



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

Request for Proposals (RFP)

The GUAM WATERWORKS AUTHORITY (GWA) will receive sealed proposals for **Professional Utility Management and Financial Consulting Services in GWA RFP NO. 2025-02**. Proposals will be accepted until **5:00 p.m.** Chamorro Standard Time, **Monday, April 28, 2025**, at the GWA Procurement Office, located on the first floor of the Gloria B. Nelson Public Services Building in Mangilao.

Prospective Offerors can obtain a copy of the RFP packet at a non-refundable amount of \$15.00 available at the GWA Procurement Office. Offeror's may download a copy of the RFP at www.guamwaterworks.org without charge. Interested firms are strongly encouraged to contact our Procurement Office via e-mail at psbids@guamwaterworks.org or visit our GWA Procurement office 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

ISSUED BY: **Guam Waterworks Authority**
Gloria B. Nelson Public Service Building
688 Route 15
Mangilao, Guam 96913

GWA DIVISION: **General Manager’s Office**

PROPOSAL NO: **RFP 2025-02**

PROPOSAL TITLE: **Professional Utility Management and Financial Consulting Services**

Date	Activity	Time
03/28/2025	Issuance / Publication	8:00 a.m.
04/01/2025	Deadline for Requesting a Pre-Bid Conference	10:00 a.m.
04/03/2025	Pre-Bid Conference¹	10:00 a.m.
04/04/2025	Deadline for Questions	10:00 a.m.
04/11/2025	Deadline for Responses	5:00 p.m.
04/28/2025	Deadline for Submission	5:00 p.m.

¹ Pre-Bid Conference will be held on April 3, 2025, only if requested by bidder and approved by GWA.



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I. INSTRUCTIONS TO OFFERORS

A. PURPOSE

The Guam Waterworks Authority (“GWA”) is seeking an experienced and qualified utility management consulting firm to provide **Professional Utility Management and Financial Consulting Services** as specified in the RFP. The intent of this solicitation is to support GWA’s executive management team on utility management and financial matters relating to rates and tariffs, regulatory compliance and financial policy development, and to provide GWA with flexibility in contracting with professional consulting firms licensed to do business on Guam on an as-needed basis to execute management and financial analysis, feasibility studies, strategy development and reporting as required to support GWA’s long-term fiscal and capital program objectives.

GWA intends to strengthen its fiscal strategies and enhance access to various credit facilities in the financial markets to facilitate financing to continue its Capital Improvement Projects (CIP) and to do so will require an independent financial consultant who can review GWA’s financial and management conditions and provide an analysis of and recommendations for policies and programs needed to achieve our long-term financial objectives.

The Public Utilities Commission (PUC) recently approved GWA’s FY2025-FY2029 Financial Plan in GWA Docket 24-05 FY20 Rate Decision, attached to this RFP. Among the assigned tasks, the successful firm will assist GWA in responding and/or coordinating the short-term construction financing and bond issuance proposed in the plan. Additionally, the consultant will work with GWA on implementing the rate design approved in GWA Docket 19-08 in the upcoming FY26 true-up.

B. TABLE OF CONTENTS

This Solicitation Notice consists of the following:

- I. Instruction to Offerors
- II. General Terms and Conditions
- III. Scope of Work
- IV. Special Provisions
 1. Special Provision for Ownership Disclosure Affidavit
 2. Ownership & Interest Disclosure Affidavit
 3. Non-Collusion Affidavit
 4. Certification of Non-Employment of Convicted Sexual Offenders
 5. Wage and Benefit Determination
 6. Non-Gratuity or Kickbacks Affidavit
 7. Ethical Standard Affidavit
 8. Contingent Fee Affidavit
 9. Good Standing Affidavit
 10. Sample Contract

C. SUBMISSION OF PROPOSALS

Sealed responses shall be submitted at GWA Procurement Office, first floor located at the Gloria B. Nelson Public Services Building in Mangilao in one (1) original, five (5) copies and (1) electronic copy. Failure to submit the required forms in the number required may be cause for rejection of offers due to non-responsiveness. A narrative Statement of Qualifications shall not exceed 10 pages (exclusive of resumes and exhibits). See Response Format and Content provision for instructions and minimum requirements. The outer envelope shall be marked in bold letters, **GWA RFP No: 2025-02** relative to soliciting for the Indefinite Quantity Purchase of Professional Utility Management and Financial Consulting Services.

Responses must be received not later than , Monday, April 28, 2025 at 5:00 p.m., Chamorro Standard Time (Guam Time). Responses received after the closing time for receipt will not be considered.

Responses may be delivered by mail or other service to:

The Guam Waterworks Authority
Procurement Office, 1st floor
Gloria B. Nelson Public Services Building
688 Route 15
Mangilao, GU 96913

Each organization submitting a proposal for any portion of the work covered by the proposing documents shall execute an affidavit, in the form provided with the proposal, to the effect that it has not colluded with any other person, organization, or corporation regarding any proposal

submitted. Such an affidavit shall be attached to the proposal.

D. RESPONSE FORMAT AND CONTENT

The interested organization shall submit their responses in (1) original, five (5) copies and (1) electronic copy. The response must contain a statement of qualifications in a concise narrative that addresses the evaluation criteria set forth in this solicitation.

Unnecessarily long and costly submissions are discouraged. All responses should follow and address each of the evaluation criteria and must be complete as to the requested information. Failure to follow the prescribed format or omission of the required information will result in a lower score on evaluation and may result in disqualification. Supporting graphical information, i.e., photos, drawings, and illustrations may be provided that back up the information given in the response, however, such material will not be separately evaluated but may be utilized as supporting documentation of knowledge and experience.

Organizations may declare portions of their bid as being confidential. Material designated shall accompany the bid and shall be readily separated from the Proposal in order to facilitate public inspection of the non-confidential portion of the Proposal.

