29 **WHEREAS**, operating costs are projected at \$97.6 million excluding depreciation
30 comprised of \$34.9 million for utilities; \$35.2 million gross salaries and benefits; \$13.7 million

1 for administrative and general expenses; \$9.3 million in contractual costs and \$4.5 million for
2 retirees; and

3
4 **WHEREAS**, the budget includes provisions for \$38.9 million in debt service payments
5 and maintains compliance with rate covenants, ensuring a debt coverage ratio of 1.32x; and

6
7 **WHEREAS**, following the PUC approval of the GWA *FY2025 - 2029 Five-Year*
8 *Financial Plan and Rate Increase Request*, the Department of Defense (DOD) notified GWA of
9 a rate reductions in the cost per kilo-gallon of water GWA purchases from the Navy; and

10
11 **WHEREAS**, the Department of Defense (DOD) recently confirmed a reduction in Navy
12 water rates from \$24.07 to \$10.98 per kilo-gallon, but GWA has requested and is awaiting data
13 for reconciliation of GWA's consumption figures, and accordingly management will maintain
14 PUC-approved budget levels for FY2025, and subsequently adjust the FY2026 budget upon
15 completion of reconciliation and updated projections using confirmed consumption data and
16 rates; and

17
18 **WHEREAS**, management believes that the Rate Stabilization Fund plays a critical role
19 in managing Debt Service Coverage requirements, and any surplus revenue resulting from the
20 reduction in Navy water rates will be allocated to the Rate Stabilization Fund to further support
21 GWA's financial stability; and

22
23 **WHEREAS**, GWA continues to actively pursue grant opportunities to fund both
24 operational and maintenance expenses such as training and FTEs; and

25
26 **WHEREAS**, management seeks approval of the FY 2025 Operations & Maintenance
27 budget with rates and expenses as adjusted by the PUC outlined in Exhibit A attached hereto.

28
29 **NOW BE IT THEREFORE RESOLVED**; the Consolidated Commission on Utilities
30 does hereby approve the following:

- 31 1. The recitals set forth above hereby constitute the findings of the CCU.

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- 2. The CCU hereby authorizes this GWA Resolution No. 01-FY2025 *Relative to Approving the Guam Waterworks Authority Fiscal Year 2025 Operations and Maintenance Budget* to supersede GWA Resolution No. 32-FY2024 *Relative to Approving an Interim FY2025 First Quarter Operations & Maintenance Budget*.
- 3. The CCU further authorizes the GWA FY2025 Revenue, Operations & Maintenance Budget of \$138.4 million and \$97.6 million in revenues and expenses respectively in addition to other cash flow requirements such as debt service, working capital and debt coverage.
- 4. The CCU authorizes Management to transfer up to 10% of the total budget as necessary among and between cost categories.
- 5. The CCU authorizes management to hire personnel at the salary and benefit expenditure level specified in Exhibit A for Fiscal Year 2025.
- 6. The CCU authorizes that Operations and Maintenance expenses paid for by grants will not be charged against the FY2025 Revenue and Operations & Maintenance Budget.
- 7. The CCU likewise authorizes management to transfer any excess funds from revenues to GWA’s Rate Stabilization Fund (RSF) after the required year-to-date debt service coverage of 1.32x is satisfied.

RESOLVED, that the Chairperson certified, and the Board Secretary attests to the adoption of this Resolution.

DULY AND REGULARLY ADOPTED, this 22nd day of October 2024.

Certified by:

Attested by:

JOSEPH T. DUENAS

PEDRO ROY MARTINEZ

Chairperson

Secretary

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SECRETARY’S CERTIFICATE

I, Pedro Roy Martinez, 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: _____
NAYS: _____
ABSENT: _____
ABSTAIN: _____

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EXHIBIT A TO RESOLUTION 01-FY2025

GUAM WATERWORKS AUTHORITY
FISCAL YEAR 2025 BUDGET SUMMARY
PUC DOCKET 24-05 September 24,2024

	Historical Year	Prior Year	Projected
	FY 2023	FY 2024	FY 2025
Non-Lifeline Rate Increase	5.50%	16.70%	11.50%
Lifeline Rate Increase	0.00%	16.70%	11.50%
CASH SOURCES			
Water Service Revenues	69,672,862	79,600,069	88,925,862
Legislative Surcharge	2,147,271	2,810,565	2,878,526
Water SDC Revenues			
Water Rate Revenues	\$ 71,820,133	\$ 82,410,634	\$ 91,804,388
Wastewater Rate Revenues	37,478,560	45,709,022	48,990,256
Wastewater SDC Revenues			
Wastewater Rate Revenues	37,478,560	45,709,022	48,990,256
Other Revenues	567,167	487,416	515,000
Rate Revenue Adjustment	(3,044,250)		(1,914,585)
Credit Card Convenience Fees			
Bad Debt Adjustment	(421,467)	(989,267)	(973,434)
Total Operating Revenues ¹	\$ 106,400,143	\$ 127,617,805	\$ 138,421,625
Interest / Investment Income	1,972,141	2,400,930	1,568,788
Rate Stabilization Transfers Out (In) ²	18,050,000	950,000	
TOTAL SOURCES	\$ 126,422,284	\$ 130,968,735	\$ 139,990,413
CASH USES			
Power Purchases	24,397,961	21,431,502	21,300,054
Water Purchases	7,038,954	15,696,662	13,590,550
Salaries & Benefits ³	27,272,268	27,944,629	35,246,589
Admin & General ⁴	9,023,292	9,326,494	13,745,782
Contractual Expense	5,575,264	6,411,266	9,320,454
Retiree Expense	3,560,495	3,924,231	4,495,403
O&M Subtotal	\$ 76,868,234	\$ 84,734,784	\$ 97,698,832
Debt Service	39,036,678	38,762,231	38,904,329
Internally Funded Capital (IFCIP)	2,836,370	8,784,879	12,500,000
TOTAL USES	\$ 118,741,281	\$ 132,281,894	\$ 149,103,161
Net Annual Cash Flow	\$ 7,681,002	\$ (1,313,159)	\$ (9,112,748)
DEBT SERVICE COVERAGE			
Net Revenues	\$ 49,554,049	\$ 46,233,951	\$ 42,291,581
Adjustment, Regulatory Asset			3,840,800
Adjustment, Capitalized Labor	3,075,928	3,026,904	4,582,057
Adjustment, Other ⁵	673,200	701,500	701,500
Revenues Available for Debt Service	\$ 53,303,177	\$ 49,962,355	\$ 51,415,938
Total Debt Service	39,036,678	38,762,231	38,904,329
Debt Service Coverage	1.365	1.289	1.322

1 - Includes leachate and Navy revenues; excludes system development charge revenues

2 - FY 2023 value includes \$12.4 million of ARPA funds which was used to offset debt service coverage requirements

3 - Capitalized labor, which does not represent a cash impact, is not included in this calculation of annual net cash

4 - Excludes bad debt expense since this line item is included as an offset to rate revenues (per audited financials)

5 - Includes retiree COLA and end-of-year pension and OPEB adjustments



Issues for Decision

Resolution No. 03-FY2025

Relative to Approving the Liquid Chlorine Supply Contract for Water Production and Treatment Facilities Island-Wide

What is the project's objective and is it necessary and urgent?

The primary objective of this project is to ensure a continuous and adequate supply of liquid chlorine for GWA's water production and treatment facilities island-wide. Liquid chlorine is a critical chemical used to treat and disinfect drinking water, safeguarding its quality in compliance with the Safe Drinking Water Act and various federal and local regulations. This procurement is necessary to maintain GWA's ability to provide potable water that meets all required health standards and ensures public safety.

This procurement is both urgent and necessary for several reasons:

1. GWA is obligated by law to meet water quality standards as outlined by federal mandates, including the Safe Drinking Water Act, and local health regulations. Failure to comply could result in penalties, legal liabilities, and risk of public health emergencies.
2. The absence of sufficient chlorine supply could compromise the disinfection process, leading to the potential contamination of the drinking water supply. Such contamination poses significant health risks, including waterborne diseases, particularly to vulnerable populations.
3. GWA's water treatment operations are dependent on a steady supply of chlorine to prevent disruptions. Any lapse in supply could immediately impact water production and distribution, affecting homes, businesses, and critical infrastructure across the island.

Given the critical nature of chlorine in safeguarding the island's drinking water, the approval of this contract is essential to avoid operational delays and ensure that the public continues to receive safe, clean, and legally compliant water.

Where is the location?

Various locations Island-wide

How much will it cost?

3 Year Contract Cost Breakdown:

150lb. Chlorine Cylinder

- Unit Price: \$712.95 each
- Estimated Annual Usage: 1,260 cylinders
- Annual Cost: \$898,317.00

1 Ton Chlorine Cylinder

- Unit Price: \$7,149.16 each
- Estimated Annual Usage: 12 cylinders
- Annual Cost: \$85,789.92

Total Annual Cost: \$984,106.92

Total Cost for the 3-Year Contract Term: \$2,952,320.76

When will it be completed?

The contract is set to be completed at the conclusion of its initial 3-year term. However, there is an option to extend the contract up to two additional one-year terms, subject to mutual agreement by both parties.

What is the funding source?

Revenue generated by current service rates and fees for all water and wastewater customer classes.

The RFP/BID responses (if applicable):

GWA IFB No. 2024-12 Liquid Chlorine Cylinders

Bid Advertisement Date: July 11, 2024

Bid Opening Date and Time: August 23, 2024, at 10:00 AM

List of Interested Bidders:

- Pacific Revolution Corp
- Marianas Gas Corp dba Island Equipment Company
- Guam Pacific Enterprise

Bid Submission Received:

- Marianas Gas Corp dba Island Equipment Company



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GWA RESOLUTION NO. 03-FY2025

RELATIVE TO APPROVING THE LIQUID CHLORINE SUPPLY CONTRACT FOR WATER PRODUCTION AND TREATMENT FACILITIES ISLAND-WIDE

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, on July 11, 2024, GWA issued an Invitation for Bid No. 2024-12 (see Exhibit A) for an Indefinite Quantity requirements contract for Liquid Chlorine Cylinders to be used to chemically treat and disinfect water pumped up from the Northern Guam Lens Aquifer and the Ugum River at GWA’s water production and treatment facilities; and

WHEREAS, three (3) interested parties registered to download a bid package from GWA’s website and on August 23, 2024, GWA received one (1) bid proposal from Marianas Gas Corp dba Island Equipment Company; and

WHEREAS, on August 30, 2024, GWA’s review committee evaluated the offers submitted under IFB 2024-12 and determined that the sole and most favorable offer was submitted by Marianas Gas Corp dba Island Equipment Company (see Exhibit B); and

WHEREAS, GWA Management seeks CCU approval for the Indefinite Quantity contract for an estimated 1,260 Liquid Chlorine 150lb. cylinders at a cost of Seven Hundred Twelve Dollars and Ninety-Five Cents (\$712.95) each, resulting in an annual cost of Eight Hundred Ninety Eight Thousand Three Hundred Seventeen Dollars (\$898,317.00). Additionally, the contract includes an estimated twelve (12) Liquid Chlorine One (1) Ton cylinders at a cost of Seven Thousand One Hundred Forty-Nine Dollars and Sixteen Cents (\$7,149.16) each, resulting

1 in an annual cost of Eighty-Five Thousand Seven Hundred Eighty-Nine Dollars and Ninety-Two
2 Cents (\$85,789.92); and

3
4 **WHEREAS**, GWA management further seeks CCU approval for a combined annual cost
5 of Nine Hundred Eighty-Four Thousand One Hundred Six Dollars and Ninety-Two Cents
6 (\$984,106.92), or Two Million Nine Hundred Fifty-Two Thousand Three Hundred Twenty
7 Dollars and Seventy-Six Cents (\$2,952,320.76) for the initial three (3) year contract term; and

8
9 **WHEREAS**, the IFB 2024-12 also includes an option for GWA management to renew
10 the contract for up to two (2) additional one (1) year terms at a cost of One Million Nine
11 Hundred Sixty-Eight Thousand Two Hundred Thirteen Dollars and Eighty-Four Cents
12 (\$1,968,213.84). This renewal option is in GWA's best interest, as it secures fixed pricing over a
13 longer period and may benefit from economies of scale, potentially resulting in a lower bid price
14 compared to a shorter contract term; and

15
16 **WHEREAS**, GWA has determined that issuing this bid will enable the continued
17 procurement of liquid chlorine, essential for disinfecting GWA's drinking water to protect public
18 health and safety. This procurement is required under the Safe Drinking Water Act, as well as
19 federal and local regulations; and

20
21 **WHEREAS**, this multi-year contract exceeds one million dollars, requiring approval
22 from the Public Utilities Commission (PUC) in accordance with the Contract Review Protocol;
23 and

24
25 **NOW BE IT THEREFORE RESOLVED**; the Consolidated Commission on Utilities
26 does hereby approve the following:

- 27 1. The recitals set forth above hereby constitute the findings of the CCU.
- 28 2. The CCU finds that the cost proposal submitted by Marianas Gas Corp dba
29 Island Equipment Company is fair and reasonable.

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- 3. The CCU hereby authorizes GWA management to accept the bid offer from Marianas Gas Corp dba Island Equipment Company and proceed with executing the contract accordingly.
- 4. The CCU hereby further authorizes the funding amount of Two Million Nine Hundred Fifty-Two Thousand Three Hundred Twenty Dollars and Seventy-Six Cents (\$2,952,320.76) for the initial three (3) year term, with the option to renew for an additional two (2) one (1) year terms at a cost of One Million Nine Hundred Sixty-Eight Thousand Two Hundred Thirteen Dollars and Eighty-Four Cents (\$1,968,213.84), bringing the total funding authorization to Four Million Nine Hundred Twenty Thousand Five Hundred Thirty-Four Dollars and Sixty Cents (\$4,920,534.60).
- 5. The CCU hereby further authorizes GWA management to seek Public Utilities Commission (PUC) approval, as the contract amount exceeds One Million Dollars (\$1,000,000.00).

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

DULY AND REGULARLY ADOPTED, this 22nd day of October 2024.

Certified by:	Attested by:
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JOSEPH T. DUENAS Chairperson	PEDRO ROY MARTINEZ Secretary

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SECRETARY’S CERTIFICATE

I, Pedro Roy Martinez, 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: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

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Exhibit A

INVITATION TO BID

The GUAM WATERWORKS AUTHORITY will receive sealed bids for **Liquid Chlorine Cylinders** in **GWA IFB. NO. 2024-12**. Bids will be accepted until **10:00 a.m.** Chamorro Standard Time, **Friday, August 2, 2024** at the GWA Procurement Office, first floor located at the Gloria B. Nelson Public Services Building in Mangilao at which time and place all bids will be publicly and virtually opened via GoToMeeting and read aloud. Bidders interested in attending the virtual meeting may send their request to psbids@guamwaterworks.org to obtain the GoToMeeting ID/Link prior to the due date and time. All bids must be accompanied by a Bid / Performance Bond, in the amount of fifteen percent (15%) of the total bid price. Bid security may be bid/performance bond, Surety Bond, certified check or cashier check made payable to Guam Waterworks Authority. A non-refundable amount of \$15.00 is required for the purchase price of every set of bidding documents which are available at the GWA Procurement Office. Bidders can download a bid package at www.guamwaterworks.org without charge, although vendors are strongly encouraged to contact via e-mail at psbids@guamwaterworks.org or visit GWA Procurement to register to ensure that updated information, notices or bid amendments are distributed to you.

GWA reserves the right to revise or reject any or all proposals and to waive any minor imperfection in the bid proposal in the interest of the Guam Waterworks Authority.



Miguel C. Bordallo, P.E.
General Manager

GWA STAMP ISSUE DATE:

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- M. CONTRACT DOCUMENTS.
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- T. CLAIMS BASED ON ACTS OR OMISSIONS BY GWA.
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**Invitation for Bid Number: GWA 2024- 12
For: Liquid Chlorine Cylinders**

Indefinite Quantity Bid

This is an “Indefinite Quantity” bid pursuant to the Guam Procurement Regulations. The quantities reflected are only estimated and not a guarantee of amounts to be purchased. Quantities may increase or decrease thru the duration of the contract and continued purchase is subject to the availability of funds. No guarantee or other commitment is made to vendors in terms of purchasing quantity and the amounts set forth in this bid are only estimates of needs for the near term.

I. BID ITEMS

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QTY</u>	<u>UNIT COST</u>	<u>EXTENSION</u>
1.0	Liquid Chlorine 150 lb. Cylinders	1,260 each	_____	_____
2.0	Liquid Chlorine One (1) Ton	12 each	_____	_____

Grand Total \$ _____

BIDDING ON:

MFG: _____

Brand: _____

Place of Origin: _____

Date of Delivery: _____

After Receipt of Purchase Order

TECHNICAL SPECIFICATIONS ON ITEM 1.0

- A. **GENERAL:** The Guam Waterworks Authority (“GWA”) uses liquid chlorine in 150 lbs. and One (1) Ton. Cylinders in order to disinfect drinking water at approximately 100 well sites and one (1) water treatment plant. GWA intends to enter into a three (3) year contract with the option to renew for two (2) additional one-year terms for the purchase of liquid chlorine in 150-pound cylinders. All extensions of the contract are subject to the availability of funding. Price modifications for the extensions may be made if the contractor provides proof of changes in their invoice price as required under 2 G.A.R. Section 3118. This specification describes the requirements for the provision of liquid chlorine under this solicitation.

The product described herein shall be manufactured, packaged, shipped, and stored in accordance with the latest additions of the following codes and standards as well as any applicable referenced standards within.

1. AWWA B301-04: Standard for Liquid Chlorine.
2. ANSI/NSF Standard 60: Drinking Water Chemicals.
3. Chlorine Institute, Pamphlet 17: Cylinder and Ton Container Procedures for Chlorine Packaging.
4. Compressed Gas Association, Pamphlet C6: Standards for Visual Inspection of Steel Compressed Gas Cylinders.
5. US Department of Transportation, Hazardous Materials Regulations 49 C.F.R. § 100-177 (Chapter 1, Subchapter C).

- B. **MATERIAL SPECIFICATION:** Liquid Chlorine for disinfection of potable water supplies must meet the requirements of AWWA Standard B-301-04, Section 4.

The supplier under this contract shall be responsible for providing certified analysis from the manufacturer demonstrating compliance with the requirements set forth in this bid.

CONTAINERS: The supplier shall be responsible for providing, inspecting, testing and cleaning of cylinders in accordance with all referenced standards.

1. GWA currently has an inventory of 280 each 150 lbs. and 12 each One Ton GWA-owned cylinders that are currently being used by GWA. These cylinders shall be used by the successful bidder upon exchange on an empty 150 lbs.’ or 1-ton cylinder. GWA shall have the right to certify whether or not said cylinders are in good useable condition.
2. Cylinders shall be inspected, tested, and cleaned in accordance with AWWA Standard B301-04, Section 5. The supplier must maintain at all times documentation of compliance with these requirements at the supplier’s facility.
3. GWA reserves the right to reject any cylinders that do not meet the chemical, physical, or safety requirements of this specification. In the event that a cylinder is rejected, the supplier shall replace it with a like amount of satisfactory liquid chlorine in an acceptable container.
4. No cylinder deposit or cleaning charge shall be separately levied. All fees for the maintenance of 150 lb and One Ton. cylinders in accordance with applicable codes shall be included in the unit cylinder price.

STORAGE AND MINIMUM INVENTORY REQUIREMENTS:

Due to the potential for interruption of shipping networks to Guam due to typhoons and other causes, it is necessary to maintain a minimum inventory (backup reserve) of chlorine in order to insure availability at all times. The minimum backup reserve has been established for GWA by the USEPA as noted below.

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1. The supplier shall maintain a sufficient inventory of 150 pound and one-ton chlorine cylinders such that a backup reserve of at least 200 150 lbs. cylinders and three (3) one ton shall be available at any and all times. This reserve shall be exclusive of any reserve required by other customers.
2. The supplier shall provide an inventory plan (along with bid), based on the quantities described above, illustrating compliance with these backup reserve provisions.
3. The supplier shall be responsible for maintaining a storage facility in compliance with OSHA and other applicable law, codes and standards regarding the receiving, handling, storage, delivery, and emergency response to chlorine gas. The supplier shall maintain documentation of compliance to be provided at the request of GWA.
4. No additional facility maintenance or storage charges (or any other charge) shall be separately levied. All fees for shipping, storage and facility maintenance shall be included in the unit cylinder price.

