

Bids and Awards Committee for Infrastructure (BAC-I)

CONSTRUCTION OF CONNECTOR ROAD FROM MAC ARTHUR HIGHWAY TO NEW CLARK CITY AIRPORT ROAD

**RESOLUTION NO. 24
(Declaration of LCRB)**

The BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA), through GAA, has put on bid the **Contract for the Construction of Connector Road from MacArthur Highway to New Clark City Airport Road, Clark Freeport Zone** (the “Project”), with an Approved Budget for the Contract (ABC) in the sum of **Pesos: Four Hundred Seventy-Nine Million Nine Hundred Ninety-Nine Thousand Three Hundred Seventy-Nine Pesos and 61/100 (PhP479,999,379.61)**, inclusive of all applicable taxes and fees.

WHEREAS, the BAC for Infrastructure, through its Secretariat, advertised the Invitation to Bid on 21 September 2020 in newspaper of nationwide circulation, and on September 21 to 27, 2020 in the following:

- a. DBM Philippine Government Electronic Procurement System (PhilGEPS);
- b. BCDA Website; and
- c. In a conspicuous place reserved for the purpose in the premises of BCDA.

WHEREAS, in response to the said advertisements, twenty-three (23) interested bidders bought the bid documents but only nineteen (19) of them submitted their bids on time or prior to the set deadline of submission of bids for the Project on 28 October 2020 at 12:00 noon;

WHEREAS, on 28 October 2020, the first envelopes which contained the Eligibility and Technical Requirements of the aforementioned 19 bidders were opened and subjected to a preliminary examination by determining the presence or absence of the required documents using “pass/fail” criterion;

WHEREAS, during the said preliminary examination and after checking the sufficiency of the required documents as regards its presence or absence, only sixteen (16) bidders were rated “passed” for the Eligibility and Technical Requirements;

WHEREAS, the second envelopes which contained the financial proposals of the 16 bidders, who “passed” the preliminary examination of the eligibility/technical requirements, were opened and were likewise subjected to a preliminary examination by determining the presence or absence of the required documents using “pass/fail” criterion. During the said preliminary examination of the financial proposals, and after checking the sufficiency of the required documents as regards its presence or absence, only the bids of twelve (12) bidders were considered for the detailed evaluation and comparison of financial bids. Table below shows the bid amount of the 12 bidders (as read):

BIDDERS	BID AMOUNT (AS READ)	RANKING
Markbilt Construction Trading and Development Corporation/C.B. Garay Philwide Builders, Inc. (Joint Venture)	344,602,635.83	1
AKN Construction Corporation/R.S. Sepian Construction and Trucking (Joint Venture)	344,666,240.87	2
Grace Construction Corporation/GDL Construction (Joint Venture)	369,612,784.28	3

Supreme ABF Construction & Construction Supply Company, Inc./Tryst Builders Enterprises (Joint Venture)	400,005,585.43	4
Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. (Consortium)	422,399,454.06	5
Grand Exploit Builder Development, Inc.	429,038,447.19	6
IPM Construction and Development Corporation/ A.M. Oreta & Co., Inc. (Joint Venture)	429,599,444.75	7
Unimasters Conglomeration, Inc. / China Construction Front General Development Corporation (Joint Venture)	446,523,056.20	8
Northern Builders, Inc.	446,865,340.77	9
J.D. Legaspi Construction	453,607,908.97	10
BSP & Company, Inc.	453,817,198.45	11
A.G. Araja Construction and Development Corporation/ Qingjian Group Co., LTD. (Consortium)	474,130,718.88	12

WHEREAS, on 29 October to 04 November 2020, in accordance with Clause 27.2 of the ITB and Section 32.2 of the RIRR of R.A. 9184, the BAC-I Technical Working Group (TWG) conducted the detailed evaluation of the Financial Component of the bids of the aforementioned 12 bidders. After the said detailed evaluation of the Financial Component, only the bids of the eleven (11) bidders were ranked in ascending order based on their financial bids or total bid price as calculated, evaluated, and or corrected for computational errors, and other bid modifications to identify the bidder with the Lowest Calculated Bid (LCB) who shall undergo the post-qualification. Table below shows the bid amount of the 11 bidders (as calculated):