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 to the disclosure of data, GWA shall inform the Offerors in writing what portions of the RFP will be disclosed.

E. CONTENTS OF THE PROPOSAL

At a minimum, the proposal shall contain:

1. Cover letter referencing this RFP which lists the contents of the response.
2. The name of the Proposer, the location of the Proposer's principal place of business, and, if different, the place of performance of the proposed contract; name and contact information of individual or individuals who may be reached for negotiations if selected (including fax, phone and e-mail).
3. The Consultant shall indicate if subcontractors will be used in the performance of the basic services and, if so, they shall provide subcontractor names and detail subcontractor roles and responsibilities and distribution of the work effort between the Consultant and the subcontractor. Please note, this applies to basic services only and not as yet an unspecified specialty service that may be required under this contract. GWA may request additional subconsultant information in the future and reserves the right to reject any and all subcontractors and no work may be performed by any subcontractor without first obtaining the express written permission of GWA.
4. The age of the Proposer's business and the average number of employees over the past year.

5. A general approach / work plan with an explanation of how the Proposer will meet Owner's schedule for completion of work set forth in the Scope of Services.
6. The abilities, qualifications, and experience of key personnel who will be assigned to perform the required services.
7. Statement of Qualifications - concise narrative which addresses each of the evaluation criteria.
8. A listing of other contracts under which services similar in scope, size and discipline for the required services were performed or undertaken in the past ten (10) years.
9. Special Provisions: Special Provision for Ownership Disclosure Affidavit, Ownership & Interest Disclosure Affidavit (*Pursuant to Public Law 36-13*), Non-Collusion Affidavit, Certification Regarding Non-Employment of Convicted Sex Offenders, Wage and Benefit Determination, Non-Gratuity or Kickbacks Affidavit, Ethical Standard Affidavit, Contingent Fee Affidavit, and Good Standing Affidavit.

F. AMENDMENTS TO REQUEST FOR PROPOSAL

GWA reserves the right to amend this RFP at any time prior to the date set for opening proposals. Changes will be announced by an amendment or amendments to this RFP and shall be identified as such. Amendments shall refer to the portions of the RFP it amends. Amendments shall be sent to all parties known to have received an RFP. GWA requires that all prospective Consultants acknowledge receipt of all amendments issued. Amendments shall be distributed to allow prospective firms time to consider it in preparing its proposal. GWA may extend the due date if such amendment makes compliance with the original proposed due date impractical.

II. GENERAL TERMS AND CONDITIONS

A. AUTHORITY

This Request for Proposal (“RFP”) solicitation is issued subject to all of the provisions of the Guam Procurement Act (as amended) and the Guam Procurement Regulations. The RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

B. EXPLANATION TO OFFERORS

Except as otherwise provided herein, no oral explanation regarding the meaning of any provision of this RFP will be made and no oral instructions will be given before the award of the proposal. Discrepancies, omissions, or doubts as to the meaning of any provision of this RFP shall be communicated in writing and sent to psbids@guamwaterworks.org.

Direct or indirect contact with any GWA employee, the Government of Guam, the Guam Consolidated Commission on Utility Board Members, or any person participating in the selection process not named above is strictly prohibited.

C. METHOD OF AWARD

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

D. REJECTION

GWA shall have the right to reject all proposals or offers which have been submitted in response to this RFP, at any time, if GWA determines such to be in the best interest of GWA.

E. TAXES

Offerors are cautioned that they may be subject to taxation, including but not limited to, Gross Receipts Tax, Guam Business Privilege Tax, Guam Income Tax and the payment of all taxes which may be due because of entering into this agreement are the sole responsibility of the Consultant and its subcontractors and assignees. Specific information of taxes may be obtained from the Director of the Guam Department of Revenue and Taxation.

F. LICENSING, COMPLIANCE WITH LAWS, SUBCONTRACTING AND

ASSIGNMENT

Offerors are cautioned that GWA will not consider awarding any proposal offer submitted by a proposer who is not a qualified organization.

All Offerors agree by submitting this proposal that they will follow all applicable federal and local laws and regulations governing their submissions and performance under any contract issued under this RFP. Offerors further agree to pay all employees the rates specified by the U.S. Department of Labor and Guam law for the work covered hereunder.

All Offerors agree to secure GWA's written consent prior to hiring any subcontractor. All subcontractors will comply with all terms and conditions of this RFP as well as any Contract issued under this RFP. Offerors shall ensure that subcontractors are bound to the exact terms and conditions applicable to the organization whose proposal is accepted by GWA. No organization shall assign any work or payment due under this RFP without GWA's written permission.

G. COVENANT AGAINST CONTINGENT FEES

The Proposer 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 consider the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by the proposer upon contracts or sales secure or made through bona-fide established commercial or selling agencies maintained by the proposer for the purpose of securing business.

H. JUSTIFICATION OF DELAY

The Proposer who is awarded the proposal guarantees that performance will be completed within the agreed upon completion date. If, however, the selected Proposer cannot comply with the completion requirement, it is the selected Proposer's responsibility to advise GWA in writing explaining the cause and reasons of the delay.

I. OWNERSHIP & INTEREST DISCLOSURE AFFIDAVIT

As a condition of Proposer, 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 an RFP. 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 proposal for the proposer and shall also contain the amounts of any such commission, gratuity or other compensation. A proposal from any organization that has a person on the list 10% or more affidavit that is a member of the CCU or a GWA or GPA 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.

J. EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01(1) of Presidential Executive Order No. 10935 dated March 7, 1965, requires that the proposer not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The proposer 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.

K. ASSIGNMENT

An assignment of any portion of a contract or obligation because of this RFP is not valid unless written approval is first obtained from GWA. No other requests for assignment will be accepted.

L. DETERMINATION OF RESPONSIBILITY OF OFFERORS

GWA reserves the right to secure information necessary to assess the competency and qualifications of the Proposer in accordance with methodologies set forth herein.