C. SPECIAL CONDITIONS:

1. The contract for the supply of liquid chlorine shall be for a period of three (3) years. GWA reserves the right to renew this contract for two (2) additional one-year terms with both parties so agree in writing. All extensions of the contract are subject to the availability of funding. Price modifications for the extensions may be made if the contractor provides proof of changes in their invoice price as provided under 2 G.A.R. Section 3118.
2. Cost data pursuant to 2 G.A.R. § 3118 to support any proposed increase must be submitted to the Purchasing Director no less than 90 days prior to the effective date of any such requested price increase. Any adjustment allowed shall consist of verifiable material cost increases which may be passed on to the consumer.
3. No adjustment shall be made to compensate a supplier for inefficiency in operation, or for additional profit.
4. Bids indicating price in effect at time of shipment will be considered invalid.
5. Bidder shall respond to a GWA facility should an emergency situation develop, with the appropriate tools necessary to deal with a leak; said response shall be no longer than two hours from the time of notification. Emergency numbers for this procedure shall accompany the bid.
6. If the products proposed in the response to this bid vary in any way from the requirements contained in this specification or other solicitation documents, the bidder is responsible to clearly identify by specification section number, all such differences in writing at the time of bid. Otherwise, it will be assumed that bidder's offer is in total compliance with all aspects of the specification and bid.

II. GENERAL TERMS AND CONDITIONS

A. AUTHORITY.

This Invitation for Bids is issued subject to all of the provisions of the Guam Procurement Act and the Guam Procurement Regulations. The bid requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith. Failure on the part of any bidder to act in good faith shall serve as a basis for voiding a bid or shall constitute a material breach of any contract entered into between GWA and any bidder, which shall allow GWA to immediately terminate the contract.

B. EXPLANATION TO BIDDERS.

Except as otherwise provided herein, no oral explanation in regard to the meaning of any provision of this Bid will be made, and no oral instructions will be given before the award

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of the bid. Discrepancies, omissions, or doubts as to the meaning of any provision of this Bid shall be communicated in writing to the named individual of GWA.

C. QUESTIONS.

Only written comments or questions regarding this bid will be accepted. No oral representation made by any employee or agent of GWA shall bind GWA. All questions or requests for clarifications must be submitted **no later than five business (5) days prior to the bid opening** schedule, and questions submitted thereafter shall not be responded to except at the discretion of GWA General Manager.

All questions regarding the bid must be submitted in writing and be delivered personally, via US mail, express delivery, fax or email directed to the following:

GWA Procurement Office
Guam Waterworks Authority
Gloria B. Nelson Public Service Building
688 Route 15
Mangilao, GU 96913
E-mail : psbids@guamwaterworks.org
Fax. No.: (671) 649-3750

Bids are to be submitted at the issuing offices not later than the time and date set for bid opening. Bidders may submit their bid to:

The Guam Waterworks Procurement Section is located at the first floor at the Gloria B. Nelson Public Service Building.

D. METHOD OF AWARD.

GWA intends to review the bids immediately upon the opening of the bids as provided herein. The bids submitted will be the primary documents for evaluation. GWA reserves the right to waive any minor information or irregularity in bids received. GWA shall have the prerogative to award, amend or reject bids in whole or in part. GWA is not responsible for any and all costs incurred by any person or party incurred in preparing any bid. GWA reserves the right to retain all bids submitted regardless of whether a firm is selected. Submission of a bid indicates acceptance of all terms and conditions by the bidder.

Policy in Favor of Disabled Veteran Owned

Please note that in the event a bid is submitted by a bona-fide service-disabled veteran where the bidder is at least fifty-one percent (51%) owned by a service-disabled veteran and the price for the supply or service does not exceed one hundred five percent (105%) of the lowest price bidder, GWA is required under 5 G.C.A. § 5011 to award the bid to the

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service-disabled owned business. A service-disabled veteran business must meet all of the following qualifications under 5 G.C.A. § 5012:

- i. the business concern is licensed to do business on Guam.
- ii. the business concern maintains its headquarters on Guam.
- iii. the business concern is at least fifty-one percent (51%) owned by a service-disabled veteran(s) who served in the active U.S. military service, was discharged or released under honorable conditions, and whose disability is service-connected as demonstrated by a DD214 and certified by an award letter from the U.S. Department of Veterans Affairs.
- iv. the DD214 and Disability award letter from the U.S. Department of Veterans Affairs are submitted to the procuring entity for every service or supply offered, and.
- v. the service-disabled veteran(s) owner of the business concern has filed individual tax returns on Guam for a period of at least three (3) consecutive years.

§5013. Policy In Favor of Women-Owned Businesses.

- (a.) Notwithstanding any other provision of law, if any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a business concern that is at least fifty-one percent (51%) owned by women, that entity *shall* procure such supply or service from that business concern, if the supply or service is available within the period required by procuring entity and the price for the supply or service *does not* exceed one hundred five percent (105%) of the lowest bidder, and *shall* be in addition to any other procurement benefit the women-owned business may qualify for under Guam Law.
- (b.) The procuring entity shall determine the lowest price to the entity in the case of more than one (1) women-owned business, or a women-owned business and a service-disabled veteran owned business, who are competing for the same government contract
- (c.) Qualifications of a Women-Owned Business. A business concern is qualified under Subsection (a) of the Section if:
 - (1) the business concern is licensed to business on Guam.
 - (2) the business concern maintains its headquarters on Guam.
 - (3) the business concern is at least fifty-one percent (51%) owned by women, who manage day-to-day operations and make long-term decisions.
 - (4) the business concern is certified as a Women-Owned Small Business (WOSB) or an Economically Disadvantaged Women-Owned Small Business (EDWOSB) by the U.S. Small Business Administration; and
 - (5) the owner(s) of the business concern has (have) filed individual tax returns on Guam for a period of at least three (3) consecutive years

E. DESCRIPTIVE LITERATURE / (BROCHURES).

Descriptive literature (s) as specified in this solicitation must be furnished as part of the bid and must be received at the date and time set for opening bids. The literature furnished must clearly identify the item (s) in the bid. The descriptive literature is required to establish, for the purpose of evaluation and award, details of the product (s) the bidder proposes to furnish including design, materials, components, performance characteristics, methods of the manufacturer, construction, assembly or other characteristics which are considered appropriate. Rejection of the bid will be required if the descriptive literature (s) do not show that the product (s) offered confirm (s) to the specifications and other requirement of this solicitation. Failure to furnish the descriptive literature(s) by the time specified in the solicitation will require rejection of the bid.

F. REJECTION.

GWA has the right to reject all bids or offers which have been submitted in response to this Bid, at any time, including after delivery if goods are determined to be non-conforming, if GWA determines such to be in the best interest of GWA. All bids and contractual obligations are subject to the availability of funding.

G. TAXES.

Bidders are cautioned that they may be subject to Guam Business Privilege Taxes, including Gross Receipt Tax and Guam Income Taxes on Guam transactions. GWA shall not be responsible for paying any taxes owed by any vendor. Specific information of taxes may be obtained from the Director of the Guam Department of Revenue and Taxation.

H. LICENSING.

Bidders are cautioned that GWA will not consider for award any bid offer submitted by a bidder who has not complied with Guam Licensing Laws. Specific information on licenses may be obtained from the Director of Revenue and Taxation.

I. COVENANT AGAINST CONTINGENT FEES.

The bidder warrants that it has not employed any person to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give GWA the right to terminate the contract, or in its discretion, deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by the bidder upon contracts or sales secure or made through bona fide established commercial or selling agencies maintained by the bidder for the purpose of securing business.

J. JUSTIFICATION OF DELAY.

The bidder who is awarded the bid guarantees that performance will be completed within the agreed upon completion date. If, however, the selected bidder cannot comply with the

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completion requirement, it is the selected bidder's responsibility to advise GWA in writing explaining the cause and reasons of the delay.

K. DISCLOSURE OF MAJOR SHAREHOLDERS.

As a condition of bidder, any partnership, sole proprietorship or corporation doing business with GWA shall submit an affidavit executed under oath that list the name address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid. The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation, which have held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid for the bidder and shall also contain the amounts of any such commission, gratuity or other compensation. A bid from any firm that has person on the list 10% or more affidavits that is a member of the CCU or a GWA or Guam Power Authority officer that reports directly to the Board will not be evaluated and will be rejected. The affidavit shall be open and available to the public for inspection and copying.

L. EQUAL EMPLOYMENT OPPORTUNITY.

Section 3.01(1) of Presidential Executive Order No. 10935 dated March 7, 1965, that was adopted on Guam, requires that the bidder not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The bidder will take whatever steps are necessary to ensure that its employees are treated equally during employment without regard to their race, creed, color or national origin.

M. DETERMINATION OF RESPONSIBILITY OF OFFERORS.

GWA reserves the right to secure information necessary to assess the competency and qualifications of the bidder, in accordance with the "Standard for Determination of the most Qualified bidder" section of the General Terms and Conditions. The competency of bidders includes, but is not limited to, testing of goods and/or services provided by the bidder.

N. STANDARD FOR DETERMINING WHETHER BIDDER IS QUALIFIED.

In determining whether a bidder is qualified, GWA shall be guided by the following:

1. the ability, capacity, and skill of the bidder to perform (i.e., is bidder qualified).
2. whether GWA believes that the bidder can perform promptly or within the specified time.
3. the character, integrity, reputation, judgment experience, and efficiency of the bidder.
4. the sufficiency of the financial resources and ability of the bidder to perform.
5. whether the bidder has submitted all documents required under this Bid; and
6. whether the bidder can meet the terms and conditions of the Bid.

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O. PRE-BID CONFERENCES.

Pre-bid conferences may be held at any time prior to the date established herein for submission of bids to explain the procurement requirements for this Bid. GWA will notify all bidders of any substantive clarification provided in response to any inquiry. GWA may extend the due date if such information significantly amends the solicitation or makes compliance with the original proposed due date impractical.

P. BIDS.

The Bidder is required to read each and every page of the bid and by the act of submitting a bid shall be deemed to have accepted all conditions contained therein except as noted elsewhere in the bid. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a bid after opening. Bids shall be filled out in ink or typewritten and signed in ink. Erasures or other changes in a bid must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions, unexplained erasures or alterations or items not called for in the bid or irregularities of any kind may be rejected by GWA in whole or in part.

Q. COMPETENCY OF BIDDERS.

Bids will be considered only from such bidders who, in the sole opinion of GWA, can show evidence of their ability, experience, equipment, and facilities to render satisfactory performance of the terms and conditions herein (see item "M" above for standards). GWA reserves the right to take all reasonable steps to determine the competency of bidders, including asking questions, testing or any other act deemed prudent by GWA based on the circumstances.

R. REQUEST FOR BID FORMS.

Each bidder shall be provided with one (1) set of the Bid packet at a cost of \$15.00. If the bidder wishes to download a bid packet on GWA website, the fee will not be charged. All payments shall be by cash, certified check, credit card or money order and shall be made payable to GWA. Prospective bidders are encouraged to notify GWA's Procurement section at 300-6026/6027 to be registered as a prospective bidder. **Failure to register as a bidder could result in not obtaining answers to questions or bid amendments, since GWA will send these types of documents to only those vendors we are aware of. GWA shall not be liable for any reason for the failure of any vendor to register with GWA and provide accurate and complete contact information.**

S. BID ENVELOPE.

Bid envelopes shall be sealed and marked with the bidder's name and GWA's Invitation for Bid Number.

T. FORM OF BID.

One (1) original hard copy, two (2) complete hard copies and one (1) electronic copy of the bid must be submitted. The original bid must be signed in ink by a person authorized to submit bids on behalf of the bidder. All bids shall be submitted entirely in English (including brochures if any). The electronic copy of the bid shall be submitted on a USB Drive but must follow GWA's requirements/guidelines: Product must be made in the USA or TAA compliant country, must be an encrypted USB thumb drive/External drive (like SanDisk, Data Traveler, Defender etc...) Encryption key must be provided upon submittal and USB must be free from viruses. All documents shall be in ".pdf" format. Electronic bids shall constitute an exact replica of the original hard copy of the bid that is being submitted.

Bidders may declare portions of their bid as being confidential. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. However, prices, makes and models or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary.

GWA may review the material declared to be confidential to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, GWA shall inform the bidders in writing what portions of the bids will be disclosed. All bids shall be opened to public inspections subject to any continuing prohibition on the **confidential** data.

U. MODIFICATION / ALTERATION.

After the opening of bids, GWA or its designee(s) may conduct discussions with bidders that have submitted valid bids for the purpose of clarification to provide GWA with a full understanding as to the responsiveness and capabilities of the proposed bidder in meeting the requirements of the bid. In conducting discussions, there shall be complete confidentiality of any information derived from bids submitted by competing bidders.

V. MODIFICATION OR WITHDRAWAL OF BIDS.

Bids may be modified or withdrawn at any time prior to submission, as otherwise provided herein or by the Guam Procurement Code.

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W. CONTACT FOR CONTRACT NEGOTIATION.

All vendors are required to designate a person who GWA may contact for prompt negotiation.

NAME: _____ TITLE: _____

ADDRESS: _____ TELEPHONE: _____

X. AWARD OF CONTRACT AND NEGOTIATION (IF APPLICABLE).

The lowest responsible bidder may be required to enter into a contract with GWA on terms and conditions acceptable to GWA. If the services are to be secured via Purchase Order, the bidder must still comply with all applicable laws, bid requirements and directives from GWA regardless of whether a formal “contract” has been issued.

The bidder who submits the lowest responsible bid for the required services or supplies may be required to enter into a contract within twenty (20) days following Bidder’s receipt of the Notice of Award of Bid. Contract negotiations will be directed toward: (1) making certain that the bidder has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services; and (2) determining that the bidder will make available the necessary personnel, facilities, and products to perform the services within the required time. Bidders will be required to follow all laws applicable to this bid at all times, and the Bidder is responsible for ascertaining what laws are applicable to this bid.

Y. NOTICE OF AWARD.

Written notice of award will be public information and made a part of the procurement file.

Z. CERTIFICATION AGAINST THE EMPLOYMENT OF CONVICTED SEX OFFENDERS.

All vendors must complete and fill out a Certification Against the Employment of Convicted Sex Offenders (part of bid packet – if not present, make sure you ask for one).

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AA.

TERMINATION OF BID.

After opening, but prior to award, GWA may terminate the bid in whole or in part if:

1. It is in the best interest of GWA to do so.
2. The goods or services being sought are no longer required.
3. Bid amounts exceed available funding.
4. No bidder is qualified.

BB. LOCAL PROCUREMENT PREFERENCE:

All procurement of supplies and services where possible, will be made from among businesses licensed to do business on Guam in accordance with section 5008 of the Guam Procurement Act (5GCA, Chapter 5) and Section 1-104 of the Guam Procurement Regulations.

Procurement of supplies and services from off Guam may be made if no business for such supplies or services may be found on Guam or if the total cost F.O.B. job site, unloaded, of procurement from off island is no greater than eighty-five percent (85%) of the total cost F.O.B. job site, unloaded, of the same supplies or services when procured from a business licensed to do business on Guam that maintains an office or other facility on Guam and that is one of the above-designated businesses entitled to preference.

III. SPECIAL TERMS AND CONDITIONS

Note, these special terms and conditions apply in the event that GWA uses a purchase order. However, in the event a formal contract is entered into, the terms of the Contract shall control in the event of a conflict between these terms and conditions and the contract.

A. GENERAL COMPLIANCE WITH LAWS.

The Bidder agrees that they shall comply with all Federal and territorial laws, rules, regulations and ordinances applicable to the work being performed hereunder. Bidder shall attach a copy of appropriate business license, or an affidavit executed under penalty of perjury that indicates that Bidder is exempt under Guam law (must include legal citations proving exemption). Bidder agrees that they have and will continue to familiarize themselves with the requirements of all laws and rules applicable to this procurement. Failure on the part of the bidder to familiarize themselves with the law and rules shall not excuse Bidder in any way.

B. ACCESS TO RECORDS AND OTHER REVIEW.

The bidder, including his subcontractors, if any, shall maintain copies of all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the contract, for inspection by the Guam Waterworks Authority. All originals of any documents related to this Contract shall be provided to GWA as soon as possible, but not later than one day prior to the conclusion of this Agreement. Each subcontract entered into by Bidder pursuant to this agreement shall include a provision containing the conditions of this Section.

C. OWNERSHIP OF DOCUMENTS.

All briefs, memoranda and other incidental Bidder work or materials furnished hereunder shall be and remain the property of GWA including all publication rights and copyright interests and may be used by GWA without any additional cost to GWA.

D. INDEMNITY.

Bidder agrees to save and hold harmless the CCU, GWA, its officers, agents, representatives, successors and assigns and other governmental agencies from any and all suits or actions of every nature and kind, which may be brought for or on account of any injury, death, or damage to the extent arising or growing out of the negligent acts or omissions of the Bidder, Bidder's officers, agents (including subcontractors), servants or employees under this agreement.

E. CHANGES.

By written order, at any time, and without notice to bidder's surety, GWA may, subject to all appropriate adjustments, make changes within the general scope of work of this Contract in any one or more of the following:

1. Drawings, designs or specifications, if the supplies or services to be furnished are to be specifically manufactured for GWA in accordance therewith.
2. Method of shipping or packing; or
3. Place of delivery.

If any such change order increases or decreases the bidder's cost of, or the time required for performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this Contract.

Failure of the parties to agree to an adjustment shall not excuse the bidder from proceeding with the Contract as changed, provided that GWA promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the bidder shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

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Within thirty (30) days after receipt of a written change order, unless such period is extended by GWA in writing, the Bidder shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Bidder's claim unless GWA is prejudiced by the delay in notification. No claim by the Bidder for an adjustment hereunder shall be allowed if notice is not given prior to final payment given under this bid.

In the absence of such a change order, nothing in this clause shall be deemed to restrict the bidder's right to pursue a claim arising under the contract if pursued in accordance with the clause entitled "Claims Based on Acts or Omissions by GWA" of this Contract.

F. TERMINATION.
TERMINATION FOR DEFAULT:

(1) **Default.** If the Bidder refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract as determined by GWA, then GWA may notify the Bidder in writing of the delay or non-performance and if not cured in ten days or any longer time specified in writing by GWA. GWA may terminate the Bidder's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part GWA may procure similar services in a manner and upon terms deemed appropriate by GWA. The Bidder shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar services.

(2) **Bidder's Duties.** Notwithstanding termination of the contract and subject to any directions from GWA, the Bidder shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Bidder in which GWA has an interest.

(3) **Compensation.** Payment for completed services delivered and accepted by GWA shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the Bidder and GWA; if the parties fail to agree, GWA shall set an amount subject to the Bidder's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations. GWA may withhold from amounts due the Bidder such sums as GWA deems to be necessary to protect GWA against loss because of outstanding liens or claims of former lien holders and to reimburse GWA for the excess costs incurred in procuring similar goods and services.

(4) **Excuse for Nonperformance or Delayed Performance.** Except with respect to defaults of sub-contractor(s) of Bidder, the Bidder shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Bidder to make progress in the prosecution of the work hereunder which endangers such performance) if the Bidder has notified GWA within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the government of Guam and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes;

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freight embargoes; or unusually severe weather. If the failure to perform or to make progress due to such causes similar to those set forth above, the Bidder shall not be deemed to be in default, unless the services to be furnished by the sub-contractor were reasonably obtainable from other sources in sufficient time to permit the Bidder to meet the contract requirements. Failure of the sub-contractor to perform for reasons other than cited above shall constitute a default of the Bidder unless cured by Bidder with a reasonable time. Upon request of the Bidder, GWA shall ascertain the facts and extent of such failure, and, if GWA determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Bidder's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of GWA and the government of Guam under the laws of Guam.

(5) **Erroneous Termination for Default.** If, after notice of termination of the Bidder's right to proceed under the provisions of this clause, it is determined for any reason that the Bidder was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Subsection C, below.