BIDDERS	BID AMOUNT (AS CALCULATED)	RANKING
Markbilt Construction Trading and Development Corporation/C.B. Garay Philwide Builders, Inc. (Joint Venture)	344,602,641.49	1
AKN Construction Corporation/R.S. Sepian Construction and Trucking (Joint Venture)	344,651,782.94	2
Grace Construction Corporation/GDL Construction (Joint Venture)	369,612,784.28	3
Supreme ABF Construction & Construction Supply Company, Inc./Tryst Builders Enterprises (Joint Venture)	400,003,906.72	4
Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. (Consortium)	422,399,586.31	5
Grand Exploit Builder Development, Inc.	429,041,082.41	6
IPM Construction and Development Corporation/ A.M. Oreta & Co., Inc. (Joint Venture)	429,597,612.06	7
Unimasters Conglomeration, Inc. / China Construction Front General Development Corporation (Joint Venture)	446,523,056.20	8
Northern Builders, Inc.	446,865,011.94	9
J.D. Legaspi Construction	453,608,118.72	10
A.G. Araja Construction and Development Corporation/ Qingjian Group Co., LTD. (Consortium)	474,133,275.00	11

WHEREAS, consequent to the above results of the detailed evaluation, Markbilt Construction and C.B. Garay Philwide Joint Venture was declared the bidder with the LCB for the Construction of Connector

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Road from MacArthur Highway to New Clark City Airport Road in BAC Resolution No. 06 dated 05 November 2020. Thereafter, the post-qualification commenced on 10 November 2020. However, the BAC-I, in its BAC Resolution No. 12 dated 04 December 2020, declared the said Joint Venture as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the Project, and other violations under R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
<p>Statement of all its ongoing government and private contracts including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.</p>	<p>Markbilt Construction Trading and Development Corporation failed to declare ongoing project with National Irrigation Authority (NIA), entitled "Contract No. SRIPD-C-19, Construction of Barbar Earthfill Dam" located at San Juan, Ilocos Sur, with the Contract Cost of Php273,141,678.68, [in violation of Clause 12.1(a)(ii) of the Instructions to Bidders (ITB)].</p>
<p>Statement of the Bidder's Statement of Single Largest Completed Contract (SLCC) similar to the contract to be bid, in accordance with ITB Clause 5.4.</p> <p>The statement of Bidder's SLCC shall be supported by the Notice of Award and/or Notice to Proceed, Project Owner's Certificate of Final Acceptance issued by the Owner other than the Contractor or the Constructors Performance Evaluation System (CPES) Final Rating, which must be at least satisfactory. In case of contracts with the private sector, an equivalent shall be submitted</p>	<p>Failed to submit a valid Single Largest and Completed Contract (SLCC), [in violation of Clauses 12.1 (a)(ii) and 5.4(a) of the ITB].</p> <p>Upon verification, the project cited in the submitted SLCC was awarded to C.B. Garay Philwide Builders, Inc. but said contractor was not able to complete the project and was issued Notice of Contract Termination instead by MTD Construction (Philippines), Inc. (MTDCPI) for the "Project - Rehabilitation and Widening of SLEX Section TR2) Sub-Section 2D: Sta. 42+945 to Sta. 49+722.774".</p> <p>The Certificate of Completion submitted by C.B. Garay Philwide Builders, Inc. supposedly issued on 17 June 2011 bore the signature of Project Director Mr. Chiew Kok An. However, upon verification, MTDCPI stated that Mr. Chiew Kok An already resigned sometime in 2008 and was replaced by Mr. Nasir Wahab who signed the Termination of Contract issued to C.B. Garay.</p> <p>Upon validation of the documents which Markbilt Construction Trading and Development Corporation/C.B. Garay Philwide Builders Joint Venture submitted for its SLCC, i.e. Subcontract Agreement, Notice to Proceed, Notice of Completion and Final Acceptance, the project name/title being referred to by the Joint Venture in its bid submission is confirmed to be exactly the same with the project name/title being referred to in the Notice of Contract Termination issued by MTDCPI.</p> <p>Section 23.6 of the 2016 Revised IRR of R.A. 9184 and Section 29.1 of the ITB provide that, "Notwithstanding</p>