M. STANDARD FOR DETERMINATION OF MOST QUALIFIED PROPOSER

In determining the most qualified proposer, GWA shall be guided by the following:

- 1) The ability, capacity, and skill of the proposer to perform.
- 2) Whether the proposer can perform promptly or within the Owner's required timeframe.
- 3) The character, integrity, reputation, judgment experience, and efficiency of the proposer.
- 4) The quality of performance of the proposer with regard to awards previously made.
- 5) The previous and existing compliance by the proposer with laws and regulations relative to procurement.
- 6) The sufficiency of the financial resources and ability of the proposer to perform.
- 7) Whether the proposer can meet the terms and conditions of the RFP; and
- 8) The extent and complexity of conditions attached to the proposal, with particular attention to any that may limit the proposer's flexibility or ability to meet the RFP requirements.

N. PRE-PROPOSAL CONFERENCES

The deadline for Proposers to request for a pre-bid conference is **April 1, 2025, at 10:00 a.m.** Pre-proposal conferences may be held at any time prior to the date established herein for submission of proposals to explain the procurement requirements for this RFP. GWA will notify all Offerors 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.

O. PROPOSALS

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

P. COMPETENCY OF OFFERORS

Proposals will be considered only from such Offerors who, in the opinion of GWA, can show evidence of their ability, experience, equipment, and facilities to render satisfactory performance of the terms and conditions herein.

Q. MODIFICATION / ALTERATION

After the receipt and opening of proposals and at its option, GWA or its designee(s), may conduct discussions with Offerors that have submitted valid proposals for the purpose of clarification to assure full understanding and responsiveness to the solicitation requirement. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision to proposals and such revisions shall be permitted after submission and prior to award for the purpose of obtaining best and final offers. However, please bear in mind that proposals should be submitted initially on the proposer's most favorable terms. In conducting discussions there shall be complete confidentiality of any information derived from proposals submitted by competing Offerors.

R. MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn at any time prior to the conclusion of discussions, as provided herein.

S. SELECTION OF BEST-QUALIFIED OFFERORS

Upon the conclusion of the evaluation and discussion procedures as provided in the “Modification/Alteration” section, GWA will convene an evaluation committee comprised of 3 to 5 members to evaluate the proposals based on the established criteria. The evaluation committee will develop a list of qualified firms, rank the firms, and select no fewer than three (3) acceptable proposals (or such lesser number if less than three (3) acceptable proposals were received) deemed to be the best qualified to provide the required services.

T. EVALUATION CRITERIA FOR SELECTION

Upon the receipt of all proposals, a team will be convened to select the most responsive and responsible submissions and rate all proposals. The evaluation factors and the maximum awarded points for each are shown below.

Evaluation Factors	SCORE
Proposal Content: Completeness of the proposal in responding to the items listed in the Response Format and Content section of this RFP	10 Points
Qualifications and Capacity of Firm: The firm has the ability to successfully apply its skills and resources to perform and complete the work on time and with successful results at a level of quality expected by GWA. This includes the availability of resources and professional staff/associates to complete the work. Proposed method for accomplishing the work, avoiding problems and delays, and resolving conflict.	30 Points
Firm Experience on Similar Projects: The firm’s specialized and extensive experience on similar engagements for utilities of similar or greater size.	25 Points
Qualifications and Experience of Project Team: Specialized experience and qualifications of designated project personnel to perform the required services.	25 Points
Performance Record: A demonstrated track record of effective planning, scheduling and on-time delivery performance on those schedules. Successful performance on engagements similar in nature and scope. A demonstrated track record of teamwork, cooperation, fair dealing, client service and relationships of mutual trust and confidence. The absence of a pattern of adversarial relationships, claims and litigation.	10 Points
Maximum Total	100 Points

U. NEGOTIATION AND AWARD OF CONTRACT

GWA shall negotiate a contract with the best-qualified Proposer for the required services at compensation determined in writing to be fair and reasonable. GWA reserves the right to contract for the work hereunder in planned phases which is dependent upon need and funding availability. Contract negotiations will be directed toward: (1) making certain that the Proposer has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services; (2) determining that the Proposer will make available the necessary personnel and facilities to perform the services within the required time; and (3) agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.

- 1) Successful Negotiation of Contract with Best-Qualified Proposer: If compensation, contract requirements, and contract documents can be agreed upon with the best-qualified proposer, the contract will be awarded to that Proposer.
- 2) Failure To Negotiate Contract with Best-Qualified Proposer: If compensation, contract requirements or contract documents cannot be agreed upon with the best-qualified proposer, a written record stating the reasons, therefore, shall be placed in the file, and GWA will advise such a proposer of the termination of negotiations which shall be confirmed by written notice within three (3) days. Upon failure to negotiate a contract with the best-qualified proposer, GWA will enter negotiations with the next most qualified proposer. If negotiations again fail, negotiations will be terminated as provided in this Section and commence with the next most qualified proposer.
- 3) Notice of Award: Written notice of award will be public information and made a part of the contract file.
- 4) Failure To Negotiate Contract with Offerors Initially Selected as Best Qualified: Should GWA be unable to negotiate a contract with any of the Offerors initially selected as the best qualified Offerors, offers may be re-solicited or additional Offerors may be selected based on original, acceptable submissions in the order of their respective qualification ranking and negotiations may continue in accordance with the procedures and process herein specified.

III. SCOPE OF WORK

GWA is soliciting proposals from qualified firms to provide Professional Utility Management and Financial Consulting Services for various matters relating to rates and tariffs, regulatory compliance and financial policy development. Qualified firms shall have experience in utility management and financial consulting, including rate relief applications, rate design, financial modeling and projections, capital financing, financial capability assessments, affordability program development and financial analysis relating to regulatory compliance. Qualified firms shall have experience in such activities specifically for water and wastewater utilities. Upon evaluation, GWA will make an award recommendation for an aggregate annual indefinite quantity contract to the top responsible and qualified firm.