(6) **Additional Rights and Remedies.** The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE:

(1) **Termination.** GWA may, when the interest of GWA so requires, terminate this contract in whole or in part, for the convenience of GWA. GWA shall give written notice of the termination to the Bidder specifying the part of the contract terminated and when termination becomes effective.

(2) **Bidder's Obligations.** The Bidder shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Bidder will stop work to the extent specified. The Bidder shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Bidder shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. GWA may direct the Bidder to assign the Bidder's right, title, and interest under terminated orders or subcontracts to GWA. The Bidder must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) **Right to Work Product.** Upon termination of the contract for the convenience of GWA or for any other reason, Bidder shall transfer title and deliver to GWA all documents and reports, plans, drawings, information and other material produced by Bidder or any of its sub-contractors in connection with the performance of this contract. The Bidder shall protect and preserve property in its possession or in the possession of any of its sub-contractors in which GWA has an interest.

(4) Compensation.

(a) The Bidder shall submit a termination claim specifying the amount due because of the termination for convenience together with cost or pricing data to the extent required by 2 G.A.R. § 3118 (Cost or Pricing Data) of the Guam Procurement Regulations bearing on such claim. If the Bidder fails to file a termination claim within one year from the effective date of termination, GWA may pay the Bidder, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) GWA and the Bidder may agree to a settlement provided the Bidder has filed a termination claim supported by cost or pricing data to the extent required by 2 G.A.R. § 3118 (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 GWA and the contract price of the work not terminated.

(c) Absent complete agreement under Subparagraph 4(b) of this Section, GWA shall pay the Bidder the following amounts, provided payments that are agreed upon under Subparagraph 4(b) shall not duplicate payments under this Subparagraph:

- (i) contract prices for services accepted under the contract.
- (ii) costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the Bidder 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 subcontracts or orders pursuant to Subparagraph (b) of this clause.
- (iv) the reasonable settlement costs of the Bidder including accounting, 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 subcontracts hereunder, 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. Attorney's fees, if for any reason it files suit against the government must be paid by the Bidder. The total sum to be paid the Bidder under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Bidder reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Cost claimed, agreed to, or established under Subparagraph (b) and (c) of this

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Paragraph shall be in accordance with Chapter 7 (Cost Principles) of the Guam Procurement Regulations.

G. SEVERABLE PROVISIONS.

If any provision of this agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the agreement and the agreement shall be enforced according to its valid and subsisting terms and provisions. The terms of this Contract shall control in the event of any conflict between this Contract and any other document incorporated or referenced herein.

H. GOVERNING LAW AND VENUE.

The validity of any agreement entered into under this bid and any of its terms or provisions, as well as the rights and duties of the parties to this agreement, shall be governed by the laws of Guam. Moreover, any and all actions governing this agreement shall be brought in either the Guam Superior Court or the Guam District Court if applicable.

I. EFFECTIVE DATE OF AGREEMENT.

Any agreement under this Bid shall take effect upon the date said agreement is signed by the GWA General Manger (who shall sign last). Agreements under this provision includes Purchase Orders in the absence of a formal written contract.

J. GOVERNMENT NOT LIABLE.

1. GWA, its officers, agents, employees and governing board assumes no Liability for any accident or injury that may occur to the bidder, bidder's agents, employees, or to bidder's property while on the job or otherwise en route to or from the job during any travel required by the terms of this agreement.

2. GWA, its officers, agents, employees and governing board shall not be liable to bidder for any work performed by the bidder prior to the written and signed approval of this Contract by the General Manager for GWA and by submitting a bid, the bidder expressly waives any and all claims for service performed in expectation of this agreement prior to its signature of the General Manager.

K. ASSIGNMENT.

An assignment of any portion of the performance required under this Bid is not valid unless written approval is first obtained from GWA. Requests for approval of the right to assign any portion of the contract or obligation, if awarded, must be made in writing and submitted with the bid. No other requests for assignment will be accepted.

L. LIQUIDATED DAMAGES.

By submitting a bid, the Bidder agrees to commence work on the date to be specified in a written "Notice to Proceed" from GWA and to fully complete the project within the allotted time thereafter. In the event that the Bidder fails to complete the work called for in the bid, fails to provide the goods or services in the allotted time, then Bidder shall pay to GWA ¼ of 1% of the total bid price per day as liquidated damages for the non-performance as specified by the Guam Code Annotated. The liquidated damages herein are not a penalty, but rather a reasonable estimate by GWA of the loss it would suffer as a result of non-performance.

M. CONTRACT DOCUMENTS.

It is hereby mutually agreed that the following list of instruments, plans, specifications and documents which are attached hereto, bound herewith or incorporated herein by reference shall constitute the Contract Documents, all of which are made a part hereof, and collectively evidence and constitute the Contract between the parties, hereto, and they are as fully a part of any Agreement resulting from this bid as if they were set out verbatim and in full therein, and are designated as follows:

- a. Invitation to Bid
- b. Instructions to Bidders
- c. Bid
- d. Form of Non-Collusion Affidavit
- e. Certification of Bidders Regarding Equal Employment Opportunity
- f. Bid and Performance Bond for Goods and Services
- g. Payment Bond (when applicable)
- h. Ownership & Interest Disclosure Affidavit
- i. Wage and Benefit Determination
- j. No Gratuities or Kickback Affidavit
- k. Ethical standards Affidavit
- l. Good standing Affidavit
- m. Special Provisions
- m. Technical Specifications
- n. Plans (if any)
- o. Addenda/Amendments
- p. Answers to Questions (if GWA determines they are applicable).

N. DISPUTES.

Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this bid shall be decided by the GWA General Manager whose decision shall be final and conclusive upon the parties thereto. In the meantime, the bidder shall diligently proceed with the work as directed. However, the final decision of the GWA

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General Manager is appealable to the Guam Public Auditor as provided under 5 G.C.A. § 5427(e).

O. CONTRACT ISSUED UNDER THIS BID IS BINDING.

It is agreed that any contract under this bid and all the Covenants hereof shall insure to the benefit of and binding upon GWA and the bidder respectively and his parties, successors, assignees and legal representative. Neither GWA nor the Bidder shall have the right to assign, transfer or sublet his interests or obligations hereunder without written consent of the other party.

It is hereby mutually agreed by and between the parties hereto that no mechanic, contractor, subcontractor, material man or other person can or will contract for or in any other manner have or acquire any lien upon the binding or works covered by the contract, or the land upon which the same is situated.

P. BIDDER'S RESPONSIBILITIES.

The Bidder shall be responsible for the quality and workmanship of all services and materials furnished under this contract. The Bidder shall, without additional cost to GWA, correct or revise all errors or deficiencies in his/her products or work.

GWA's review, approval, acceptance of, and payment for goods, fee, or for services required under this contract, shall not be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the Bidder's failure of performance of this contract and the Bidder shall be and remain liable to the GWA for all costs of any kind which may be incurred by the GWA as a result of the Bidder's negligent or erroneous performance of any of the services performed under this Bid. GWA shall continue to remain liable for its own negligent acts and those of its employees and its failure to perform as provided under this agreement.

Q. SCOPE OF AGREEMENT.

Any Agreement issued under this bid and signed by the GWA General Manager (formal contract or Purchase Order) supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to retaining the services of Bidder by the GWA and contains all of the covenants and terms between the parties with respect to such this project. Each party to this Agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement and addenda will be effective only if it is in writing signed by the party to be charged. For the purposes of this paragraph and of the entire agreement, the signature of the General Manager for the Guam Waterworks Authority (or his designee) is the only signature that will bind the GWA.

R. CHANGE ORDERS.

By written order, at any time, and without notice to Bidder's surety, GWA may, subject to all appropriate adjustments, make changes within the general scope of work of this Contract in any

one or more of the following:

1. Drawings, designs or specifications, if the supplies or services to be furnished are to be specifically manufactured for GWA in accordance therewith.
2. Method of shipping or packing; or
3. Place of delivery.

If any such change order increases or decreases the Bidder's cost of, or the time required for performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this Contract.

Failure of the parties to agree to an adjustment shall not excuse the Bidder from proceeding with the Contract as changed, provided that GWA promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Bidder shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

Within 30 days after receipt of a written change order, unless such period is extended by GWA in writing, the Bidder shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Bidder's claim unless GWA is prejudiced by the delay in notification. No claim by the Bidder for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this Contract.

In the absence of such a change order, nothing in this clause shall be deemed to restrict the Bidder's right to pursue a claim arising under the contract if pursued in accordance with the clause entitled "Claims Based on Acts or Omissions by GWA" of this Contract.

S. STOP WORK ORDERS.

GWA may by written order to the Bidder, at any time, and without notice to any surety, require the Bidder to stop all or any part of the work called for in the Contract. This order shall be for a specified period not exceeding ninety (90) days after the order is received by the Bidder, unless the parties agree to any longer period. Upon receipt of the order, the Bidder shall comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties have agreed, GWA shall either cancel the work order or terminate the work covered by the order as provided under the Termination for Default or Termination for Convenience Clauses contained in this contract.

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If a stop work order issued under this clause is cancelled at any time during the period specified in the order, of the period of the order or any extension thereof expires, the Bidder shall have the right to resume work. An appropriate adjustment shall be made to the delivery schedule or Bidder only if: (a) the stop work order results in an increase in the time required for performance or the Bidder's cost; and (b) if the Bidder asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if GWA decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract. If a stop work order is not cancelled and the work covered by the order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed pursuant to the price adjustment clause of this Contract.

T. CLAIMS BASED ON ACTS OR OMISSIONS BY GWA.

If any action or omission on the part of GWA requiring performance changes within the scope of the contract constitutes the basis for a claim by the Bidder for additional compensation, damages, or an extension of time for completion, the Bidder shall continue with performance of the contract in compliance with the directions or orders of GWA, but by so doing, the Bidder shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (a) the Bidder shall have given written notice to GWA:
 - (i) prior to the commencement of the work involved, if at that time the Bidder knows of the occurrence of such action or omission.
 - (ii) within thirty (30) days after the Bidder knows of the occurrence of such action or omission, if the Bidder did not have such knowledge prior to the commencement of the work; or
 - (iii) within such further time as may be allowed by the Procurement Officer in writing.

This notice shall state that the Bidder regards the act or omission as a reason which may entitle the Bidder to additional compensation, damages, or an extension of time. The Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Procurement Officer or designee of such officer.

(b) the notice required by Subparagraph (a) of this Paragraph describes as clearly as practicable at the time the reasons why the Bidder believes that additional compensation, damages, or an extension of time may be remedies to which the Bidder is entitled; and

(c) the Bidder maintains and, upon request, makes available to the Procurement Officer within a reasonable time, detailed records, to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

Nothing herein contained, however, shall excuse the Bidder from compliance with any rules of law precluding any GWA official or its Bidders from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

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Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

U. PRICE ADJUSTMENT CLAUSE.

Any adjustment in contract price pursuant to clauses in this contract shall be made in one or more of the following ways:

- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable.
- (b) by unit prices specified in the contract or subsequently agreed upon;

- (c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon.
- (d) in such other manner as the parties may mutually agree; or
- (e) in the absence of an agreement between the parties, by a unilateral determination by the GWA General Manager of costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the GWA General Manager in accordance with generally accepted accounting principles and applicable sections under Chapter 7 (Cost Principles) of the Guam Procurement Regulations and subject to the provisions under Title 5, Chapter 5 of the Guam Code Annotated (Legal and Contractual Remedies).

For any request for a price adjustment, the contractor shall submit cost or pricing data for any price adjustments subject to the provisions of 2 G.A.R. § 3118 of the Guam Procurement Regulations.

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IV. SPECIAL PROVISIONS

1. **Bid and Performance Bond Requirements:**

All bidders are required to submit bid security in the amount of **15%** of their total bid amount which must also indicate that the security is not only for a bid bond, but also for performance under this Bid as required by 5 G.C.A. 5312. Failure to submit a proper bid bond will cause the bid to be rejected.

As required by law, the bid security shall not be released upon award of the bid, but instead shall continue in full force and effect until after delivery of the supplies or services required by the contract awarded to the Bidder under the associated Invitation for Bid is completed to secure the faithful performance under this Bid (**e.g., until warranty period has ended as any warranty is a service provided in conjunction with the delivery of goods**).

THE BID/PERFORMANCE GUARANTEE MAY BE IN THE FORM OF:

- a. Cashier's Check or Certified Check
- b. Letter of Credit
- c. Surety Bond – Valid only if accompanied by:
 - i. Current Certificate of Authority.
 - ii. Power of Attorney issued by the Surety to the Resident General Agent.
 - iii. Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf

2. **Performance Bond:** see Section 1 above.

3. **Failure To Submit Required Documentation:**

Failure by Bidder to submit the required information or data will be cause to declare the bidder as non-compliant with the bid. Any declaration of non-compliance shall be at the sole discretion of the General Manager of the Guam Waterworks Authority.

4. **Cost:**

Total cost must include CIF and delivery *(see No. 5 below).

5. **Delivery:**

The vendor will be responsible for all cost and all risks associated with the provision of these goods until formally accepted by GWA and the product is received by GWA. GWA deep well personnel will be responsible to pick up the 150 lbs chlorine cylinders at the contractor's facility, one (1) ton chlorine are to be delivered at GWA site.

Delivery time is **45 days** from the date on the Notice to Proceed, if the 45 days is not met, the contractor must specify shipment of chlorine due time and date of arrival.

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6. Contract Term:

GWA and the lowest responsible bidder may enter into a contract (which may be in the form of a Purchase Order) on terms acceptable to GWA which shall commence upon vendor's acknowledged receipt of a Notice to Proceed from GWA. The initial term of the contract is three (3) years. GWA reserves the right to renew this contract for two (2) additional one-year terms with both parties so agree in writing.

Amendments to this bid may be made by GWA in writing to all persons who have purchased a bid packet or down loaded at GWA website free of charge and may be transmitted to potential bidders via e-mail, fax, first class mail, certified mail, or via hand delivery

These specifications were approved and/or prepared by Miguel C. Bordallo, P.E., General Manager, and hereby constitute the findings and determinations of the General Manager.

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NON-COLLUSION AFFIDAVIT

Guam)
)ss:
Tamuning)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1. That I am the _____ of _____.
(Title) (Name of Company or Person Bidding/RFP)

2. That in making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham, that said bidder/offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham or to refrain from bidding or submitting a proposal and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or any other bidder, or to secure any overhead, project or cost element of said bid price, or of that of any bidder, or to secure any advantage against the GUAM WATERWORKS AUTHORITY or any person interested in the proposed contract; and

3. That all statements in said proposal or bid are true.

4. This affidavit is made in compliance with 2 G.A.R. § 3126(b).

So sayeth _____
(Declarant)

Signed on this ____ day of _____ 20__, before me a Notary Public in and for Guam, personally appeared _____, known to me to be the authorized representative of _____, whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of _____, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

) Seal (

Notary Public

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CERTIFICATION OF NON-EMPLOYMENT OF CONVICTED SEXUAL OFFENDERS

Pursuant to Guam Public Law 28-24, as amended by Guam Public Law 28-98, if a contract for services is awarded to the bidder or offeror, then the service provider must warrant that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry, shall provide services on behalf of the service provider while on government of Guam property, with the exception of public highways. If any employee of a service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four hours of the conviction and will immediately remove such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

I, _____ being a duly authorized representative acknowledge the

(Print name)

directive as described above and ensure the Bid Proposal as submitted addresses the directive.

(Company Name)

(Title)

(Signature)

(Date)

**SPECIAL PROVISION
FOR
OWNERSHIP DISCLOSURE AFFIDAVIT**

All Bidders/Offerors are required to submit a current affidavit as required below. Failure to do so will mean disqualification and rejection of the Bid/RFP.

5 GCA §5233 (Title 5, Section 5233) states:

Disclosure of Ownership, Financial, and Conflicts of Interest

- (a) Purpose. The disclosure required by this Section are intended to reveal information bearing on the responsibility of a bidder and can be obtained by an inquiry regarding responsibility prior to award.
- (b) Definitions.
As used herein, the term “person” shall be interpreted liberally to include the definition found in 1 GCA § 715, and in § 5030(n) of this Chapter, and includes a natural person as well as every entity of whatever form or composition (an “artificial person”) recognized under the laws of Guam other than a natural person, who is a prospective contractor under a bid, offer, proposal, or other response to a solicitation, or is a contractor under a contract with the government of Guam, and subject to the provisions of this Chapter.
- (c) Public Disclosure of Ownership.
- (1) The ownership interests to be disclosed under this Section include the interests of a natural or artificial person who owns all or any part of a prospective contractor, bidder, or offeror, whether as proprietor, a partner, limited or otherwise, a shareholder of any class, in which case the percentage ownership interest test shall be based on each class, a member of an association or company, limited or otherwise, and any person owning a beneficial legal interest in any trust, and any other person having the power to control the performance of the contract or the prospective contractor.
 - (2) Prior to award, every person who is a prospective contractor, bidder, or offeror of a contract to be acquired under any method of source selection authorized by this Chapter shall submit a Disclosure Statement, executed as an affidavit under oath, disclosing the name of each person who currently or has owned an ownership interest in the prospective contractor, bidder, or offeror greater than ten percent (10%) at any time during the twelve (12) month period immediately preceding the date of the solicitation (the “relevant disclosure period”). If a prospective contractor, bidder, or offeror is an artificial person, the Disclosure Statement shall disclose the name of each person who has owned an ownership interest in such artificial person (a “second tier owner”) greater than twenty-five percent (25%) at any time during the relevant disclosure period. If any such second tier owner is also an artificial person, the Disclosure Statement shall disclose the name of each person who has owned an ownership interest in such second-tier owner (a “third tier owner”) of forty-nine percent (49%) or more during the relevant disclosure period. If the name of no natural person has been identified as an owner, or a second or third tier owner of the prospective contractor, bidder, or offeror, the Disclosure Statement shall identify the name, position, address, and contact information of the natural person having the

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authority and responsibility for the performance of the prospective contract, and the name of any natural person who has the authority and power to remove and replace the designated responsible person or otherwise control the performance of the prospective contract.

- (d) Disclosure of Financial Interest. A prospective contractor shall execute an affidavit disclosing the name of any person who has received or is entitled to receive a commission, gratuity, contingent fee or other compensation to solicit, secure, or assist in obtaining business related to the solicitation by means of a Disclosure Statement, executed as an affidavit under oath, disclosing such interest and shall also contain the amounts of any such commission, gratuity, contingent fee or other compensation.
- (e) Disclosure of Conflict of Interest. A prospective contractor shall disclose the name of any person who directly or indirectly participates in any solicitation if such person is also an employee of the government of Guam, or of the government of the United States if federal funds are used in payment of the contract.
- (f) Every disclosure of an ownership or financial interest of any person required to be identified by this Section shall name the person required to be disclosed and the street address of their principal place of business. All information disclosed or meant to be disclosed under this Section is public procurement data and shall be kept as part of the public record of each procurement.
- (g) Continuing Duty of Disclosure. Notwithstanding any other provision of this Chapter, the duty to disclose the information required under this Section shall be, upon award a continuing duty of a contractor of every contract subject to this Chapter, and all such information shall become part of the procurement record required by § 5249 of this Chapter. Throughout the term of a contract subject to the terms of this Chapter, the contractor shall promptly make any disclosures not made previously and update changes in

the identities or other required information, interests, or conflicts of the persons required to be disclosed

herein. Failure to comply with this Section shall constitute a material breach of contract.”

Section 2. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

- 1. If the affidavit is a copy, indicate the BID/RFP number and where it is filed.**
- 2. Affidavits must be signed within 60 days of the date the bids or proposals are due.**

OWNERSHIP & INTEREST DISCLOSURE AFFIDAVIT

TERRITORY OF GUAM)
)
 HAGATNA, GUAM)

I, undersigned, _____, being first duly sworn, deposes and says:
 (partner or officer of the company, etc.)