Consulting services may include but are not limited to the following:

1. Financial and analytical studies program/project management.
2. Multi-year rate plan development and financial modeling.
3. Rate design and affordability program development and implementation.
4. Long-term and short-term financial strategy and policy development.
5. Capital financing alternative evaluation, analysis and recommendations.
6. Assistance with developing supporting documentation and related analysis for bond financing, short-term construction financing, and other financing alternatives.
7. Financial analysis to be included in master capital plan.

The contract will provide for the issuance of Work Authorizations (WA) requiring a variety of Utility Management and Financial Consulting services as needed and determined by GWA. Each WA will be negotiated with the selected firm. The contract as noted is an Indefinite Delivery Indefinite Quantity (ID/IQ) type contract and GWA does not guarantee any number of WA to be issued. GWA also does not guarantee a minimum or maximum value of WA's placed with any firm.

General task requirements for utility management and financial consulting include but are not limited to:

1. Management of scope, schedule, budget, quality assurance/quality controls (QA/QC), documentation for each work authorization or task order
2. Program management and integration services for any financial analytical studies conducted by others
3. Regular progress meetings/conference call with GWA Management and regulatory entities (if applicable)

4. Review all available reports, plans, financial statements, budgets, etc.
5. Development of analytical or feasibility studies and reports which may include but not limited to:
 - a. Bond or other financial instrument feasibility studies as required by Owner.
 - b. Rate design / miscellaneous fee studies
 - c. Capital financing analyses and evaluations
 - d. Long-term and short-term fiscal strategy, policy and implementation recommendations
6. Development of financial models, which may include but not limited to:
 - a. Rate Application Model
 - b. Financial Capability Model for regulatory compliance proceedings
 - c. Financial Management model with scenario analysis for proactive fiscal management
7. Provide support to GWA during:
 - a. Affordability Program Implementation
 - b. Rate Application proceedings,
 - c. Legislative hearings regarding financing authorization
 - d. Rating Agency Presentations
 - e. Investor presentations
 - f. CCU and PUC presentations and workshops as required

CONTRACT TERMS: GWA and the CONTRACTOR agree that this CONTRACT will be for a Three (3) year period from the date of the signed Notice to Proceed award subject to the availability of funds, with the option of two (2) additional 1-year terms.

IV. SPECIAL PROVISIONS

1. Proposers shall take steps as necessary to complete such Projects in a timely and efficient manner consistent with GWA's business requirements as made known to proposers. Proposers shall report to GWA each month on efforts to complete assigned tasks and deadlines.
2. Upon final selection of the best qualified Proposer, the Scope of Services may be refined and modified during negotiations.
3. The Proposer shall indicate any variations to the performance requirements specified above for additional consideration. GWA is not required to consider variations.
4. The successful Proposer will be responsible for payment of all taxes and fees, i.e., Social Security, GRT, etc. and employees of the Proposer or its subcontractors will not be considered employees of the Guam Waterworks Authority.
5. GWA reserves the right to reject any proposed subcontractor for any reason GWA feels is prudent.

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 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 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 people 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.**

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 _____, 20_____.

Notary Public _____

In and for the Territory of Guam

My Commission expires _____.

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 _____ 202____, 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

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 the 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)

WAGE AND BENEFIT DETERMINATION

Bid or RFP No.: RFP 2025-02 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: _____

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/Proposer)
2. To the best of my knowledge, neither I, nor any of Proposer’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 Proposer, 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 Proposer’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 Proposer’s proposal.
4. I make these statements on behalf of myself as a representative of Proposer, and on behalf of the Proposer’s officers, representatives, agents, subcontractors, and employees.

So sayeth _____
(Declarant)

Signed on this ____ day of _____ 2025, 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

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/Proposer)

2. To the best of my knowledge, neither I nor any officers, representatives, agents, subcontractors or employees of Proposer 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 Proposer 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 Proposer, and on behalf of the Proposer’s officers, representatives, agents, subcontractors, and employees.

So sayeth _____
(Declarant)

Signed on this ____ day of _____ 2025, 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

CONTINGENT FEE AFFIDAVIT

GUAM/State of _____)
)ss:
Municipality/City of _____)

I, the undersigned, _____ [name] being first duly sworn, deposes and says:

1. I am the _____ [title] of _____ [name of Offeror] (“offeror”).
2. As part of offeror’s bid or proposal, to the best of my acknowledge, the offeror has not retained any person or agency on a parentage, commission, or other contingent arrangement to secure this contract.
3. As part of offeror’s bid or proposal, to the best of my acknowledge, the offeror has not retained A person to solicit or secure a contract with the government of Guam upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
4. All statements in this affidavit and in the proposal are true to the best of my acknowledge of the undersigned.
5. These statements are made pursuant to 2 GAR Division 4 § 11108(h).
6. I make these statements on behalf of myself as a representative of offeror, and on behalf of the Offeror’s office, representatives, agents, subcontractors, and employees.

Further, affidavit sayeth naught.

Date: _____

Title: _____

Subscribe and sworn to before me this _____ day of _____, 202_.

Notary Public in and for Guam
My commission expires

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 _____ 2025, 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

Sample Contract Review

Carefully review the sample contract document, which outlines the terms and conditions under which GWA expects to engage the selected vendor.

Redline Changes

Use a PDF editor (such as Adobe Acrobat, Nitro PDF, or other similar software) to mark up the sample contract with your proposed changes. Use the "Comment" or "Annotate" tools in the PDF editor to insert text boxes or notes where changes are suggested. Highlight or strike through text where deletions or modifications are proposed. Clearly justify each redline change in the comments. Each comment should explain the reason for the proposed change and any potential benefits or risks associated with it. Ensure that your suggested changes maintain the overall intent and purpose of the contract while protecting both parties' interests.

Ensure the document is named appropriately, including your company's name and the term "Redline Contract Review" (e.g., "CompanyName_Redline_Contract_Review.docx").

Include the redlined contract as part of your complete proposal package.

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**Engineers Joint Documents Committee
Design and Construction Related Documents**

Instructions and License Agreement

Instructions

Before you use any EJCDC document:

1. Read the License Agreement. You agree to it and are bound by its terms when you use the EJCDC document.
2. Make sure that you have the correct version for your word processing software.

How to Use:

1. While EJCDC has expended considerable effort to make the software translations exact, it can be that a few document controls (e.g., bold, underline) did not carry over.
2. Similarly, your software may change the font specification if the font is not available in your system. It will choose a font that is close in appearance. In this event, the pagination may not match the control set.
3. If you modify the document, you must follow the instructions in the License Agreement about notification.
4. Also note the instruction in the License Agreement about the EJCDC copyright.

License Agreement

You should carefully read the following terms and conditions before using this document.

Commencement of use of this document indicates your acceptance of these terms and conditions. If you do not agree to them, you should promptly return the materials to the vendor, and your money will be refunded.

The Engineers Joint Contract Documents Committee ("EJCDC") provides **EJCDC Design and Construction Related Documents** and licenses their use worldwide. You assume sole responsibility for the selection of specific documents or portions thereof to achieve your intended results, and for the installation, use, and results obtained from **EJCDC Design and Construction Related Documents**.

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You have a limited nonexclusive license to:

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You agree that you will:

1. Reproduce and include EJCDC's copyright notice on any printed or machine-readable copy, modification, or portion merged into another document or program. All proprietary rights in **EJCDC Design and Construction Related Documents** are and shall remain the property of EJCDC.
2. Not represent that any of the contract documents you generate from **EJCDC Design and Construction Related Documents** are EJCDC documents unless (i) the document text is used without alteration or (ii) all additions and changes to, and deletions from, the text are clearly shown.

You may not use, copy, modify, or transfer EJCDC Design and Construction Related Documents, or any copy, modification or merged portion, in whole or in part, except as expressly provided for in this license. Reproduction of EJCDC Design and Construction Related Documents in printed or machine-readable format for resale or educational purposes is expressly prohibited.

If you transfer possession of any copy, modification or merged portion of EJCDC Design and Construction

Related Documents to another party, your license is automatically terminated.

Term:

The license is effective until terminated. You may terminate it at any time by destroying **EJCDC Design and Construction Related Documents** altogether with all copies, modifications and merged portions in any form. It will also terminate upon conditions set forth elsewhere in this Agreement or if you fail to comply with any term or condition of this Agreement. You agree upon such termination to destroy **EJCDC Design and Construction Related Documents** along with all copies, modifications and merged portions in any form.

Limited Warranty:

EJCDC warrants the CDs and diskettes on which **EJCDC Design and Construction Related Documents** is furnished to be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of delivery to you as evidenced by a copy of your receipt.

There is no other warranty of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state.

EJCDC does not warrant that the functions contained in **EJCDC Design and Construction Related Documents** will meet your requirements or that the operation of **EJCDC Design and Construction Related Documents** will be uninterrupted or error free.

Limitations of Remedies:

EJCDC's entire liability and your exclusive remedy shall be:

1. the replacement of any document not meeting EJCDC's "Limited Warranty" which is returned to EJCDC's selling agent with a copy of your receipt, or

2. if EJCDC's selling agent is unable to deliver a replacement CD or diskette which is free of defects in materials and workmanship, you may terminate this Agreement by returning EJCDC Document and your money will be refunded.

In no event will EJCDC be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use **EJCDC Design and Construction Related Documents** even if EJCDC has been advised of the possibility of such damages, or for any claim by any other party.

Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.

General:

You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement. Any attempt otherwise to sublicense, assign, or transfer any of the rights, duties, or obligations hereunder is void.

This Agreement shall be governed by the laws of the State of Virginia. Should you have any questions concerning this Agreement, you may contact EJCDC by writing to:

Arthur Schwartz, Esq.
General Counsel
National Society of Professional Engineers
1420 King Street
Alexandria, VA 22314

Phone: (703) 684-2845
Fax: (703) 836-4875
e-mail: aschwartz@nspe.org

You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between us which supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this agreement.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

MODEL FORM OF AGREEMENT BETWEEN OWNER AND PROGRAM MANAGER

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
703-684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
202-347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
800-548-2723
www.asce.org

The Associated General Contractors of America
333 John Carlyle Street, Ste. 2000, Alexandria, VA 22314
703-548-3118
www.agc.org

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MODEL FORM OF AGREEMENT BETWEEN OWNER AND PROGRAM MANAGER

THIS IS AN AGREEMENT effective as of _____ "Effective Date" between
Guam Waterworks Authority ("Owner") and
_____ ("Program Manager").

Owner has begun a program of *Utility Management and Financial Consulting* ("Program"). Owner hereby engages Program Manager to assist Owner with the management of the Program as set forth in this Agreement. This Agreement sets forth the general terms and conditions that shall govern the relationships and performance of Owner and Program Manager with respect to the Program.

Owner and Program Manager agree as follows:

SERVICES OF PROGRAM MANAGER

1.01 *Scope*

- B. The Basic Services to be provided by Program Manager include those services set forth in Exhibit A, "Program Manager's Services."
- C. If Owner authorizes Program Manager to do so, then Program Manager shall provide specific additional services within the scope set forth in Exhibit A, paragraph A.1.02. Owner's authorization of any such Additional Services shall be given in a Task Order, which shall include the tasks to be performed and the deliverables to be provided. A sample Task Order form is included for reference as Appendix 1 to Exhibit A.
- D. If Owner and Program Manager mutually agree, Program Manager shall provide other further services related to the Program. Any such mutual agreement shall be set forth in a written amendment to this Agreement, which shall specify the scope of services to be provided, the compensation to be paid, the time for performance, and any other terms applicable.