1. That the name of each person who owns or has owned an ownership interest in the prospective contractor, bidder, or offeror greater than ten (10%) at any time during the twelve (12) month period immediately preceding the date of this solicitation are as follows:

<u>Name</u>	<u>Street Address (Principal Place of Business)</u>	<u>Percentage of Shares Held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total percentage of shares: _____

2. That for any owners listed Section 1 who are artificial persons, the name of each person who owns or has owned an interest in such artificial person (a “second-tier owner”) greater than twenty-five percent (25%) at any time during the relevant disclosure period are as follows:

<u>Name</u>	<u>Street Address (Principal Place of Business)</u>	<u>Percentage of Shares Held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total percentage of shares: _____

3. That for any owners listed Section 2 who are artificial persons, the name of each person who has owned an ownership interest in such second-tier owner (a “third-tier owner”) of forty-nine percent (49%) or more during the relevant disclosure period are as follows:

<u>Name</u>	<u>Street Address (Principal Place of Business)</u>	<u>Percentage of Shares Held</u>
_____	_____	_____

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_____	_____	_____
_____	_____	_____
_____	_____	_____

Total percentage of shares: _____

4. That if no natural person has been identified as an owner in Section 1-3 above, the natural person having the authority and responsibility for the performance of the prospective contract:

<u>Name & Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
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_____	_____	_____
_____	_____	_____

The natural person having the authority and power to remove and replace the designated responsible person or otherwise control the performance of the prospective contract:

<u>Name & Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
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_____	_____	_____
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5. Persons who have received or are entitled a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the Bid/RFP for which this Affidavit is submitted are as follows:

<u>Name</u>	<u>Address</u>	<u>Amount of Commission, Gratuity, or other Compensation</u>
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_____	_____	_____
_____	_____	_____

6. Persons who directly or indirectly participated in this solicitation, if government of Guam employees (or government of the United States employees, if federal funds are used in payment of the contract):

<u>Name & Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
----------------------------	---	----------------------------

_____	_____	_____
_____	_____	_____

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Further, affiant sayeth naught.

Date: _____
Signature of individual if bidder/offeror is a sole Proprietorship: Partner, if the bidder/offeror is a Partnership Officer, if the bidder/offeror is a corporation.

Subscribe and sworn to before me this ____ day of _____, 2024.

Notary Public _____

In and for the Territory of Guam

My Commission expires _____.

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BID AND PERFORMANCE BOND FOR GOODS AND SERVICES
AS REQUIRED UNDER 5 G.C.A. § 5212

KNOW ALL MEN BY THESE PRESENTS, that (bidder name) _____ as Principal, herein after called the Principal and _____ (name of surety)

_____ as duly admitted insurer under the laws of the Territory of Guam, as Surety, hereafter called the Surety, are held and firmly bound unto the Guam Waterworks Authority for the sum of _____ Dollars (\$ _____), for payment of which sum will and truly to be made, the said Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents:

WHEREAS, the Principal has submitted a bid for and is anticipated to enter into a contract in _____ the amount _____ specified below,

NOW, THEREFORE, if the Guam Waterworks Authority shall accept the bid and the Principal shall not withdraw said bid within one hundred twenty (120) calendar days after the opening of bids and shall within twenty one (21) calendar days after the prescribed forms are presented to him for signature, enter into a Contract with the Guam Waterworks Authority in accordance with the terms of such bid. This bond shall also be held by the Guam Waterworks Authority to secure the faithful performance of such Contract and for the prompt payment of labor, goods, services and materials furnished in the prosecution thereof. In the event of the failure of the Principal to enter into such Contract, or if the Principals (Bidder) fails to perform in accordance with the requirements set out under the Bid or any other written instrument requirement performance thereunder, the Surety, on behalf of the Principals shall pay to the Guam Waterworks Authority the differences not to exceed the penalty hereof between the amounts specified in said bid and such larger amount for which the Guam Waterworks Authority may in good faith contract with another party to perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain in full force and effect.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION is such that, if the Bidder shall promptly and faithfully perform said Contract, and shall promptly make payment to all claimants as hereinafter defined for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

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- A. The Surety hereby waives notice of any alteration or extension of the time made by the Authority provided the same is within the scope of the Contract or any modification thereto.
- B. Whenever the Bidder shall be and is declared in default by the Authority to be in default under the Contract, the Authority having performed its obligations hereunder, the Surety may promptly remedy the default or shall promptly:
1. Complete the Contract in accordance with its terms and conditions; or
 2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Authority and the Surety of the lowest responsible bidder, arrange for a Contract between such bidder and the Authority, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts or completion arranged under this paragraph) sufficient funds to pay the cost of completion, less than balance of the Contract price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph shall mean the total amount payable by the Authority to Bidder under the Contract and any amendments thereto, less the amount properly paid by the Authority to Bidder. No right of action shall accrue on this bond to or for use of any person or corporation other than the Authority or successors of the Authority.
- C. A claimant is defined as one having a direct contract with the Bidder or with a sub-bidder of the Bidder for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
- D. The above named Bidder and Surety hereby jointly and severally agree with the Authority that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date of which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for use of such claimant, prosecute the suit to final judgment to final judgment for such sum or sums as may be justly due the claimant, and have execution thereon. The Authority shall not be liable for the payment of any costs or expenses of any such suit.
- E. No suit or action shall be commenced hereunder by any claimant:
1. Unless claimant, other than one having a direct contract with the Bidder, shall have given written notice to any two (2) of the following entities named below:
 - (a) the Bidder: (b) the Guam Waterworks Authority, or (c) the Surety above named,

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within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Bidder at any place the principal maintains an office or conducts its business.

2. After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.

3. Other than in a court of competent jurisdiction in and for the Territory of Guam.

F. The amount of the bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

SIGNED AND SEALED THIS _____ day of _____, 2024 ,
A.D.

IN THE PRESENCE OF:

(Note: If the Principals are Partners, each must execute the Bond)

(WITNESS)

(BIDDER) (SEAL)

(TITLE)

(TITLE)

(MAJOR OFFICER OF SURETY)

(MAJOR OFFICER OF SURETY)

TITLE)

(TITLE)

(RESIDENT GENERAL AGENT)

WAGE AND BENEFIT DETERMINATION

Bid or RFP No.: _____ Name of Offeror: _____
I, _____ hereby **certify under penalty of perjury as follows:**

(1) That I am _____ [*please select one: the offeror, a partner of the offeror, an officer of the offeror*] making the bid or proposal in the foregoing identified procurement.

(2) That I have read and understand the provisions of 5 GCA § 5801 and § 5802 below and that I will ensure that I and my subcontractors will comply with said provisions which read as follows:

§ 5801. Wage Determination Established.

In such cases where the government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation (“contractor”) for the provision of a service to the government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the government of Guam.

The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

§ 5802. Benefits

In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.

(3) That the offeror and its subcontractors are now or will be prior to beginning performance and throughout the contract term, in full compliance with 5 GCA § 5801 and § 5802.

(4) That I have attached the most recent wage and benefit determinations applicable to Guam issued by the U.S. Department of Labor and that I will ensure all of my employees and the employees of my subcontractors will be provided a minimum of ten (10) paid holidays per annum.

Signature Date

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NON-GRATUITY or KICKBACKS AFFIDAVIT

Guam)
)ss:
Tamuning)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1. That I am the _____ of _____.
(Title) (Name of Company or Person
Bidding/Offeror)

2. To the best of my knowledge, neither I, nor any of Offeror’s officers, representatives, agents, subcontractors or employees have violated or are violating the prohibition against gratuities and kickbacks set forth in 2 GAR Division 4 § 11107. Further, I promise, on behalf of Offeror, not to violate the prohibition against gratuities and kickbacks as set forth in 2 GAR Division 4 § 11107.

3. To the best of my knowledge, neither I, nor any of Offeror’s officers, representatives, agents, subcontractors or employees have offered, given or agreed to give, any GWA employee and/or former GWA employee any payment, gift, kickback, gratuity or offer of employment in connection with Offeror’s proposal.

4. I make these statements on behalf of myself as a representative of Offeror, and on behalf of the Offeror’s officers, representatives, agents, subcontractors, and employees.

So sayeth _____
(Declarant)

Signed on this ____ day of _____ 20__, before me a Notary Public in and for Guam, personally appeared _____, known to me to be the authorized representative of _____, whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of _____, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

) Seal (

Notary Public

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ETHICAL STANDARD AFFIDAVIT

Guam)
)ss:
Tamuning)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1. That I am the _____ of _____.
(Title) (Name of Company or Person
Bidding/Offeror)

2. To the best of my knowledge, neither I nor any officers, representatives, agents, subcontractors or employees of Offeror have knowingly influenced any GWA employee to breach any of the ethical standards set forth in 5 GCA Chapter 5, Article 11. Further, I promise that neither I, nor any officer, representative, agent, subcontractor, or employee of Offeror will knowingly influence any GWA employee to breach any ethical standards set forth in 5 GCA Chapter 5, Article 11.

3. All statements in this affidavit and in the bid are true to the best of the knowledge of the undersigned. This statement is made pursuant to 2 GAR Division 4 § 3126.

4. I make these statements on behalf of myself as a representative of Offeror, and on behalf of the Offeror’s officers, representatives, agents, subcontractors, and employees.

So sayeth _____
(Declarant)

Signed on this ____ day of _____ 20__, before me a Notary Public in and for Guam, personally appeared _____, known to me to be the authorized representative of _____, whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of _____, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

) Seal (

Notary Public

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GOOD STANDING AFFIDAVIT

Guam)
)ss:
Tamuning)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1. That I am the _____ of _____.
(Title) (Name of Company or Person
Bidding/Offeror)

2. That I represent and warrant that Offeror is duly registered and in good standing under the laws of Guam or will be duly registered and in good standing under the laws of Guam at the time award is made under IFB _____ [insert IFB Number].

3. I make these statements on behalf of myself as a representative of Offeror, and on behalf of the Offeror’s officers, representatives, agents, subcontractors, and employees.

So sayeth _____
(Declarant)

Signed on this ____ day of _____ 20__, before me a Notary Public in and for Guam, personally appeared _____, known to me to be the authorized representative of _____, whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of _____, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

) Seal (

Notary Public

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Exhibit B



GUAM WATERWORKS AUTHORITY
 Gloria B. Nelson Public Service Building | 688 Route 15, Mangilao, Guam 96913
 P.O. Box 3010, Hagåtña, Guam 96932
 Tel. No. (671) 300-6846/48 Fax No. (671) 648-3290

MEMORANDUM

TO: General Manager
VIA: Supply Management Administrator
FROM: Evaluation Committee Members
SUBJECT: Invitation to Bid No. GWA 2024-12 Liquid Chlorine Recommendation of Award
DATE: September 25, 2024

Bid Advertised

Date: July 11, 2024

Bid Opening Date and Time:

Date Opened: August 23, 2024
 Time: 10:00 AM

Bid Register:

- Pacific Revolution Corp
- Marianas Gas Corp dba Island Equipment Company
- Guam Pacific Enterprise

Bid Package Submitted:

- Marianas Gas Corp dba Island Equipment Company

Evaluation Committee Members:

- Ray Quintanilla, Water Operations Manager
- Peter Cruz, W/S Maintenance Worker-Leader
- Lani Jackson, Buyer II

Evaluation Finding:

On August 30, 2024 at 9:00am, an evaluation committee reviewed and determined the following lowest responsive bid. The evaluation committee hereby recommends moving forward with the award to **Marianas Gas Corporation dba Island Equipment Company**.

Awarded to Marianas Gas Corp dba Island Equipment Company:

Item No	Description	Qty	Unit Cost	Total Cost
1.0	Liquid Chlorine 150lbs. Cylinder	1,260	\$712.95	\$898,317.00
2.0	Liquid Chlorine One (1) Ton	12 each	\$7,149.16	\$85,789.92
Total Cost: (Estimated Annual Value)				\$984,106.92

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Invitation for Bid No. GWA 2024-12 Liquid Chlorine Cylinders
Recommendation of Award

Estimated Cost Analysis:

Contract Terms: \$984,106.92 x 3 Years	\$2,952,320.76
Option 2 Years: \$984,106.92 x 2 Years	\$1,968,213.84

Grand Total:	\$4,920,534.60
---------------------	-----------------------

Contract Term:

GWA and the lowest responsible bidder may enter into a contract, which may take the form of a Purchase Order, on terms acceptable to GWA. The contract will commence upon the vendor's confirmed receipt of a Notice to Proceed from GWA. The initial term of the contract will be three (3) years, with an option for GWA to renew for two (2) additional one-year terms, subject to mutual agreement by both parties.

Lani N. Jackson

Lani Jackson
Buyer II

Concurred and accepted by the committee members:

Raymond C. Quintanilla

Ray Quintanilla
Operations Maintenance Manager

Pete Cruz

Pete Cruz
W/S Maintenance Worker-Leader

In consideration of the foregoing, please indicate your approval of this recommendation by your signature below.

CONCURRED NONCURRED

Vincent Guerrero

Vincent E. Guerrero
Supply Management Administrator

APPROVED DISAPPROVED

Miguel C. Bordallo

Miguel C. Bordallo, P.E.,
General Manager

cc: Bid File



Issues for Decision

Resolution No. 04-FY2025

Relative to Approval to Procure Project Management and Design Services Contracts for Sewer Transmission System Condition Assessment and Design Island wide

What is the project's objective and is it necessary and urgent?

GWA is seeking CCU approval to petition the Public Utilities Commission (PUC) for the procurement of:

- (1) a Project Management and Design services contract for Sewer Transmission Condition Assessment and Design in Northern and Central Guam.
- (2) a Project Management and Design services contract for Sewer Transmission Condition Assessment and Design in Southern and Central Guam.

GWA is currently under a partial consent decree (PCD) with the United States Environmental Protection Agency (USEPA) as of August 9th, 2024.

As mandated by the PCD, GWA must complete a variety of tasks associated with its wastewater transmission systems, consisting of sewer pump stations; force mains; and related appurtenances, with the goal of eliminating sanitary sewer overflows (SSOs) for the protection of human and environmental health and improving the overall performance of its sewer transmission system. The purpose of this project is to provide condition assessment and design services to identify where GWA's transmission systems do not comply with the requirements of the PCD and design services for the improvement work necessary to correct any deficiencies discovered during the condition assessment.

Due to the number of sewer transmission system locations in need of condition assessment and design services, two contracts will need to be procured to meet the project deadlines of the PCD.

Where is the location?

Project sites will be island wide, based on priority and funding. Project locations include, the following sites identified in consent decree: Alupang Cove, Astumbo #1, Astumbo #2, Barrigada, Commercial Port, Dairy Road, Ejector Station #2, Harmon, Inarajan Main, Inarajan, Machanao, Maite, Mangilao, Mongmong-Toto, Namo Yona, New Chaot, Pago Double Shaft, Piti, Pump Station #13, Pump Station #19, Pump Station #20, Route 16, Southern Link, Tai Mangilao, Talofoto, and Yigo.

How much will it cost?

The project management and design contracts are anticipated to exceed \$1,000,000.00, based on project fees for condition assessment and design of the Ypao and Mamajanao Pump Stations for Task Order 2 from the ongoing Indefinite Delivery/Indefinite Quantity (ID/IQ) Professional Project/Construction Management for Island wide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project.

When will it be completed?

The completion of these projects will depend on site-specific conditions including, the severity of repairs, extent of sewer transmission system replacement, environmental conditions, and permitting requirements, and available funding. The estimated completion time for these projects is four years.

What is the funding source?

The funding for this project is available through bonds identified on GWA's Capital Improvements Plan, grants, internally funded capital improvement program (IFCIP) funds, and System Development Charge Funds.

The RFP/BID responses (if applicable):



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. 04-FY2025

RELATIVE TO APPROVAL TO PROCURE PROJECT MANAGEMENT AND DESIGN SERVICES CONTRACT FOR SEWER TRANSMISSION SYSTEM CONDITION ASSESSMENT AND DESIGN ISLANDWIDE

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 seeking CCU approval to petition the Public Utilities Commission for the procurement of two Project Management (PM) and Design Services Contracts for Wastewater Transmission System Condition Assessment and Design island wide; and

WHEREAS, one Project Management and Design Services Contract will serve Northern and Central Guam and the other will serve Southern and Central; and

WHEREAS, GWA is currently under a partial consent decree (PCD) with the United States Environmental Protection Agency (USEPA) as of August 9th, 2024; and

WHEREAS, the PCD mandates that GWA complete a variety of tasks associated with its wastewater transmission system, consisting of sewer pump stations; force mains; and related appurtenances, with the objective of eliminating sanitary sewer overflows (SSOs) for the protection of human and environmental health and improving the overall performance of GWA’s wastewater transmission system (see Exhibit A); and

1 **WHEREAS**, the purpose of this project is to provide condition assessment and design
2 services to identify where GWA's transmission systems do not comply with the requirements of
3 the PCD and design services for the improvement work necessary to correct any deficiencies
4 discovered during the condition assessment; and

5
6 **WHEREAS**, Due to the number of sewer transmission system locations in need of
7 condition assessment and design services, two contracts will need to be procured to meet the
8 deadlines set by the PCD; and

9
10 **WHEREAS**, Project locations include, the following sites identified in consent decree:
11 Alupang Cove, Astumbo #1, Astumbo #2, Barrigada, Commercial Port, Dairy Road, Ejector
12 Station #2, Harmon, Inarajan Main, Inarajan, Machanao, Maite, Mangilao, Mongmong-Toto,
13 Namu Yona, New Chaot, Pago Double Shaft, Piti, Pump Station #13, Pump Station #19, Pump
14 Station #20, Route 16, Southern Link, Tai Mangilao, Talofoyo, and Yigo (See Exhibit B); and

15
16 **WHEREAS**, the project management and design contracts are anticipated to exceed One
17 Million Dollars (\$1,000,000.00), based on project fees for condition assessment and design of
18 the Ypao and Mamajanao Pump Stations for Task Order 2 from the ongoing Indefinite
19 Delivery/Indefinite Quantity (ID/IQ) Professional Project/Construction Management for island
20 wide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project
21 (see Exhibit C); and

22
23 **WHEREAS**, funding is available through bonds identified on the GWA Capital
24 Improvements Plan, grants, internally funded capital improvement program (IFCIP) funds, and
25 System Development Charge Funds; and

26
27 **WHEREAS**, the Public Utilities Commission (PUC) contract review protocol requires
28 GWA to obtain approval prior to advertising procurement for projects with an anticipated value
29 of One Million Dollars (\$1,000,000.00) or greater; and

30
31 **WHEREAS**, the CCU must approve all petitions to the PUC.

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NOW BE IT THEREFORE RESOLVED the Consolidated Commission on Utilities does hereby approve the following:

1. The recitals set forth above hereby constitute the findings of the CCU.
2. The CCU finds that two Project Management (PM) and Design Services Contracts are necessary for the elimination sanitary sewer overflows (SSOs) for the protection of human and environmental health, improve the overall performance of GWA’s wastewater transmission system, and to meet the deadlines of the partial consent decree with the United States Environmental Protection Agency.
3. The CCU hereby authorizes management to submit a petition to the PUC for the procurement of two Project Management (PM) and Design Services Contracts for Wastewater Transmission System Condition Assessment and Design island wide.

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

DULY AND REGULARLY ADOPTED, this 22nd day of October 2024.

Certified by:

Attested by:

JOSEPH T. DUENAS

PEDRO ROY MARTINEZ

Chairperson

Secretary

SECRETARY’S CERTIFICATE

I, Pedro Roy Martinez, 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,

1 duly and legally held at a place properly noticed and advertised at which meeting a
2 quorum was present and the members who were present voted as follows:

3
4 **AYES:** _____

5 **NAYS:** _____

6 **ABSENT:** _____

7 **ABSTAIN:** _____

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DRAFT

EXHIBIT A

1 18. Force Main Condition Assessment. Within three (3) years of the Effective Date,
2 as an interim milestone, GWA shall complete a Force Main condition assessment for the Force
3 Mains identified in Table A, below. As part of the Force Main condition assessment, GWA shall
4 ensure that the condition assessment steps detailed below are performed for all Table A Force
5 Mains, valves, air relief valves, drains, connections, fittings and appurtenances associated with
6 the Force Main, and is conducted, stamped, and certified by a Professional Engineer. At a
7 minimum, GWA shall:

- 9 a. Inspect and determine functionality;
- 10 b. Identify defects such as inoperable valves, exposed corrosion, leaks,
11 cracks, or other conditions that could contribute to the failure of the Force Main;
- 12 c. Evaluate all metallic (cast iron, ductile iron, steel, etc.) and concrete Force
13 Mains, fittings, and appurtenances to determine whether corrosion protective measures are
14 necessary. Appropriate corrosion protective measures include:
- 15 i. Targeted pipeline/component replacement;
- 16 ii. Adding protective coatings;
- 17 iii. Installing an internal pipe lining; and
- 18 iv. Adding targeted cathodic protection.
- 19 d. Conduct an external pipe inspection of the exterior of each Force Main at
20 each location where the pipe segment is exposed to assess structural damage and the integrity of
21 protective coatings using visual inspection and technology suitable to the particular pipe to
22 identify possible defects such as leaks, cracks, corrosion, erosion, pinholes, coating damage,
23 delamination or any other conditions that could contribute to the failure of the Force Main. For
24 purposes of this Paragraph, suitable technology shall be no less than ultrasonic testing, magnetic
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1 flux leakage, or broadband electromagnetic testing, or a technology that EPA and GWA agree is
2 equivalent to those technologies in terms of its ability to meet the stated objectives of inspection
3 and assessment. The requirements of subparagraph d of this Paragraph do not apply to Force
4 Mains that are, as of the Effective Date, in the engineering design phase of a construction
5 project;

6
7 e. Conduct pressure testing evaluations on all segments of Table A Force
8 Mains that have a LOF greater than 3.4, using accepted engineering methods suitable for each
9 pipe to identify possible defects or any other conditions that could contribute to the failure of the
10 Force Main. The purpose of the pressure testing evaluation is to determine if the design,
11 construction, and materials are sufficient to withstand the maximum predicted transient pressures
12 that may be expected to occur under normal, peak flow, and emergency (shut-down and start-up)
13 conditions. This evaluation shall include, but not necessarily be limited to, (i) a review of
14 available pressure data, and (ii) an evaluation using actual pressure measurements of the transient
15 pressures that occur during the range of anticipated operating conditions. Any actual pressure
16 measurements shall be limited to the range of operating conditions that is both prudent and
17 practicable. GWA shall follow up on observed conditions that are likely to be a source of
18 leakage. The methodologies employed will be appropriate to the type of condition and location
19 of the suspected leakage. The requirements of subparagraph e of this Paragraph do not apply to
20 Force Mains that are, as of the Effective Date, in the engineering design phase of a construction
21 project;

22
23 f. Identify the extent to which defects affect the performance of the Force
24 Main, through performance indicators such as unusual noise, vibrations, pipe and pipe joint
25 leakage and displacement, valve arrangement and leakage, lift station operation and
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1 performance, discharge pump rates and pump speed, and pump suction and discharge pressures;

2 g. Review operating data, such as operating pressures, pump run times, and
3 flow rates, as well as reports of physical inspections, which can reveal reduced Force Main
4 capacity and other performance issues to determine if there is an actual or potential significant
5 reduction in capacity; and

6 h. Determine the Force Main's probable time of failure for the following four
7 failure modes based on the information gathered in subparagraphs a-f of this Paragraph:
8 condition or structural failure, end of useful life, capacity, and not meeting an established level of
9 service.
10

11 19. Force Main Assessment Report. Within three-and-a-half (3.5) years of the
12 Effective Date, as an interim milestone, for each Force Main that was assessed pursuant to
13 Paragraph 18, GWA shall submit to EPA, for review and approval, a Force Main Assessment
14 Report that:
15

16 a. Describes the method and extent of each assessment conducted under
17 Paragraph 18, including valve, exposed fitting, and exposed appurtenance inspections; corrosion
18 protection evaluations; external pipe inspections; pressure testing evaluations; and leak detection
19 tests. The report must provide a narrative of approach and methodology for inspections,
20 inspection locations and, in an appendix to the report, provide the field data collected pursuant to
21 Paragraph 18.
22

23 b. Describes the results of each assessment for each Force Main conducted
24 pursuant to inspections referenced in Paragraph 18, including valve, exposed fitting, and exposed
25 appurtenance inspections; corrosion evaluations; external pipe inspections, pressure testing
26 evaluations, and leak detection tests;
27
28

1 c. Identifies, and quantifies, where practicable, observed or measured
 2 conditions such as leaks, cracks, corrosion, erosion, pinholes, coating delamination, joint
 3 deflections, pipe deformation, wall-thinning, or any other conditions that could contribute to the
 4 failure of the Force Main;

5 d. Includes an inventory of all pipe segments with observed conditions and
 6 photo documentation of Force Main defects whenever possible;

7 e. Includes a summary of defects that affect the performance of the Force
 8 Main, through performance indicators such as unusual noise, vibrations, pipe and pipe joint
 9 leakage and displacement, valve arrangement and leakage, lift station operation and
 10 performance, discharge pump rates and pump speed, and pump suction and discharge pressures;

11 f. Includes a description of each Force Main’s failure modes, and the
 12 probable time of failure, based on the information gathered through the assessments conducted
 13 pursuant to Paragraph 18; and

14 g. Based on Force Main condition assessments, identifies pipe segments that
 15 leak or are cracked, broken, or ruptured (or have the potential to leak, crack, break, or rupture
 16 within the next ten (10) years), or are experiencing (or have the potential to experience) a
 17 significant reduction in capacity or other conditions that could lead to Force Main failure. GWA
 18 shall identify Force Main capacity issues and other performance issues that result in an actual or
 19 potential significant reduction in capacity.
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24 **Table A: Force Mains for Condition Assessment**

Force Main Lift Station	Basin	Diameter (inches)	Length (feet)	Material	Installation Year	LOF Score (1 to 5)	COF Score (1 to 5)
Hagátña Main	Hagátña	24	2,724	Reinforced concrete	1965	Known poor condition	4.9
Asan	Hagátña	12	2,993	Cast iron	1971	Known poor	2.8

						condition		
1	Bayside	Hagåtña	6	646	ACP	1966	5	3.6
2	Pago Double Shaft	Hagåtña	8	2,474	ACP	1973	4.9	3.2
3	Mamajanao	Hagåtña	14	1,186	Unknown	1971	3.2	4.4
4	Barrigada	Hagåtña	14	6,078	ACP	1978	3.9	3.1
5	Mangilao	Hagåtña	10	2,739	ACP	1974	4.5	2.8
6	Piti	Hagåtña	9.1	4,336	ACP	1971	4.5	2.6
7	Tai Mangilao	Hagåtña	8	1,618	ACP	Unknown	3.4	2.7
8	Pump Station No. 17	Umatac-Merizo	6	2,840	Ductile iron	1980	3.9	2.3
9	Paseo De Oro	Hagåtña	6	686	ACP	1967	5	1.8
10	Dairy Road	Hagåtña	6	3,616	Ductile iron	1983	3.1	2.5
11	Pump Station No. 16	Umatac-Merizo	6	1,095	Ductile Iron	1980	3.1	2.5
12	Maite	Hagåtña	4	393	Unknown	1971	3.2	1.7
13	Harmon	Hagåtña	6	2,260	Unknown	1972	3.2	1.5
14	Fujita	Tumon	18	7,154	Ductile iron	1992	3	3.7
15	Route 16	Northern District	30	5,741	Unknown	1989	2.1	5
16	Yigo	Northern District	16	3,077	Polyethylene	1973	2.8	3.5
17	Chaligan	Agat-Santa Rita	16	6,352	Ductile iron	1995	2.6	3.1
18	Ypao	Hagåtña	7.3	1,741	PVC	Unknown	1.7	3.9
19	Inarajan Main	Inarajan	8	3,893	Unknown	1984	2.7	2.9
20	Southern Link	Northern District	36	4,311	Ductile iron	1992	2.6	2.9
21	New Chaot	Hagåtña	20	2,319	PVC	1989	1.7	2.9
22	Gaan	Agat-Santa Rita	16	10,125	PVC	1995	1.7	2.9
23	Alupang Cove	Hagåtña	6	905	PVC	1991	1.7	2.8
24								
25								
26								
27								
28								

1 20. Force Main Action Plan. Within six (6) months of EPA approval of the Force
2 Main Assessment Report, as an interim milestone, GWA shall submit to EPA, for review and
3 approval, a Force Main Action Plan consistent with the Force Main Condition Assessment that:

- 4 a. Prioritizes necessary Force Main upgrades;
- 5 b. Includes a schedule for design and implementation of interim Force Main
6 improvement projects where asset failure is likely to occur before Repair, Rehabilitation, or
7 Replacement is complete;
- 8 c. Includes a schedule for design and implementation of Repair,
9 Rehabilitation, Replacement, and improvement projects employing methodologies appropriate to
10 the condition and location of the Force Main;
- 11 d. Requires the installation of corrosion protective measures for metallic
12 (cast iron, ductile iron, steel, etc.) and concrete Force Mains, fittings, and appurtenances that lack
13 adequate corrosion protection or could be subject to corrosion; and includes a schedule for future
14 Force Main condition assessments with an explanation of GWA's Force Main prioritization and
15 scheduling decisions.

16 21. Implementation of the Force Main Action Plan. As a compliance milestone,
17 GWA shall complete construction addressing at least 25% of the linear feet of Force Mains
18 addressed in the approved Force Main Action Plan within nine (9) years of the Effective Date.
19 GWA will be allowed to include Force Main projects completed after the Effective Date for
20 Force Mains listed in Table A. The Force Main Action Plan shall be consistent with the Force
21 Main Condition Assessment in that it will prioritize work at Force Mains that are failing or are
22 most likely to fail.

23 22. Force Main Spill Contingency Plan. Within six (6) months of the Effective Date,
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1 as an interim milestone, GWA shall submit to EPA, for review and approval a Force Main Spill
2 Contingency Plan for all Force Mains that establishes measures and procedures to respond to a
3 Force Main spill event in order to minimize discharges to surface waters, prevent public
4 exposure to the spilled wastewater, and return the Force Main to full service as rapidly as
5 possible. The Force Main Spill Contingency Plan shall include the following sections:

6 a. Force Main Information. The Force Main information section shall
7 contain salient information about the Force Mains including location, diameter, length, material,
8 elevations, design flows and pressures, fittings, parallel force mains, location of waterways, and
9 a vicinity map of the Force Main, including nearby Gravity Mains and Pump Stations that may
10 be used for diversion of flows in the event the Force Main is damaged.

11 b. Spill Response Procedures. The spill response procedures section shall
12 include a list of the actions that GWA anticipates taking in the event of a Force Main spill,
13 including tankering and diversion of flows within the system. This section shall describe the
14 resources GWA will have available to deploy in the event of a Force Main spill, the staff
15 notification procedures, and anticipated response times, with the goal being to restore service to
16 the customer as soon as possible.

17 c. Equipment, Parts, and Supplies. The equipment, parts, and supplies
18 section shall include a list of the equipment, parts, and supplies needed to implement the Plan,
19 including response and repair equipment, spare parts, and supplies that can be used in the event
20 of a Force Main failure. The response equipment shall include portable pumps, hose or piping,
21 sand bags (or equivalent barrier/diversion devices), and pipe plugs. The supplies shall include
22 replacement pipe, valves, and repair kits. The list shall identify the location of all such
23 equipment, parts, and supplies.
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1 23. Force Main Operation and Maintenance Program. Within two (2) years of the
2 Effective Date, as an interim milestone, GWA shall submit to EPA, for review and approval a
3 Force Main Operations and Maintenance (“O&M”) Program that establishes written preventive
4 operations and maintenance schedules and procedures for all Force Mains. The Force Main
5 O&M Program shall be integrated into the GWA Asset Management Program, and
6 Computerized Maintenance Management System (CMMS) and shall include:

8 a. Preventative maintenance schedules for the inspection, periodic service,
9 and calibration of force main instrumentation, such as flow meters, liquid level sensors, alarm
10 systems, elapsed time meters, remote monitoring equipment, and air release valves;

11 b. Inspection and maintenance of sulfide and corrosion protection systems;
12 and
13

14 c. An annual systematic method of reviewing Force Main operational data,
15 which at a minimum includes pump run times, discharge pump rates and pump speed, pump
16 suction and discharge pressures, flow rates, and performance indicators (including excessive
17 noise, vibrations, and leakage), all of which can reveal reduced Force Main performance issues.

18 24. Pump Stations: Scope of Work. GWA shall complete all improvement work,
19 which may include Repair, Rehabilitation, Replacement, and relocation, for each of its Pump
20 Stations necessary to ensure reliability, functionality, and adequate capacity and satisfy each of
21 the acceptance criteria set forth in Paragraph 31.
22

23 25. Pump Station priority projects. Within the number of years from the Effective
24 Date specified after each pump station below, as compliance milestones, GWA shall complete all
25 necessary improvements to the three Pump Stations in the most critical need of work: the Ypao
26 (three (3) years), Hagåtña Main (two (2) years), and Mamajanao (three (3) years) Pump Stations
27
28

(the “Pump Station Priority Projects”). All work, including any start-up activities and any related O&M training for field personnel, shall be completed by these deadlines.

26. Sewage Pump Stations: Tiers. Except for the Pump Station Priority Projects identified in Paragraph 25, GWA’s entire inventory of Pump Stations has been organized into four tiers: Tiers 1, 2, 3 and 4 set forth in Table B below.

Table B: Pump Station Tiers¹

<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 3</u>	<u>Tier 4</u>
1. Alupang Cove (C) 2. Astumbo #1 (N) 3. Astumbo #2 (N) 4. Bayside (N) 5. Dairy Road (C) 6. Ejector Station No. 2 (S) 7. Fujita (N) 8. Harmon (N) 9. Inarajan Main (S) 10. Inarajan Lift Station (S) 11. Machanao (N) 12. Mongmong Toto (C) 13. Pago Double Shaft (C) 14. Piti (C) 15. Pump Station No. 13 (S) 16. Pump Station No. 16 (S) 17. Pump Station No. 17 (S) 18. Pump Station No. 19 (S) 19. Pump Station No. 20 (S) 20. Route 16 (N) 21. Southern Link (N) (22) Talafofo (S) (23) Yigo (N)	1. Asan (C) 2. Barrigada (C) 3. Commercial Port (C) 4. Ejector Station No. 3 (S) 5. Ejector Station No. 6 (S) 6. Latte Heights Double Trouble (N) 7. Latte Heights Submarine (N) 8. Latte Plantation (N) 9. Latte Sun Rise (N) 10. Maite (C) 11. Mangilao (C) 12. Namu Yona (C) 13. New Chaot (C) 14. Pagachao (S) 15. Paseo De Oro (N) 16. Pump Station No. 11 (S) 17. Reyes (S) 18. Tai Mangilao (C) 19. Toto Garden (C)	1. Agat Chaligan Taleyfac (Chaligan) (S) 2. Cabras Island (C) 3. Casamiro (C) 4. Chalan Pago Pump Station 3 (C) 5. Chalan Pago Pump Station 5 6. Dero Road (C) 7. Ejector Station No. 4 (S) 8. Ejector Station No. 5 (S) 9. Ejector Station No. 7 (S) 10. Leyang (C) 11. Main Trunk Line (S) 12. Ordot (C) 13. Pacific Latte (N) 14. PGD (N) 15. Pump Station No. 12 (S) 16. Pump Station No. 14 (S) 17. Pump Station No. 15 (S) 18. Pump Station No. 18 (S) 19. Sinajana (C) 20. Zero Down PS (N)	All Pump Stations not included as Pump Station priority projects or Tiers 1, 2, and 3.

27. Sewage Pump Stations: Preliminary Work Plans. For each tier and beginning with Tier 1, as an interim milestone, GWA shall develop and submit to EPA for review and

¹ The district for each Pump Station is noted in parentheses: Northern (N), Central (C), and Southern (S).

1 approval a preliminary design schedule that prioritizes Pump Station improvements based on
2 current known conditions of each Pump Station within that tier ("Pump Station Preliminary
3 Work Plans"). GWA shall submit the Pump Station Preliminary Work Plans in accordance with
4 the following schedule:

- 5 a. Tier 1 Pump Station Preliminary Work Plan within one year of the
6 Effective Date;
7 b. Tier 2 Pump Station Preliminary Work Plan within five (5) years of the
8 Effective Date;
9 c. Tier 3 and Tier 4 Pump Station Preliminary Work Plan within ten (10)
10 years of the Effective Date.
11

12 28. GWA shall include in each Pump Station Preliminary Work Plan:

- 13 a. an estimated scope of work for each Pump Station based on the known
14 condition and a corresponding conceptual design in accordance with the acceptance criteria set
15 forth in Paragraph 31;
16 b. a schedule for a Pump Station condition assessment performed in
17 accordance with Paragraph 29; and
18 c. a proposed schedule of key implementation dates for each Pump Station
19 within the tier, to include, at a minimum, execute design contract, complete condition
20 assessment, issue a notice to proceed with design, execute construction contract, issue a notice to
21 proceed with construction, complete construction, all in accordance with Paragraph 30.
22 d. GWA may propose, based on worsening conditions at any Pump Station
23 from those that existed as of the Effective Date of this Consent Decree or for which land
24 acquisition is required, a change in Tier designation or substitution of Pump Station between
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1 Tiers, for EPA review and approval with the Preliminary Work Plan provided that (i) if GWA
2 proposes a tier change, GWA may only propose changing a Pump Station from a higher priority
3 tier to a lower priority tier by one tier (*e.g.*, GWA may not propose changing a Pump Station
4 from Tier 1 to Tier 3); and (ii) if GWA's Pump Station change proposal is based on GWA's
5 acquisition of land, GWA must include in its request to EPA a commitment to resolve the land
6 acquisition issue within a specific time period.
7

8 29. Sewage Pump Stations: Condition Assessments. GWA shall assess the condition
9 of each Pump Station through observation, direct inspection, investigation, and monitoring.
10 GWA shall use the data and information from the condition assessment to identify structural and
11 operational issues, evaluate the overall performance of the system, update its Pump Station asset
12 condition profiles, and assess the rate of deterioration of Pump Station assets. As interim
13 milestones, GWA shall complete and submit Pump Station condition assessments to EPA for
14 review and comment, in accordance with the schedules established within each Pump Station
15 Preliminary Work Plan tier. GWA shall ensure that each condition assessment is conducted,
16 stamped, and certified by a Professional Engineer, and include the following:
17

- 18
- 19 a. Review of existing condition assessment information and prior studies;
 - 20 b. Review of existing operations plans, operational data, and asset
21 management data;
 - 22 c. Interviews with operations, maintenance, and engineering staff;
 - 23 d. Review of available engineering drawings;
 - 24 e. Pump Station inspections that include structural, mechanical, electrical,
25 and civil assessments, and utilize up-to-date industry standard technologies, tools, and practices;
26
27 and
28

1 f. For each pump: designed horsepower, power demands, designed flows,
2 installation date, and Preferred Operating Region;

3 g. For each Pump Station: average flows, overall power demand, and overall
4 wet well capacity.

5
6 For any associated Pump Station, the Force Main Condition Assessment completed under
7 Paragraph 18 can be utilized as part of the Pump Station condition assessment to the extent that
8 the information therein remains accurate and valid.

9
10 30. Completion of Tier 1 and 2 Projects. Based on the Pump Station condition
11 assessments, GWA shall complete all improvement work set forth in the Pump Station
12 Preliminary Work Plan for Tier 1 and 50% of the improvement work set forth in the Pump
13 Station Preliminary Work Plan for Tier 2, each as a compliance milestone, including any start-up
14 activities and any related O&M training for field personnel, in accordance with the following
15 schedule:

- 16
17 a. Tier 1 Projects within seven (7) years of the Effective Date; and
18 b. 50% completion of Tier 2 Projects within ten (10) years of the Effective
19 Date.