OWNER'S RESPONSIBILITIES

1.02 *General*

- B. Owner shall:
 - 1. Pay Program Manager as set forth in Exhibit C.
 - 2. As identified and requested by the Program Manager, provide Program Manager with all criteria and full information as to Owner's requirements for the Program and for

each Specific Project, including management and financial objectives and constraints, performance requirements, program flexibility, expandability, and any budgetary limitations; furnish copies of all regulatory requirements, indenture covenants and other standards which Owner will require to be met; and furnish copies of any standard contract forms, conditions, and related documents applicable to the Program.

3. As identified and requested by the Program Manager, furnish to Program Manager any other relevant information in Owner's possession, including studies, financial data, analyses, operating results, financial reports, and data relative to previous financings and capital improvement programs.
4. Arrange for safe access to and make all provisions for Program Manager to enter upon public and private property as required for Program Manager to perform services.
5. Provide reasonable assistance to Program Manager in securing the release of documents and information held by private entities and by public agencies and like bodies as needed in the course of the Program.
6. Review all proposals, alternate solutions, studies, reports, financial models, and other documents presented by Program Manager (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
7. Advise Program Manager of the identity and scope of services of any independent consultants, contractors, or engineers employed by Owner to perform or furnish services in regard to the Program or a Specific Project, including, but not limited to, cost of service studies, project or program enhancement studies, demand forecasting, and alternative financing studies, and define and set forth the duties, responsibilities, and limitations of authority of such other parties and the relation thereof to the duties, responsibilities, and authority of Program Manager.

SCHEDULE FOR RENDERING SERVICES

1.03 *Commencement*

- B. Program Manager shall begin rendering services as of the Effective Date of the Agreement.

1.04 *Time for Completion*

- B. The general schedule of Owner's Program is as set forth in Exhibit A. Program Manager shall submit to Owner, for its approval, a schedule stating the times for performing services or providing deliverables. If no time is so stated for a particular task, or set forth in a Task Order, then Program Manager will perform services and provide deliverables within a reasonable time.

- C. If, through no fault of Program Manager, such periods of time or dates are changed, or the orderly and continuous progress of Program Manager's services is impaired, or Program Manager's services are delayed or suspended, then the time for completion of Program Manager's services, and the rates and amounts of Program Manager's compensation, shall be adjusted equitably.
- D. If Owner authorizes changes in the scope, extent, or character of the Program, then the time for completion of Program Manager's services, and the rates and amounts of Program Manager's compensation, shall be adjusted equitably.
- E. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Program Manager's performance of its services.
- F. If Program Manager fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages resulting from such failure.

INVOICES AND PAYMENTS

1.05 *Invoices*

- B. *Preparation and Submittal of Invoices.* Program Manager shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Program Manager shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

1.06 *Payments*

- B. *Application to Interest and Principal.* Payment will be credited first to any interest owed to Program Manager and then to principal.
- C. *Failure to Pay.* If Owner fails to make any payment due Program Manager for services and expenses within 30 days after receipt of Program Manager's invoice, then:
 - 1. amounts due Program Manager will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 - 2. Program Manager may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Program Manager for any such suspension.
- D. *Disputed Invoices.* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion.
- E. *Legislative Actions.* If after the Effective Date of the Agreement any governmental entity takes a legislative action that imposes taxes, fees, or charges on Program Manager's services or compensation under this Agreement, then the Program Manager may invoice such new taxes, fees,

or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall pay such invoiced new taxes, fees, and charges; such payment shall be in addition to the compensation to which Program Manager is entitled under the terms of Exhibit C.

GENERAL CONSIDERATIONS

1.07 Standards of Performance

- B. The standard of care for all professional services performed or furnished by Program Manager under this Agreement will be the care and skill ordinarily used by members of the subject profession providing similar services under similar circumstances. Program Manager and the Program Subcontractors shall comply with applicable professional licensing requirements. Program Manager makes no warranties, express or implied, under this Agreement or otherwise, in connection with Program Manager's services.
- C. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Program Manager's services. Program Manager shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.
- D. Program Manager may employ such Program Subcontractors as Program Manager deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner. Program Manager shall be responsible to Owner for the acts and omissions of any such Program Subcontractors in performing or furnishing services under this Agreement.
- E. Program Manager and Owner shall comply with applicable Laws and Regulations and Owner-mandated standards. This Agreement is based on such requirements as of the Agreement's Effective Date. Changes to these requirements after the Effective Date may be the basis for modifications to Owner's responsibilities or to Program Manager's scope of services, times of performance, and compensation.
- F. Owner shall be responsible for, and Program Manager may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Program Manager pursuant to this Agreement. Program Manager may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
- G. If Program Manager provides services during the performance of a Specific Project by Owner's contractor, Program Manager shall not supervise, direct, or have control over a Contractor's work, nor shall Program Manager have authority over or responsibility for the means, methods, techniques, sequences, or procedures of performance selected or used by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, or for any failure of a Contractor to comply with Laws and Regulations applicable to a Contractor's furnishing and performing the work.

- H. Program Manager neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the work in accordance with the Contract Documents.
- I. Program Manager shall not be responsible for the acts or omissions of any Contractor, or of any of a Contractor's subcontractors, suppliers, agents, or employees or any other persons on such Project (except Program Manager's own employees and the Program Subcontractors) or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner to a Contractor without consultation and advice of Program Manager.

1.08 *Authorized Project Representatives*

- B. Program Manager and Owner shall designate in writing specific individuals to act as Program Manager's and Owner's representatives with respect to the various services to be performed or furnished by Program Manager and the responsibilities of Owner. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to specified services on behalf of each respective party.