20 31. Sewage Pump Station Acceptance Criteria. For GWA to designate Pump Station
21 projects complete under Paragraph 30, the Pump Station project must satisfy each criterion listed
22 in this Paragraph and be designed and constructed to conform with good engineering practice
23 and the Ten States Standards, including practices to improve climate change resiliency of the
24 Pump Stations. As applicable, resilience considerations should be consistent with EPA's
25 Creating Resilient Water Utilities initiative, such as the Resilient Strategies Guide for Water
26 Utilities. When GWA determines that a Pump Station project has satisfied all of the acceptance
27 criteria and standards in this Paragraph, GWA shall certify in a semi-annual report submitted
28

1 pursuant to Paragraph 48 that the Pump Station project is complete according to Paragraph 30:

2 a. Emergency Operations. GWA shall install, and operate as necessary, at all
3 Pump Stations a continuous standby power supply in the form of a fuel-operated standby
4 generator system. GWA shall design this standby generator system as part of all Pump Stations
5 to supply the same amount of electrical power to the Pump Station (including all pumps,
6 controls, alarms, and support systems) as supplied by the utility company. Such emergency
7 operation systems shall comply with the Ten States Standards, including Chapter 47.
8

9 b. Screening baskets, comminutors, or grit removal devices. GWA shall
10 install and operate screening baskets, comminutors, or grit removal devices to remove and/or
11 comminute grit and large solids contained in the wastewater before it is pumped.
12

13 c. Proper site security and safety measures. GWA shall take all reasonable
14 measures to maintain safe Pump Station sites, ensure that site perimeter fencing is intact, and
15 prevent site access for trespassers, especially access to confined spaces.

16 d. Emergency action sheets. GWA shall update and post emergency action
17 sheets at each Pump Station that provide a set of standard operating procedures outlining the
18 steps an operator would take under a given scenario. GWA shall establish emergency action
19 sheets for the following Pump Station scenarios: power failure; backup power failure; emergency
20 response to an SSO; high-level alarm; and pre- and post-storm response. Each emergency action
21 sheet shall contain standard operating procedures that include: response time, response
22 personnel, chain of notification, response equipment, response procedures with order of
23 operations, safety precautions, and close-out procedures.
24
25

26 e. Backflow prevention devices. GWA shall install backflow prevention
27 devices to protect potable water sources from cross-contamination from wastewater backflow.
28

1 f. Alarms and SCADA systems. GWA shall install and maintain alarms,
2 controls, and supervisory control and data acquisition (SCADA) systems and integrate all alarms
3 and controls to the SCADA system to provide remote status monitoring of its pumping
4 operations from an off-site location, and to the extent practicable, remote control of its pumping
5 operations from an off-site location. GWA shall ensure that the SCADA system continuously
6 monitors, reports, and transmits the following information:
7

- 8 i. Daily operating hours for each sewage pump;
- 9 ii. Number of pump starts for each sewage pump;
- 10 iii. Wet well level with high- and low-level alarm set points;
- 11 iv. Flow (instantaneous and average);
- 12 v. Discharge pressure with high- and low-level alarm set points; and
- 13 vi. Minimum digital inputs, including high-water level alarm in wet
14 well, drywell flooding, intrusion alarm, Alternating Current Pump Station power failure, Direct
15 Current low battery, and remote signal failure alarm.
16

17 g. Adequate pumping capacity and redundancy. GWA shall ensure that there
18 is pump redundancy at each Pump Station. The minimum number of pumps per station shall be
19 two. GWA shall ensure pumping capacity and redundancy complies with the Ten States
20 Standards, Chapter 42.31. *WWS*

21 h. Adequate wet-well capacity. GWA shall ensure that newly-constructed,
22 Replacement, or Rehabilitated Pump Station wet-well volume is sufficient for anticipated wet-
23 weather peak hourly flow conditions and coordinated with pump sizing for the station. GWA
24 shall ensure each newly-constructed, Replacement, or Rehabilitated Pump Station wet-well
25 complies with the Ten States Standards, Chapter 42.6.
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1 i. Corrosion protection. GWA shall Replace all Pump Station equipment,
2 including wet-well and valve equipment, rendered inoperable from corrosion, and provide Pump
3 Station equipment with adequate corrosion protection. GWA shall ensure corrosion protection
4 complies with the Ten States Standards, Chapter 42.25.

5 j. Adequate electrical panels, lighting, and Power Supply. GWA shall
6 ensure that each Pump Station has adequate electrical panels, lighting, and Power Supply.
7

8 k. Force Mains. GWA shall ensure Force Mains leaving the Pump Station
9 are in proper working condition and comply with the Ten States Standards, Chapter 49. For any
10 associated Pump Station, work completed pursuant to the Force Main Action Plan can be utilized
11 as part of the Pump Station Rehabilitation process to the extent that the information therein
12 remains accurate and valid.
13

14 l. Pumps. GWA shall ensure each pump is installed and operates within the
15 Preferred Operating Region under normal operating conditions and normal daily flow conditions.
16 GWA shall consider whether each Rehabilitated pump needs a variable frequency drive based on
17 a cost-benefit analysis. GWA shall ensure each type of pump within its system has a complete
18 repair kit and the necessary spare parts to resume pump service. GWA shall ensure each pump
19 complies with the Ten States Standards, Chapter 42.3.
20

21 m. Valves. GWA shall ensure all Pump Station valves are installed and in
22 good working condition. Each wastewater pump shall have isolation valves to permit the
23 removal or maintenance of the pumps and check valves without affecting the operation of
24 remaining pumps. Each Pump Station shall have sufficient valves to permit the proper operation
25 and maintenance of the Pump Station during normal, peak, and bypass conditions. Each valve
26 shall be rated for use with raw, unscreened wastewater, and shall be designed for its function and
27
28

1 installation location, as well as the normal and maximum operating pressures expected at the
2 Pump Station. GWA shall ensure valves comply with the Ten States Standards, Chapter 42.5.

3 n. Computerized Maintenance Management System (“CMMS”). GWA shall
4 enter all equipment assets, spare parts, preventative maintenance procedures, and a recurring
5 maintenance schedule for all Pump Station assets into GWA’s CMMS in accordance with
6 GWA’s asset management program. The manufacturer’s documented operation and
7 maintenance procedure shall be incorporated into the specific preventative maintenance for each
8 asset.
9

10 o. Operational testing and performance period. GWA shall ensure
11 that each Pump Station completes the operational testing and performance period successfully.
12

13 p. Operational Testing. For operational testing, GWA shall operate
14 and monitor the Pump Station for five (5) consecutive Days. During operational testing, GWA
15 shall demonstrate Pump Station operation on automatic control without equipment or control
16 failure and with sewage tie-in. The Pump Station mechanical equipment, electrical/control
17 systems, and emergency power equipment shall operate without failure during the operational
18 testing.
19

20 q. Performance Period. For a Pump Station to be considered
21 operational and successfully complete the performance period, all Pump Station equipment and
22 operational systems, including all control, alarm, and SCADA systems, shall operate without
23 failure for six (6) months and shall not result in any SSOs caused by a Pump Station failure
24 within that time period.
25

26 B. HAGÁTÑA WWTP

27 32. Hagátña WWTP Secondary Treatment Feasibility Study. Within seven (7) years
28 of the Effective Date, as a compliance milestone, GWA shall submit to EPA for review and

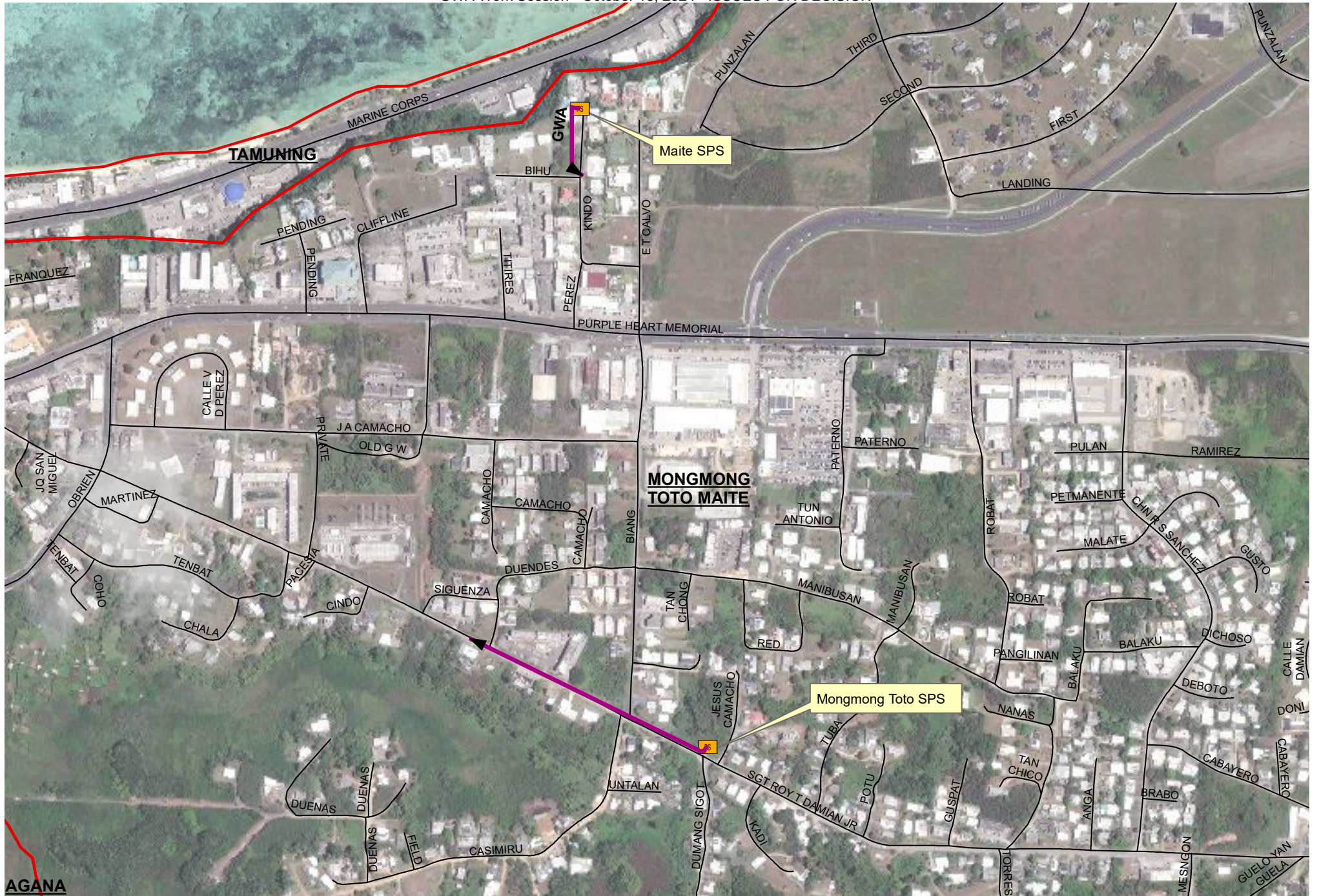


EXHIBIT B

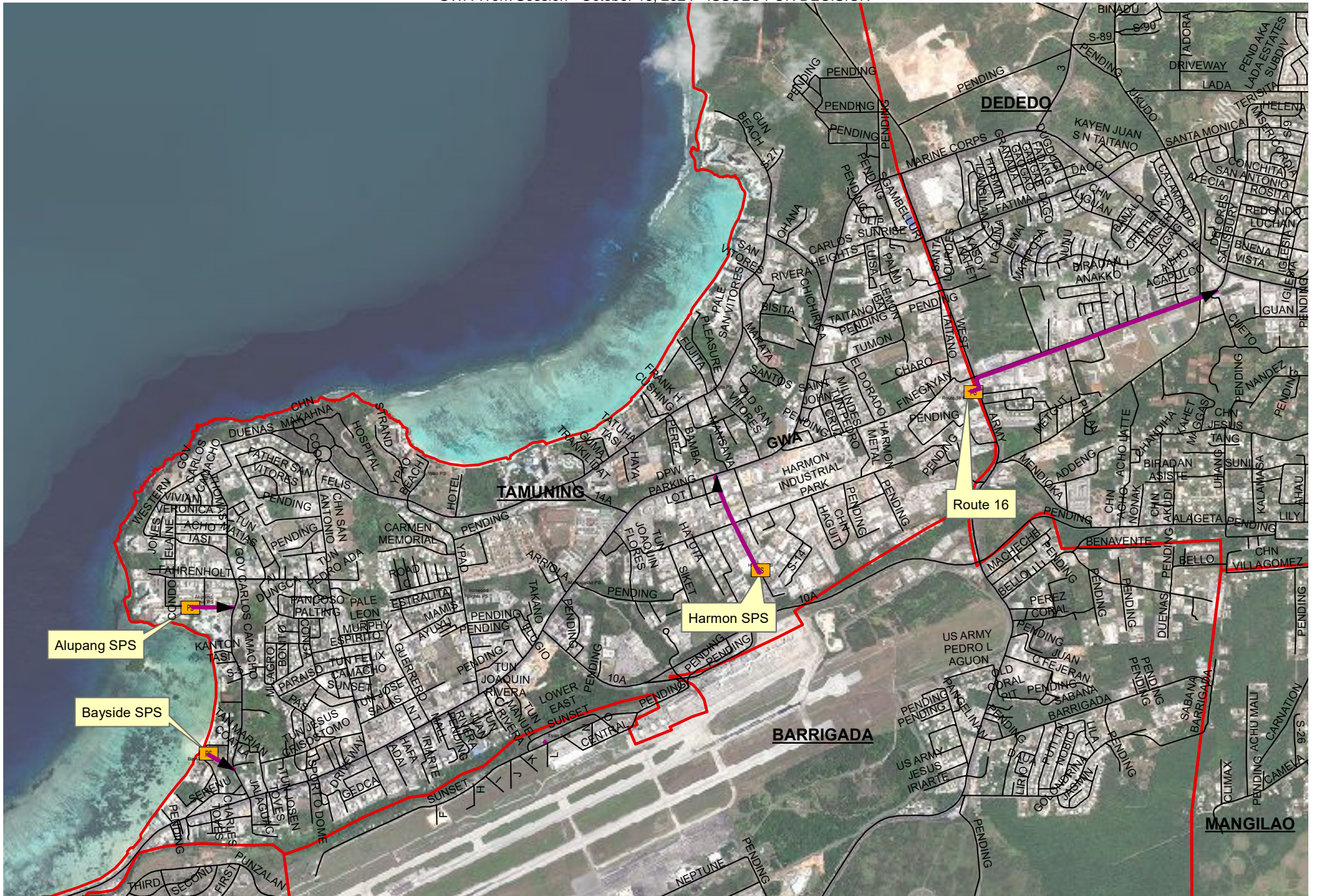
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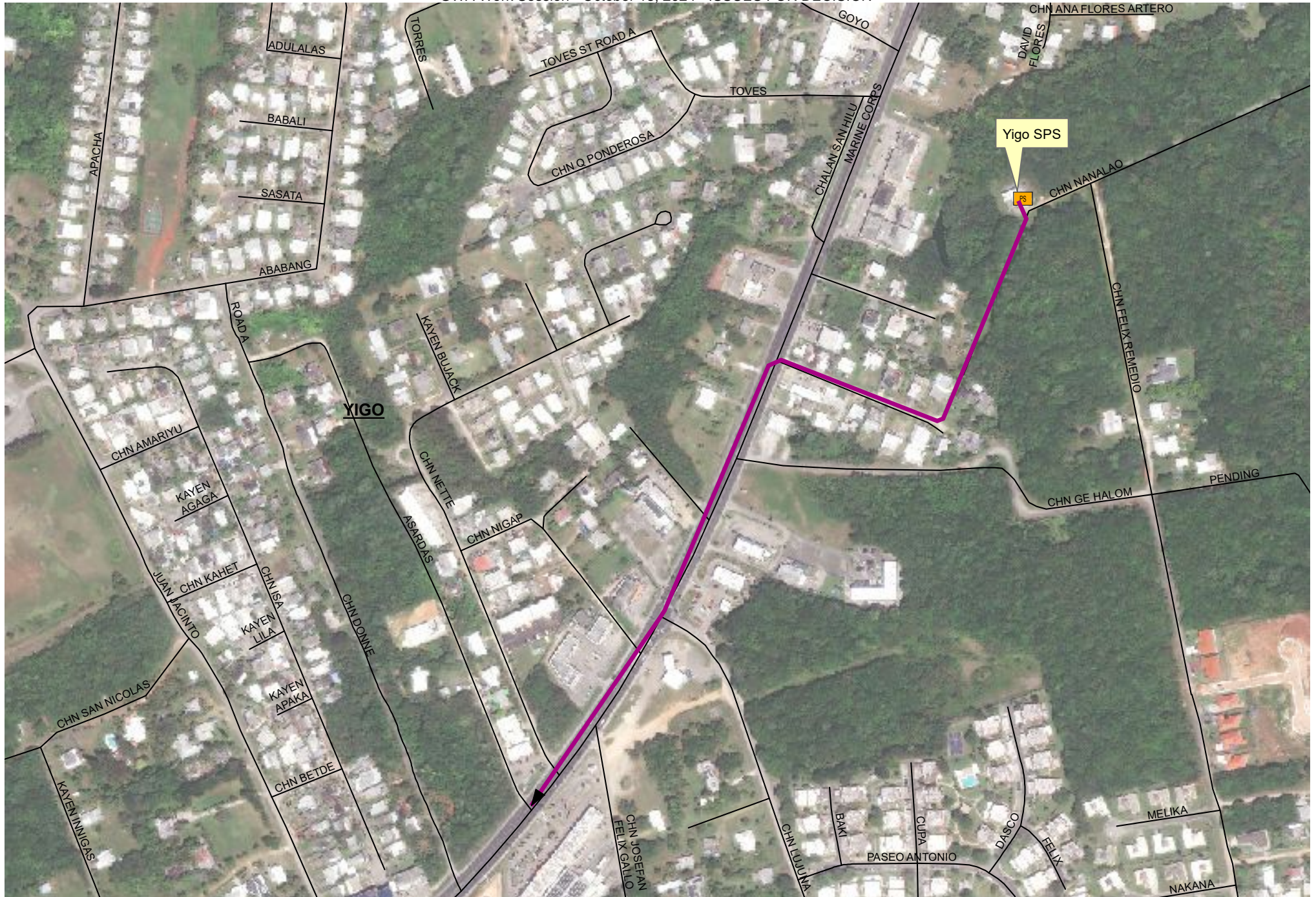
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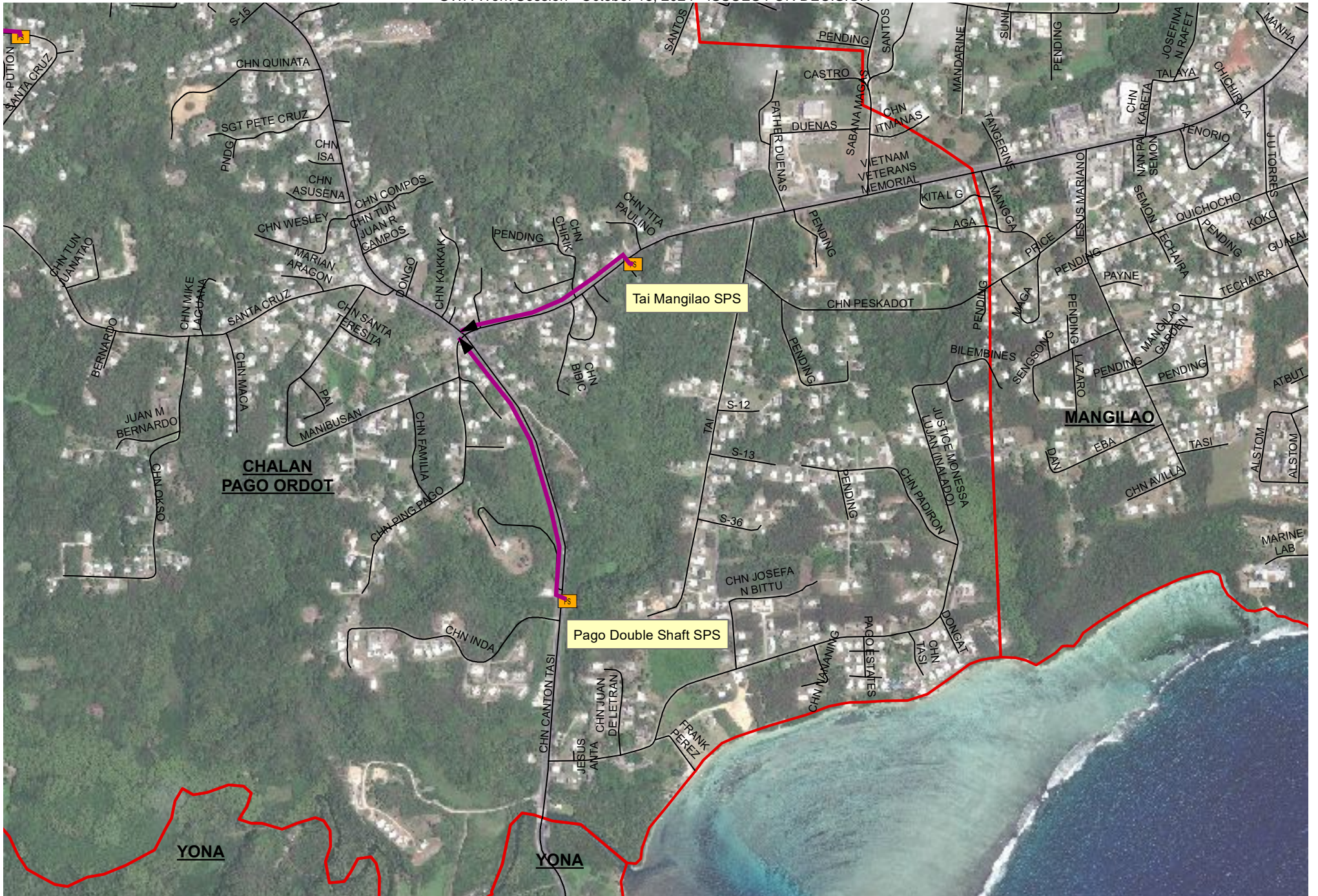


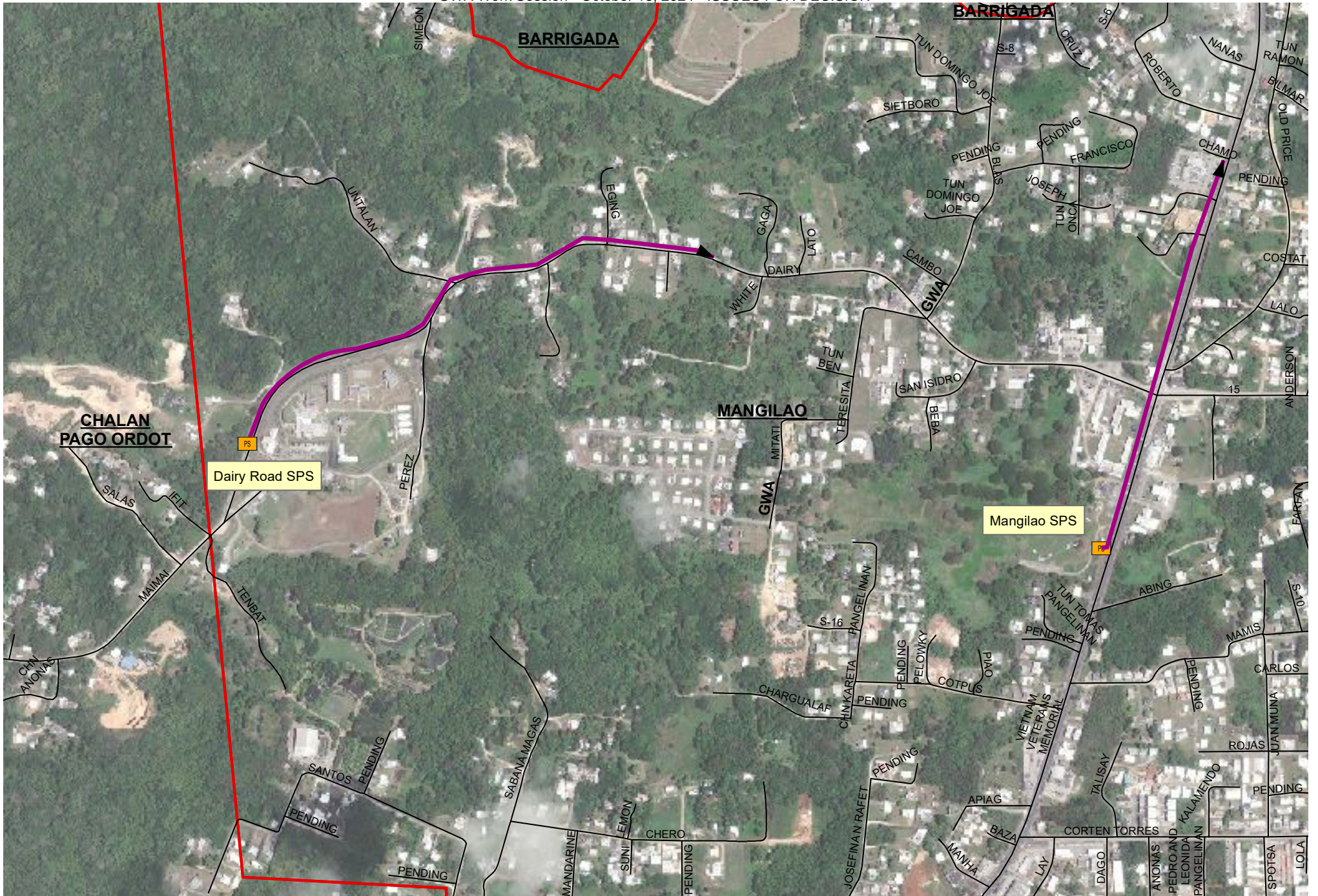


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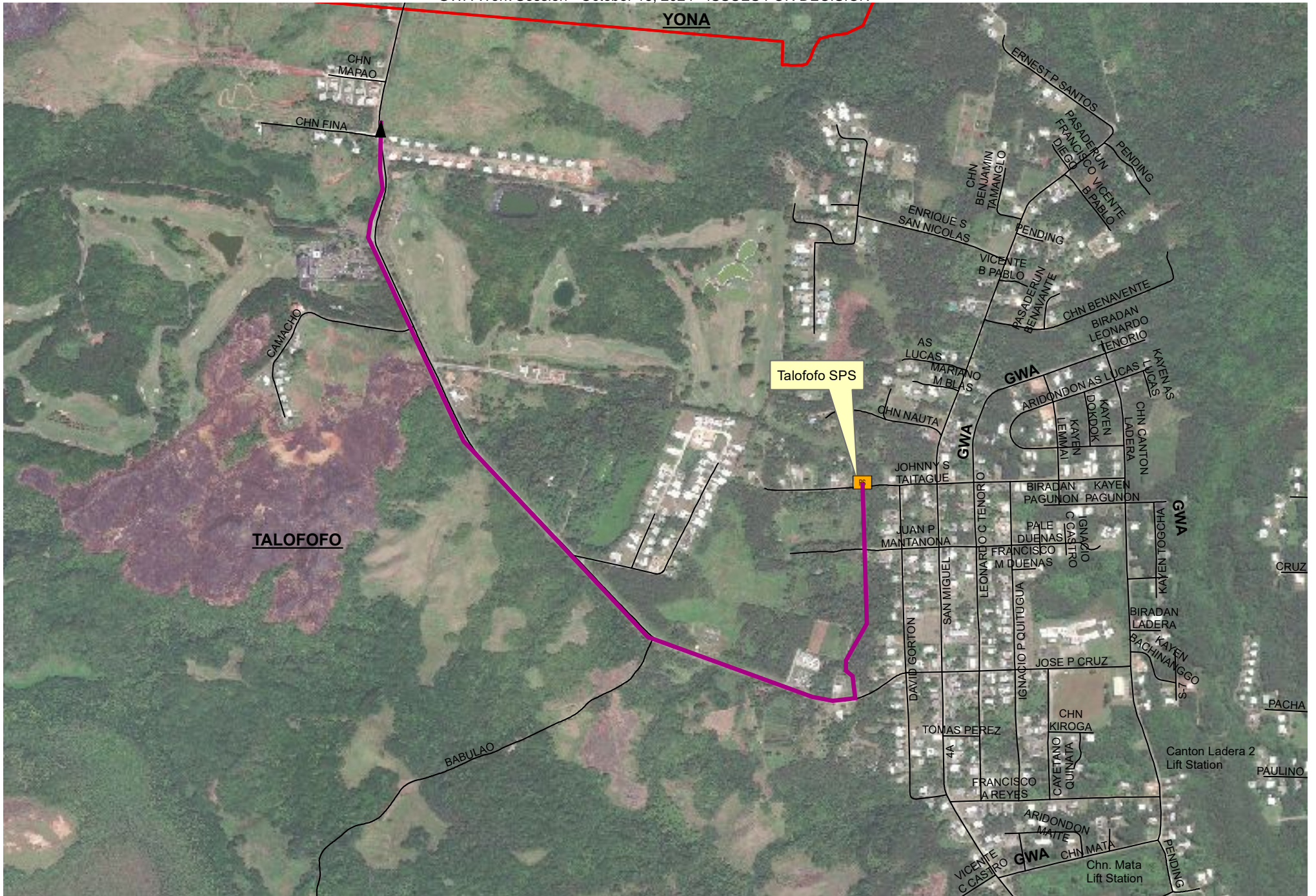






EXHIBIT C

**Indefinite Delivery/Indefinite Quantity (ID/IQ) Professional Project/Construction Management
for Island wide Sewer Collection/Transmission System Repair, Rehabilitation and Replacement
Project No S 22-02 BND**

Task Order No. 02 Capacity Assurance Projects, CCTV Inspections, Cleaning, Hydraulic Analysis, and Design

**Table 1: Fee Summary (100% Replacement)
09/20/24**

Table 1: Fee Summary (100% Replacement)

Task No.	Task Name	Fee 09/03/24	Amended Fee 09/20/24	Delta	Delta %
	Base Services				
1	Task Order Management	\$356,585.20	\$356,585.20	\$0.00	0.00%
2	Mangilao Route 10 Sewer Mainline & Manhole Inspection (Capacity Assurance Project)- CCTV	\$196,355.08	\$138,815.88	-\$57,539.20	-29.30%
3	Northern District Route 1 Sewer Mainline & Manhole Inspection (Capacity Assurance Project) - CCTV	\$485,075.87	\$498,808.87	\$13,733.00	2.83%
4	Yigo & Dededo Sewer Mainline & Manhole Inspection (Acute Defects Project) - CCTV	\$165,036.96	\$173,117.70	\$8,080.74	4.90%
5	Gravity Main & Manhole Assessments & Report	\$501,316.61	\$451,167.77	-\$50,148.84	-10.00%
17	Ypao Pump Station Assessment & Design (Pump Station Priority Project)	\$1,026,373.86	\$990,619.59	-\$35,754.27	-3.48%
18	Mamajanao Pump Station Assessment & Design (Pump Station Priority Project)	\$1,076,057.23	\$988,459.16	-\$87,598.07	-8.14%
	GRT (5.26%)	\$200,237.72	\$189,232.40	-\$11,005.32	-5.50%
	Total	\$4,007,038.53	\$3,786,806.57	-\$220,231.96	-5.50%
	Optional Services				
6	Flow Monitoring Support (T&M)	\$23,750.71	\$23,750.71	\$0.00	0.00%
7	Gravity Main Repair, Rehabilitation, & Replacement Program - Work Plan (T&M)	\$245,049.59	\$23,750.71	-\$221,298.88	-90.31%
8	Gravity Main Repair, Rehabilitation, & Replacement Program - Annual Evaluation Support (T&M)	\$23,750.71	\$23,750.71	\$0.00	0.00%
9	Long-Term Gravity Plan Support (T&M)	\$23,750.71	\$23,750.71	\$0.00	0.00%
10	Capacity Evaluation Support (T&M)	\$47,501.43	\$47,501.43	\$0.00	0.00%
11	Mangilao Route 10 Design (Capacity Assurance Project)	\$819,427.41	\$2,860,629.62	-\$165,036.18	-5.45%
12	Northern District Route 1 Design (Capacity Assurance Project)	\$2,206,238.39			
13	Yigo & Dededo Design (Acute Defect Projects)	\$1,557,156.84	\$1,557,156.84	\$0.00	0.00%
14	Capacity Assurance Flow Model Support (T&M)	\$23,750.71	\$23,750.71	\$0.00	0.00%
15	Barrigada Force Main Assessment & Design (Force Main Non-Priority Project)	\$1,054,729.33	\$1,027,668.64	-\$27,060.69	-2.57%
16	Barrigada Pump Station Assessment & Design (Pump Station Non-Priority Project)	\$1,004,522.10	\$990,334.95	-\$14,187.15	-1.41%
	GRT (5.26%)	\$369,758.43	\$347,267.57	-\$22,490.86	-6.08%
	Total	\$7,399,386.36	\$6,949,312.60	-\$450,073.76	-6.08%



Issues for Decision

Resolution No. 05-FY2025

Relative to Approval of Amendment for the Indefinite Delivery/Indefinite Quantity Professional Project/Construction Management Services Contract for the Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project for AECOM Technical Services, Inc.

What is the project's objective and is it necessary and urgent?

On August 9, 2024, GWA entered into a Partial Consent Decree (PCD) with USEPA under the Clean Water Act (CWA). To meet the time-sensitive requirements of the PCD, GWA has negotiated with AECOM to perform assessments of sewer main lines (SML) and pump stations (PS) in high-priority areas across the island, along with preliminary design work.

These projects are necessary and urgent in order to enhance the sewer collection and transmission system, safeguard human and environmental health, and ensure compliance with the deadlines established in the PCD.

This resolution seeks to amend the contract awarded under RFP-06-ENG-2022, for the Indefinite Delivery/Indefinite Quantity (ID/IQ) Professional Project/Construction Management for Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement. The contract was awarded to AECOM on June 26, 2024. This RFP was a multiple-award procurement, and AECOM was one of two firms selected to provide services under the contract.

At the time of the award, the total contract value for Task Order No. 1 was below \$1 million, therefore, it did not necessitate CCU approval. However, GWA management is now seeking CCU approval for Amendment No. 1, which expands the scope of Task Order No. 1 and introduces Task Order No. 2. The expanded scope and additional task order have increased the overall contract value to over \$1 million, triggering the requirement for CCU approval.

This amendment includes an additional constructability review and Construction Management services for the Dungca Beach project under Task Order No. 1. The expanded scope covers the replacement of the force main from Bayside Pump Station, erosion control, road stabilization for the service road, additional upsizing of pipes, manhole rehabilitation, and installation of telecommunication conduits.

Task Order No. 2 introduces new key projects required under the PCD. These projects include:

- Route 10 - Condition assessment and design for approximately 3,985 linear feet (0.75 miles) of gravity sewer lines.
- Ypao and Mamajanao Sewer Pump Stations, both of which are high priority pump station projects.
- Dededo Route 1, Capacity Assurance Project - Approximately 20,814 linear feet (3.94 miles) of gravity sewer lines.
- Acute Defects - Approximately 8,974 linear feet (1.70 miles) of gravity sewer lines.

Where is the location?

Project sites will be located throughout central and northern Guam. The additional constructability review and Construction Management services for added scope to the design of the Dungca Beach project is located in Tamuning. The Capacity Assurance and Acute Defect Projects for GWA's gravity lines will be located in villages of Barrigada, Yigo, and Dededo. Additionally, the Condition Assessment and Design Projects for Ypao and Mamajanao Pump Stations will be located in the villages of Tumon and Tamuning.

How much will it cost?

The initial contract award for the Owner-Engineer IDIQ agreement was One Million Dollars (\$1,000,000.00). The negotiated cost for the additional Construction Management services for the Dungca Beach project is Three Hundred Ten Thousand One Hundred Fifty Dollars and Fifty-Six Cents (\$310,150.56). The negotiated work under the Partial Consent Decree (PCD), which will be combined as Task Order No. 2, will cost Three Million Seven Hundred Eighty-Six Thousand Eight Hundred Six Dollars and Fifty-Seven Cents (\$3,786,806.57).

Together, the total increase to the initial contract award amounts to Four Million Ninety-Six Thousand Nine Hundred Fifty-Seven Dollars and Thirteen Cents (\$4,035,054.17).

To execute the expanded scope of both Task Order No. 1 and Task Order No. 2, Amendment No. 1 to the Owner-Engineer IDIQ contract agreement is necessary, increasing the maximum contract amount to Five Million Thirty-Five Thousand Fifty-Four Dollars and Seventeen Cents (\$5,035,054.17).

When will it be completed?

The completion of these projects will depend on site-specific conditions including, the severity of repairs, extent of sewer transmission system replacement, environmental conditions, and permitting requirements, and available funding. The estimated completion time for these projects is two years.

What is the funding source?

The funding for this project is available through bonds identified on GWA's Capital Improvements Plan, grants, and internally funded capital improvement program (IFCIP) funds.

The RFP/BID responses (if applicable):

Six proposals were received in response to RFP-06-ENG-2022. After evaluation, four proposals were considered, and the CIP Wastewater Division requested to award two Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts to meet the project needs.



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. 05-FY2025

RELATIVE TO APPROVAL OF AMENDMENT FOR THE INDEFINITE DELIVERY/INDEFINITE QUANTITY PROFESSIONAL PROJECT/CONSTRUCTION MANAGEMENT SERVICES CONTRACT FOR ISLANDWIDE SEWER COLLECTION/TRANSMISSION SYSTEM REPAIR, REHABILITATION, AND REPLACEMENT PROJECT FOR AECOM TECHNICAL SERVICES, INC.

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 awarded an Indefinite Delivery – Indefinite Quantity (IDIQ) contract agreement to AECOM Technical Services, Inc. (AECOM) for Project Management/Construction Management services for the Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project (See Exhibit A); and

WHEREAS, as part of the IDIQ contract, GWA awarded AECOM Task Order No. 1 for the Dungca Beach Construction Management services (See Exhibit B) in the amount of Nine Hundred Thirty-Eight Thousand Ninety-Seven Dollars and Four Cents (\$938,097.04); and

WHEREAS, United States Environmental Protection Agency (USPEA) grant funds cover the cost of Task Order No. 1; and

WHEREAS, an amendment to Task Order No. 1 is needed to perform additional constructability review and Construction Management services; and

WHEREAS, Amendment No. 1 to Task Order No. 1 includes additional constructability review and Construction Management services for the Dungca Beach project, covering the replacement of the force main from Bayside Pump Station, erosion control, road stabilization,

1 additional upsizing of pipes, manhole rehabilitation, and the installation of telecommunication
2 conduits; and

3
4 **WHEREAS**, GWA negotiated with AECOM for the additional scope for Amendment
5 No. 1 for Task Order No. 1, for a total amount of Three Hundred Ten Thousand One Hundred
6 Fifty Dollars and Fifty-Six Cents (\$310,150.56) (See Exhibit C); and

7
8 **WHEREAS**, GWA, entered into a Partial Consent Decree (PCD) with the USEPA under
9 the Clean Water Act (CWA) in US District Court of Guam Civil Action No., CV 24-00004,
10 which became effective on August 9, 2024 (See Exhibit D); and

11
12 **WHEREAS**, to meet time sensitive requirements of the PCD, GWA negotiated
13 additional work with AECOM for sewer main line (SML) assessment and preliminary design in
14 high-priority areas in the northern half of the island, as well as pump station (PS) assessment and
15 complete design for high-priority Ypao and Mamajanao Pump Stations; and

16
17 **WHEREAS**, GWA negotiated with AECOM to conduct assessments and preliminary
18 designs for Capacity Assurance Projects in Barrigada and Dededo, as well as to address Acute
19 Defects in Dededo and Yigo, as required by the PCD (sections V.A.15 and V.A.12.a) and
20 outlined in the 2018 Water Resource Master Plan (WRMP), Volume 3, Section 11; and

21
22 **WHEREAS**, GWA also negotiated with AECOM to conduct assessment and design on
23 Ypao and Mamajanao Pump Stations, as both stations are on accelerated timelines as required by
24 the PCD in section V.A.25; and

25
26 **WHEREAS**, the negotiated work under the PCD will be consolidated into Task Order
27 No. 2 for a total amount of Three Million Seven Hundred Eighty-Six Thousand Eight Hundred
28 Six Dollars and Fifty-Seven Cents (\$3,786,806.57) (See Exhibit E); and

29
30 **WHEREAS**, GWA management seeks CCU approval for Amendment No. 1 to the
31 Owner-Engineer Agreement (See Exhibit F) under the IDIQ contract to expand the scope of Task

1 Order No. 1 and introduce a new Task Order No. 2 with AECOM, and to increase funding
2 accordingly to complete the work as outlined above; and
3

4 **WHEREAS**, the total currently approved IDIQ contract agreement amount is One
5 Million Dollars (\$1,000,000.00); and
6

7 **WHEREAS**, to execute Amendment No. 1 to Task Order No. 1 and implement Task
8 Order No. 2, an amendment to the Owner-Engineer IDIQ contract is required to increase the
9 maximum contract amount by Four Million Ninety-Six Thousand Nine Hundred Fifty-Seven
10 Dollars and Thirteen Cents (\$4,035,054.17); and
11

12 **WHEREAS**, GWA management seeks CCU approval to increase the total IDIQ contract
13 amount by Four Million Thirty-Five Thousand Fifty-Four Dollars and Seventeen Cents
14 (\$4,035,054.17), bringing the new total contract value to Five Million Thirty-Five Thousand
15 Fifty-Four Dollars and Seventeen Cents (\$5,035,054.17), to implement Amendment No. 1 to
16 Task Order No. 1 and execute Task Order No. 2; and
17

18 **WHEREAS**, funding for each Task Order will be sourced from grants, bonds, or IFCIP
19 funds.
20

21 **NOW BE IT THEREFORE RESOLVED**, that the Consolidated Commission on
22 Utilities does hereby approve the following:

- 23 1. The recitals set forth above hereby constitute the findings of the CCU.
- 24 2. The CCU finds that Amendment No. 1 to Task Order No. 1 is necessary to
25 complete the additional scope added to Dungca Beach project.
- 26 3. The CCU finds that Task Order No. 2 is necessary for helping GWA meet the
27 requirements of the Partial Consent Decree.
- 28 4. The CCU hereby approves the funding for Amendment No. 1 to Task Order No.
29 No. 1 for the additional Construction Management services for the Dungca Beach
30 project in the amount of Three Hundred Ten Thousand One Hundred Fifty Dollars
31 and Fifty-Six Cents (\$310,150.56).