1.09 *Design without Construction Phase Services – not used*

- ~~B. If neither Program Manager's Basic Services nor any Additional Services authorized by Owner includes project observation, or review of a Contractor's performance, or any other construction phase services, then Owner assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the Program Manager that may be connected in any way thereto.~~

1.10 *Use of Documents*

- B. Only when specified and mutually agreed in a Task Order by both Owner and Program Manager, Documents prepared under such Task Order are instruments of service in respect to this Program, and Program Manager shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Program Manager) whether or not the Program or the Specific Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Program Manager or one of its Program Subcontractors.
- C. A party may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

- D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- E. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- F. For all Documents subject to the provisions of Paragraph A in this section, Owner may make and retain copies of Documents for information and reference in connection with use on the Program or a Specific Project by Owner. Program Manager grants Owner a license to use the Documents for the specific purpose or on the Specific Project for which the Documents are intended, extensions of the Specific Project, and other projects of Owner, 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 or otherwise, unless completed by Program Manager, or for use or reuse by Owner or others on extensions of the Specific Project or on any other project without written verification or adaptation by Program Manager; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Program Manager, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Program Manager or to Program Subcontractors; (3) Owner shall indemnify and hold harmless Program Manager and the Program Manager Subcontractors from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Program Manager; (4) such limited license to Owner shall not create any rights in third parties.
- G. If Program Manager at Owner's request verifies or adapts the Documents for extensions of a Specific Project or for any other project, then Owner shall compensate Program Manager at rates or in an amount to be agreed upon by Owner and Program Manager.

1.11 *Insurance*

- B. Program Manager shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall be listed as an additional insured on any general liability or property insurance policies under Exhibit G.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G. Owner shall cause Program Manager and all Program Subcontractors to be listed as additional insureds on any general liability or property insurance policies carried by Owner which are applicable to the Program or a Specific Project.
- D. Owner shall require Contractors to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause Program Manager and all Program Subcontractors

to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for a Specific Project.

- E. Owner and Program Manager shall each deliver to the other certificates of insurance verifying the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Program Manager's services and at renewals thereafter during the life of this Agreement.
- F. All policies of property insurance relating to the Program or a Specific Project shall contain provisions to the effect that Program Manager's and the Program Subcontractors' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.
- G. At any time, Owner may request that Program Manager or its Program Subcontractors, 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, Program Manager shall obtain and shall require the Program Subcontractors to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be amended to incorporate these requirements.

1.12 *Suspension and Termination*

B. *Suspension.*

- 1. By Owner: Owner may suspend the Program or a Specific Project upon seven days written notice to Program Manager.
- 2. By Program Manager: If Program Manager's services are substantially delayed through no fault of Program Manager, Program Manager may, after giving seven days written notice to Owner, suspend services under this Agreement.

C. *Termination.* The obligation to provide further services under this Agreement may be terminated:

- 1. For cause,
 - a. 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 hereof through no fault of the terminating party.
 - b. By Program Manager:
 - 1) upon seven days written notice if Owner demands that Program Manager furnish or perform services contrary to Program Manager's responsibilities as a licensed professional; or

- 2) upon seven days written notice if the Program Manager's services for the Program are delayed or suspended for more than 90 days for reasons beyond Program Manager's control.
 - 3) Program Manager shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under paragraph 5.06.B.1.a 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.
2. For convenience, by Owner only, effective upon Program Manager's receipt of notice from Owner.
- D. *Effective Date of Termination.* The terminating party under paragraph 5.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Program Manager to demobilize personnel and equipment from all Projects, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Program and Specific Project materials in orderly files.
- E. *Payments Upon Termination.*
1. In the event of any termination under paragraph 5.06, Program Manager will be entitled to invoice Owner and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. 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 5.04.E.
 2. In the event of termination by Owner for convenience or by Program Manager for cause, Program Manager, in addition to invoicing for those items identified in paragraph 5.06.D.1, shall be entitled to invoice Owner and to 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 Program Subcontractors, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

1.13 *Controlling Law*

- B. This Agreement is to be governed by the law of the state or territory in which the principal office of the Owner is located, unless the law of the state where the subject services are being performed requires that the law of that state be applied.

1.14 *Successors, Assigns, and Beneficiaries*

- B. Owner and Program Manager each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Program Manager (and to the extent permitted by paragraph 5.08.B the assigns of Owner and Program Manager) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- C. Neither Owner nor Program Manager may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, 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.
- D. 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 Program Manager to any Contractor, Contractor's subcontractor, supplier, other 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 Program Manager and not for the benefit of any other party. The Owner agrees that the substance of the provisions of this paragraph 5.08.C shall appear in any Contract Documents prepared for any Specific Project under this Agreement.

1.15 *Dispute Resolution*

- B. Owner and Program Manager 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 under law.
- C. If the parties fail to resolve a dispute through negotiation under paragraph 5.09.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 under law.

1.16 *Environmental Condition of Site – not used*

- ~~B. Owner has disclosed to Program Manager in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or adjacent to all Sites, including type, quantity, and location.~~
- ~~C. Owner represents to Program Manager that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Program Manager, exist at any Site.~~
- ~~D. If Program Manager encounters an undisclosed Constituent of Concern, then Program Manager shall notify (1) Owner and (2) appropriate governmental officials if Program Manager reasonably concludes that doing so is required by applicable Laws or Regulations.~~
- ~~E. It is acknowledged by both parties that Program Manager’s scope of services does not include any services related to Constituents of Concern. If Program Manager or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Program Manager may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Specific Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the specific site is in full compliance with applicable Laws and Regulations.~~
- ~~F. If the presence at any site of undisclosed Constituents of Concern adversely affects the performance of Program Manager’s services under this Agreement, then the Program Manager shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.~~
- ~~G. Owner acknowledges that Program Manager is performing professional services for Owner and that Program Manager 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 adjacent to any Site in connection with Program Manager’s activities under this Agreement.~~

1.17 *Indemnification and Mutual Waiver*

- B. *Indemnification by Program Manager.* To the fullest extent permitted by law, Program Manager shall indemnify and hold harmless Owner, and Owner’s officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Program, provided that any such claim, cost, loss, or damage 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, but only to the extent caused by any negligent act or omission of Program Manager or Program Manager's officers, directors, partners, employees, or Program Subcontractors.