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- 5. The CCU hereby approves the funding to add Task Order No. 2 for assessment and design work necessary for the Partial Consent Decree in the amount of Three Million Seven Hundred Eighty-Six Thousand Eight Hundred Six Dollars and Fifty-Seven Cents (\$3,786,806.57).
- 6. The CCU hereby approves increasing the total funding authorization for the IDIQ contract with AECOM Technical Services, Inc. by Four Million Thirty-Five Thousand Fifty-Four Dollars and Seventeen Cents (\$4,035,054.17), for the execution of Amendment No. 1 to the Owner-Engineer Agreement.
- 7. The CCU hereby further approves the total funding authorization for the IDIQ contract with AECOM Technical Services, Inc. to a total amount of Five Million Thirty-Five Thousand Fifty-Four Dollars and Seventeen Cents (\$5,035,054.17).
- 8. The CCU hereby further approves the use of Grant, Bond, or IFCIP funds to fund the IDIQ contract, Amendment No. 1.
- 9. GWA management is hereby authorized to seek PUC approval for Amendment No. 1 to the Owner-Engineer IDIQ Contract as the funding sources will include bond funding and the total amount exceeds One Million Dollars (\$1,000,000.00).

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

DULY AND REGULARLY ADOPTED, this 22nd day of October, 2024.

Certified by:

Attested by:

JOSEPH T. DUENAS

PEDRO ROY MARTINEZ

Chairperson

Secretary

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SECRETARY’S CERTIFICATE

I, Pedro Roy Martinez, 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: _____
- NAYS: _____
- ABSENT: _____
- ABSTAIN: _____

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Exhibit A

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

TASK ORDER EDITION

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

TASK ORDER EDITION

**Indefinite Delivery/Indefinite Quantity (ID/IQ) Professional Project/Construction
Management for Islandwide Sewer Collection/Transmission System
Repair, Rehabilitation, and Replacement Project
Project No. S22-02-BND**

THIS IS AN AGREEMENT effective as of _____ (“Effective Date of the Agreement”) between

_____ **Guam Waterworks Authority** (“Owner”) and

_____ **AECOM Technical Services, Inc.** (“Engineer”).

Other terms used in this Agreement are defined in Article 7.

From time to time Owner may request that Engineer provide professional services for Specific Projects related to Owner’s Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project, Project No. S22-02-BND. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 Scope

- A. The services to be provided or furnished by Engineer under this contract shall be to provide design, construction management, and project management services for sewer collection/transmission system projects in accordance with duly executed Task Orders.

Owner will compensate Engineer for services provided under this contract at rates in accordance with duly executed Task Orders.

The Fee Proposal for Task Order #1 is ATTACHED AS APPENDIX A

Unless specified in a task order or amendment, the total budgeted amount will be a not to exceed maximum amount and compensation will be on a time and materials basis for completed work.

- B. Engineer’s services will be detailed in a duly executed Task Order for each Specific Project. The general format of a Task Order is shown in Attachment 1 to this Agreement. Each Task Order will indicate the specific services to be performed and deliverables to be provided.
- C. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.

- D. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters.

1.02 *Task Order Procedure*

- A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order. With respect to the scope of Engineer's services, each specific Task Order shall either (1) be accompanied by and incorporate a customized Exhibit A, "Engineer's Services for Task Order," prepared for the Specific Project, (2) state the scope of services in the Task Order document itself, or (3) incorporate by reference all or portions of Exhibit A, "Engineer's Services for Task Order," as attached to this Agreement. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.
- B. Engineer will commence performance as set forth in the Task Order.
- C. Engineer shall provide, or cause to be provided, the services set forth in the Task Order.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth in this Agreement; in Exhibit B, "Owner's Responsibilities"; and in each Task Order.
- B. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement; such responsibility extends to requirements, instructions, programs, reports, data, and other information furnished by Owner pursuant to any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of: (1) any development that affects the scope or time of performance of Engineer's services; (2) the presence at the Site of any Constituent of Concern; or (3) any relevant, material defect or nonconformance in Engineer's services, the Work, the performance of any Constructor, or in Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 *Term*

- A. This Agreement shall be effective and applicable to Task Orders issued hereunder for 5 years from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term.

3.02 *Times for Rendering Services*

- A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Specific Project, or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.
- F. With respect to each Task Order, the number of Construction Contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established shall be identified in the Task Order. If the Work designed or specified by Engineer under a Task Order is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), then the Task Order will state the schedule for performance of Engineer's services in order to sequence and properly coordinate such services as are applicable to the Work under the Construction Contracts. If the Task Order does not address such sequencing and coordination, then Owner and Engineer shall jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order whether or not the work under such contracts is to proceed concurrently.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices, the terms of Exhibit C, and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt of a complete invoice.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 60 days after receipt of complete Engineer's invoice, then:

1. Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices*: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes*: If after the Effective Date of a Task Order any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under the Task Order, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C and the specific Task Order.
- E. *Complete Invoice per Article 7 (8)*: It is the Engineer's responsibility to submit complete invoices. Any incomplete invoice is subject to delay of payment.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's design, technical knowledge, construction management experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit for a Specific Project is established between Owner and Engineer in a Task Order, then such Construction Cost limit and Engineer's rights and responsibilities with respect thereto will be governed by Exhibit F, "Construction Cost Limit," which shall be attached to and incorporated in the Task Order. If no Construction Cost limit is established in a Task Order, then Exhibit F does not apply.

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care*: The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer

makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services., Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures*
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of the Task Order. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date of the Task Order to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures;
 - c. changes after the Effective Date of the Task Order to Owner-provided policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or in the specific Task Order.
- H. For Construction Management Services: Engineer as the construction manager for GWA shall meet the requirements in the construction management definition. The Engineer shall not supervise, direct, control,

or have authority over the Constructor's work. Notwithstanding the foregoing, Engineer has the responsibility to observe and monitor the Constructor's work and Site conditions for compliance with the approved design and the Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Upon consultation with and concurrence by GWA, Engineer shall be responsible to issue directives and corrective action notices for the acts or omissions of any Constructor. Engineer shall not be responsible for the acts of omissions of any Constructor.

For Project Management Services: The Engineer as the project manager for GWA shall manage projects and contracts, provide project management oversight, and provide technical subject matter expertise, on behalf of GWA upon receiving concurrence from GWA.

The Owner has discretion to identify the Engineer as the project manager, construction manager, or both, as defined in the Task Order.

- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer as the Construction/Project Manager for GWA shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants as defined in the Scope of Services and Task Order.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design With Construction Phase Services*

- A. For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been expressly required of Engineer in the authorizing Task Order as well all duties required in performance of the Engineer as the Construction/Project Manager as defined in the Scope of Work and/or Task Order. With the exception of such expressly required services described in the Scope of Work, the Engineer and Construction/Project Manager shall have design, Shop Drawing review, or other obligations during construction, and review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during

construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services.

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Specific Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under the specific Task Order, then Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and its Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Specific Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Specific Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Specific Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement or a Task Order does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Commencing with the Effective Date of the Agreement, Engineer shall procure and maintain insurance as set forth in Exhibit G, “Insurance.” Engineer shall cause Owner to be included as an additional insured on any applicable general liability insurance policy carried by Engineer that is applicable to a Specific Project(s) as defined in the Scope of Services and Task Order.
- B. Commencing with the Effective Date of the Agreement, Owner shall procure and maintain insurance as set forth in Exhibit G, “Insurance.” Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability insurance policies carried by Owner, which are applicable to the Specific Project.
- C. Owner shall require Contractors to purchase and maintain policies of insurance covering workers’ compensation, general liability, motor vehicle damage and injuries, umbrella or excess liability and professional liability and other insurance necessary to protect Owner’s’ and Engineer’s’ interests in the Specific Project(s) defined in the Scope of Services and Task Order. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor.
- D. Owner and Engineer shall each deliver to the other certificates of insurance, and applicable endorsements and policies evidencing the coverages indicated in Exhibit G. Such certificates, and endorsements and policies shall be furnished promptly within 7 working days after the Effective Date of the Agreement and at renewals thereafter during the life of this Agreement.
- E. All policies of property insurance relating to a Specific Project(s) defined in the Scope of Services and Task Order, including but not limited to any builder’s risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder’s risk policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision and endorsement that the coverage afforded for the work will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer or its Consultants, at Owner’s sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

6.06 *Suspension and Termination*

A. *Suspension*

1. By Owner: Owner may suspend a Task Order for up to 90 days upon seven days written notice to Engineer.
 2. By Engineer: Engineer may suspend services under a Task Order (a) if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or (b) in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.A.4.
 3. A suspension on a specific Task Order, whether by Owner or Engineer, shall not affect the duty of the two parties to proceed with their obligations under other Task Orders.
- B. *Termination for Cause—Task Order:* The obligation to provide further services under a specific Task Order may be terminated for cause:
1. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of the specific Task Order or this Agreement, whose terms govern the specific Task Order, through no fault of the terminating party.
 2. By Engineer:
 - a. upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - b. upon seven days written notice if the Engineer's services under a Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.A.5.
 - c. Engineer shall have no liability to Owner on account of such termination.
 - d. Notwithstanding the foregoing, neither this Agreement nor the Task Order will terminate under Paragraph 6.06.B.1 if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
- C. *Termination for Cause—Agreement:* In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such payments, then upon seven days notice Engineer may terminate this Agreement, including Engineer's services under all Task Orders.
- D. *Termination for Convenience by Owner:* GWA may, when the interest of GWA so requires, terminate this contract in whole or in part, for the convenience of the government or GWA by giving 30 days written notice of the termination to Engineer specifying the part of the contract terminated and when termination become effective. The Engineer shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Engineer will stop work to the extent specified. Engineer shall also terminate outstanding orders and subcontracts as they relate to the terminated work. If applicable, Engineer

must complete the work not terminated by the notice of termination and may continue to incur obligations as are necessary to do so.

- E. *Effective Date of Termination:* The terminating party under Paragraphs 6.06.B, C, and D may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Task Order materials in orderly files.
- F. *Payments Upon Termination:*
 - 1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with the specific Task Order and this Agreement, and for all expenses incurred through the effective date of termination, to the extent that the specific Task Order (or Task Orders) allows reimbursement for such expenses. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 - 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.F.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using the basis of compensation for Additional Services, as indicated in the specific Task Order.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws of the Territory of Guam.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
3. The Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in any Construction Contract Documents prepared for any Specific Project under this Agreement.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order):
 1. Owner represents to Engineer that as of the Effective Date of the Task Order, to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in Exhibit L to Engineer, exist at or adjacent to the Site.
 2. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
 3. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
 4. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, immediately suspend performance of services on the portion of the Specific Project affected thereby until such portion of the Specific Project is no longer affected.
 5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under the specific Task Order, then the Engineer shall have the option of (a) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (b) terminating the specific Task Order for cause on seven days notice.
 6. Owner acknowledges that Engineer is performing professional services and construction/project management services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined

in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under a specific Task Order or this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to this Agreement, any Task Order, or any Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom except as expressly stated otherwise in this agreement, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys' fees) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under any Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom except as expressly stated otherwise in this agreement and (2) nothing in this Paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under each Task Order, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Task Order. Upon Owner's

request, Engineer shall provide a copy of any such item to Owner at cost. Upon completion of each Task Order, Engineer shall submit to Owner one electronic copy and upon Owner's request one hard copy, of all documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's work product related to its performance under the Task Order at time of final invoice of the Task Order.

6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under a Specific Project shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of such Specific Project.
- F. *Applicability to Task Orders:* The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be modified only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.
- G. *Non-Exclusive Agreement:* Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other project owners for the same or different services contemplated hereunder.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits or Task Order, or in the following definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

2. *Additional Services*—Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order, but which are not included in Basic Services for that Task Order.
3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Article 8.
4. *Application for Payment*—The form acceptable to Engineer which is to be used by a Contractor in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with a specific Task Order, as specified in the Task Order (but not including Additional Services performed or furnished pursuant to an amendment to the specific Task Order).
6. *Change Order*—A document which is signed by a Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by a Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Completed Invoice* – The invoice(s) for Task Orders with non-Lump Sum compensation shall be fully detailed for the rendered services for the indicated period and supported by appropriate proof of documentation including daily reports, timesheets approved and signed by the Engineer’s representative and the original receipts for any reimbursable expenses. Owner shall pay against the original invoices. All must be accompanied by applicable tax documentation, if any.
9. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. *Construction Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.

12. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. *Construction Contract Times*—The numbers of days or the dates by which a Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion, and (c) complete the Work.
14. *Construction Cost*—The cost to Owner of the construction of those portions of an entire Specific Project designed or specified by or for Engineer under this Agreement and the specific Task Order, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damage to property; Owner's costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with a Specific Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. *Construction Management*—Represent the owner's interest and provide technical expertise in the oversight of the project, directly for the owner. Primary duties shall be to provide oversight supervision of a construction site and contractor activities at a construction site to meet a project's goals, plans, specifications, schedules, and safety standards as defined in the Task Order.
16. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Specific Project(s), including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and their employees, agents, and representatives.
17. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
18. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
19. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
20. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by a Contractor.
21. *Effective Date of the Agreement*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
22. *Effective Date of the Task Order*—The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
23. *Engineer*—The individual or entity named as such in this Agreement.

24. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Owner*—The individual or entity with which Engineer has entered into this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.
27. *Project Management*—Oversight of a Specific project(s) on behalf of the Owner,, typically from the initial design to final completion, including oversight of construction management. The project manager represents the owner's interests and provides administrative and technical expertise to meet project goals, budgets, and schedules.
28. *Record Drawings*—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
29. *Owner's Project Representative*—The authorized representative of the Owner assigned to assist the Owner at the Site. As used herein, the term Owner's Project Representative or "OPR" includes any assistants or field staff of Owner's Project Representative.
30. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
31. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
32. *Site*—Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for use of a Contractor.
33. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
34. *Specific Project*—The total specific undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.

35. *Subcontractor*—An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.
36. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
37. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with a Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
38. *Task Order*—A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.
39. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.
40. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.
41. *Work Change Directive*—A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

- B. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Suggested Form of Task Order

- A. The Suggested Form of Task Order is attached as Attachment 1, and shall be used as the basis for preparing a specific Task Order for each Specific Project under this Agreement.

8.02 *Exhibits Included:*

- A. Exhibit A, Engineer's Services for Task Order. Services, tasks, and terms in Exhibit A as included with this Agreement are for reference in preparing the scope of services for specific Task Orders, and are contractually binding only to the extent expressly incorporated in a specific Task Order
- B. Exhibit B, Owner's Responsibilities. This Exhibit applies to all Task Orders.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses. The terms of Exhibit C that will be applicable to and govern compensation under a specific Task Order will be determined by the selection of compensation methods made in Paragraph 6, "Payments to Engineer," of the specific Task Order.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Owner's Project Representative. This Exhibit is not contractually binding except when expressly incorporated in a specific Task Order.
- E. Exhibit E, Notice of Acceptability of Work. Engineer shall use this Notice of Acceptability of Work form at the conclusion of construction on a Specific Project if (1) the form is expressly incorporated by reference in a specific Task Order, and Engineer's scope of services in the specific Task Order includes providing such a notice to Owner and Contractor, and (2) the Work is in fact acceptable pursuant to applicable requirements, subject to the terms of the notice.
- F. Exhibit F, Construction Cost Limit. This Exhibit is contractually binding only with respect to those specific Task Orders that (1) expressly incorporate Exhibit F by reference in the Task Order, Paragraph 2, "Services of Engineer," and (2) expressly state a specific Construction Cost Limit and contingency for the Specific Project in Paragraph 2, "Services of Engineer," of the specific Task Order.
- G. Exhibit G, Insurance. This Exhibit is applicable to all Task Orders.
- H. Exhibit H, Dispute Resolution. This Exhibit is applicable to all Task Orders.
- I. Exhibit I, Limitations of Liability. This Exhibit is applicable to all Task Orders.
- J. Exhibit J, Special Provisions. This Exhibit is applicable to all Task Orders.
- K. Exhibit K, Amendment to Task Order. Owner and Engineer may use this form during a Specific Project to modify the specific Task Order.
- L. Exhibit L, Disclosure of Known Constituents of Concerns. This Exhibit is applicable to all Task Orders.

8.03 *Total Agreement*

- A. This Agreement (together with the Appendices, Attachment, and any Exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties.
- B. An executed Task Order under this Agreement (including any incorporated exhibits or attachments) constitutes the entire agreement between Owner and Engineer with respect to the Specific Project, and supersedes all prior written or oral understandings. Such a Task Order may only be amended, supplemented,

modified, or canceled by a written instrument duly executed by both parties. Amendments to such a Task Order should be based whenever possible on the format of Exhibit K to this Agreement.

8.04 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party that the individual represents. Each Task Order shall likewise designate representatives of the two parties with respect to that Task Order.

8.05 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on Page 1.

OWNER: Guam Waterworks Authority
By: [Signature]
Print Name: MIGUEL C. BORDALLO, P.E.
Title: General Manager

ENGINEER: AECOM Technical Services, Inc.
By: [Signature]
Print Name: MARTIN NAKASONE
Title: VP Area Manager, Hawaii-Pacific Island
Date Signed: 21 May 2024

Engineer License or Firm's Certificate No. (if required):
State of:
Date Signed:

Date Signed: 2024. 6. 26

Address for Owner's receipt of notices:
Gloria B. Nelson Public Service Building
688 Route 15
Mangilao, Guam 96913

Address for Engineer's receipt of notices:

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

Title:

Title:

Phone Number:

Phone Number:

Certified Funds Available:

Approved as to Form: NOTE: Transmitted to OAG on 4/15/2024. AG review complete via email on 4/29/2024. r

By: [Signature]
TALING M. TAITANO, CPA, CGFM
GWA Chief Financial Officer zone chief

By: [Signature]
THERESA G. ROJAS, ESQ.
GWA Legal Counsel

Contract Amount: \$ To be determined per Task Order \$ 1,000,000.00
Contingency: \$ Yes
Amount Certified: \$ To be determined per Task Order \$ 1,000,000.00
Funding Source: Yes To be determined per Task Order 10/10 PLACEHOLDER ACCOUNT