- C. *Indemnification by Owner.* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Program Manager, Program Manager's officers, directors, partners, agents, employees, and Program Subcontractors from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Program, provided that any such claim, cost, loss, or damage 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, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Program.
- D. *Environmental Indemnification – not used.* ~~In addition to the indemnity provided under paragraph 5.11.B of this Agreement, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless Program Manager and its officers, directors, partners, agents, employees, and Program Subcontractors from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) 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, or damage 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, 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.~~
- E. *Percentage Share of Negligence.* To the fullest extent permitted by law, 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, Program Manager, and all other negligent entities and individuals.
- F. *Mutual Waiver.* To the fullest extent permitted by law, Owner and Program Manager waive against each other, and the other's employees, officers, directors, agents, insurers, partners, subcontractors, 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 the Program.

1.18 *Miscellaneous Provisions*

- B. *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 facsimile, by registered or

certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

- C. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- D. *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 Program Manager, who 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.
- E. *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.
- F. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement and relating to 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 the Specific Project under which the claim arises.

1.19 *Survival*

- B. All express representations, indemnifications, limitations of liability, and other obligations included in this Agreement will survive its completion or termination for any reason.

1.20 *Severability*

- B. Any provision or part of this 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 Program Manager, who agree that this 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.

1.21 *Waiver*

- B. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

1.22 *Headings*

- B. The headings used in this Agreement are for general reference only and do not have special significance.

DEFINITIONS

1.23 *Defined Terms*

- B. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) and printed with initial capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:
1. *Additional Services* – Services which are not included in Basic Services to be performed for or furnished to Owner by Program Manager.
 2. *Agreement* – This “Model Form of Agreement between Owner and Program Manager,” including those Exhibits listed in Article 7.
 3. ~~*Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.~~
 4. *Basic Services* – Specified services to be performed for or furnished to Owner by Program Manager in accordance with this Agreement.
 5. ~~*Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which 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. §§1801 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.; and [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.~~
 6. *Contract* – The entire and integrated written agreement between Owner and a Contractor concerning a Specific Project under the Program.
 7. *Contract Documents* – Documents that establish the rights and obligations of Owner and Contractor under a Contract for a Specific Project and include the agreement between Owner and Contractor, addenda (which pertain to the Contract Documents), a contractor’s bid (including documentation accompanying the bid and any post-bid documentation submitted prior to the notice of award) when attached as an exhibit to the agreement, the notice to proceed, the bonds, appropriate certifications, the general conditions, the supplementary conditions, the specifications and the scope of work as the same are more specifically identified in the agreement, together with all written

amendments, change orders, work change directives, and Program Manager's written interpretations and clarifications issued on or after the effective date of the agreement.

8. *Contractor* – An individual or entity with whom Owner enters into a Contract for a Specific Project.
9. *Documents* – Data, reports, analyses, specifications, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Program Manager to Owner pursuant to this Agreement.
10. *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.
- ~~11. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.~~
12. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
- ~~13. *PCBs* – Polychlorinated biphenyls.~~
- ~~14. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at 32 degrees Fahrenheit and 14.7 pounds per square inch absolute, such as fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.~~
15. *Program Subcontractors* – Individuals or entities having a contract with Program Manager to furnish services, materials, or equipment with respect to the Program or a Specific Project as Program Manager's independent professional associates, consultants, subcontractors, suppliers, or vendors.
- ~~16. *Radioactive Materials* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.~~
17. *Reimbursable Expenses* – The expenses incurred directly by Program Manager in connection with the performing or furnishing of Basic and Additional Services for the Specific Project.
18. *Site* – Lands or areas subject to investigation, use, improvement, or development under the Program; including but not limited to specific locations at which construction is to occur; and including any lands indicated in any Contract Documents for a Specific Project as being furnished by Owner upon which construction is to be performed; rights-of-way and

easements for access to construction locations; and such other lands or facilities furnished by Owner which are designated for the use of Program Manager or a Contractor.

- 19. *Specific Project* – A project carried out under the Program.
- 20. *Task Order* – A document issued by Owner, including amendments if any, stating the scope of services, times for performance of services, and other relevant information for specified Additional Services to be provided by Program Manager.

EXHIBITS AND SPECIAL PROVISIONS

1.24 *Exhibits*

Included? (Yes or No)	Exhibit Letter	Exhibit Title	No. of Pages
	A	Program Manager’s Services	
	Appendix 1 to Exhibit A	Task Order	
	B	[Reserved]	
	C	Payments to Program Manager for Services and Reimbursable Expenses (Example)	
	D	[Reserved]	
	E	[Reserved]	
	F	[Reserved]	
	G	Insurance	
	H	Dispute Resolution	
	I	[Reserved]	
	J	Special Provisions	
	K	Amendment to Owner and Program Manager	

1.25 *Total Agreement*

- B. This Agreement (consisting of pages 1 to _____ inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Program Manager and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

The Effective Date of this Agreement is _____, _____

Owner: _____

Program Manager: _____

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

Professional License or Firm's Certificate No.
(if required by state law):

State of: _____

Address for giving notices:

Address for giving notices:

Guam Waterworks Authority

P.O. Box 3010

Hagatna, Guam 96932

Designated Representative:

Designated Representative:

Title: _____

Title: _____

Phone Number: _____

Phone Number: _____

Facsimile Number: _____

Facsimile Number: _____

E-Mail Address: _____

E-Mail Address: _____