	<p>the eligibility of a bidder, the Procuring Entity concerned reserves the right to review the qualifications of the bidder at any stage of the procurement process if the Procuring Entity has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the bidder which will affect the capability of the bidder to undertake the project so that it fails the eligibility criteria, <u>the Procuring Entity shall consider the said bidder as ineligible and shall disqualify it from obtaining an award or contract</u>, in accordance with Rules XXI, XXII, and XXIII of this IRR.] (emphasis supplied)</p> <p>Clearly, the bidder violated the provision in the Omnibus Sworn Statement, specifically Section 25.3(c) of the 2016 Revised IRR of R.A. 9184 which provides that, "Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct."</p>
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WHEREAS, in the same BAC Resolution, **AKN Construction Corporation/R.S. Sepian Construction and Trucking Joint Venture** was declared the bidder with the next/second LCB, subject to post-qualification. Thereafter, the post-qualification commenced on 08 December 2020. However, the BAC-I, in its BAC Resolution No. 17 dated 17 December 2020, declared the said Joint Venture as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the Project, and other violations under R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
<p>Clause 12.1(b)(ii.3) of the Instructions to Bidders (ITB), project requirements shall include, among others, the list of contractor's major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, certification of <u>availability of equipment from the equipment lessor/vendor for the duration of the project</u>, as the case may be, which must meet the minimum requirements for the contract set in the BDS.</p>	<p>Failed to show/present during post-qualification the actual appearance of all the nominated equipment for the Project which are enumerated under the List of Equipment in its bid submission, [in violation of Clause 12.1(b)(ii.3) under the ITB and Bid Data Sheet (BDS)].</p> <p>Upon validation/verification with the bidder's representative Ms. Julie H. Ronquillo (from AKN Construction Corporation) during post-qualification, all equipment nominated/pledged for the Project in its bid submission are deployed to the bidder's project with the Department of Public Works and Highways (DPWH) Region X in Iligan City. During post-qualification, the BAC-I TWG requested geotagged</p>

<p>The same clause under BDS provides the List of Minimum Equipment Requirement; to wit:</p> <ul style="list-style-type: none"> 1 Crane, Hydraulic, 2 tonnes. 1 Cargo Truck, 6 tonner. 1 Vibratory Roller (Tandem Smooth 1 Drum) 12 tonnes. 1 Concrete Finisher/Paver, 120 hp. 1 Crawler Tractor with Dozer, 155 hp. 1 Dump Truck, 6.88 cu.m. 1 High Reach Basket, 15 meter reach. 1 Backhoe Hydraulic, crawler, 0.80 cu.m. 1 Motorized Grader, 120 hp. 1 Payloader, 2.70 cu.m. 1 Vibratory Drum Roller, 10 tonnes. 1 Water Truck w/ water pump, 16000 liters, 360 hp. 1 Crane, Crawler Std. Boom, Hydraulic Operated, 51 tonnes. 1 Vibratory Hammer with compressor, 272.22 hp. <p>If owned, the above equipment should be supported by proof of ownership and certification by the bidder of availability of equipment for the duration of the project.</p> <p>If leased, supported by contract to lease and certification of availability of equipment from the equipment lessor for the duration of the project.</p> <p>If under purchase agreement, supported by agreement to purchase and certification of availability of equipment from the equipment vendor and the bidder for the duration of the project.</p>	<p>photos of the nominated equipment in Iligan City but the bidder was not able to provide such photos.</p> <p>Ms. Ronquillo offered other equipment as substitute for the equipment nominated in its Bid Submission, however, the BAC cannot allow substitution or replacement of the nominated equipment because it is tantamount to modification of bid.</p> <p>A bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. Bid modifications received after the applicable deadline shall not be considered (Section 26 of R.A. 9184).</p> <p>The Revised IRR of R.A. 9184, Rule X on Post-qualification, specifically provides the following:</p> <p>Section 34.3 (b) (ii)</p> <p>b) <u>Technical Requirements.</u> To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:</p> <p>i) xxx xxx xxx</p> <p>ii) <u>Verification of availability and commitment, and/or inspection and testing for the required capacities and operating conditions, of equipment units to be owned/leased/under purchase by the bidder for use in the contract under bidding, xxx.</u>” (emphasis supplied)</p> <p>Clearly, the bidder <u>failed to prove</u> during post-qualification that the equipment that were nominated are available for the duration of the project.</p>
<p>Clause 12.1 (a)(ii) of the ITB - Statement of Single Largest Completed Contract (SLCC)</p> <p>Statement of the Bidder’s SLCC similar to the contract to be bid, in accordance with ITB Clause 5.4</p> <p>The statement of Bidder’s SLCC shall be supported by the Notice of Award and/or Notice to Proceed, Project Owner’s Certificate of Final Acceptance issued by</p>	<p>Failed to prove during post-qualification the validity/authenticity of the SLCC in its bid submission, [in violation of Clauses 5.4 and 12.1(a)(ii) of the ITB].</p> <p>To comply with the SLCC requirement for the Project, the Joint Venture submitted the Contract between AKN Construction Corporation and Local Government Unit (LGU) of Parañaque for the project, “Proposed Construction and Rehabilitation of Brgy. San Dionisio and Brgy. BF Homes Road, Parañaque”. However, it</p>

<p>the Owner other than the Contractor or the Constructors Performance Evaluation System (CPES) Final Rating, which must be at least satisfactory. In case of contracts with the private sector, an equivalent shall be submitted</p>	<p>failed to present the original copy of the said contract during post-qualification.</p> <p>Upon verification with the LGU of Parañaque, the LGU cannot provide as well the original copy or even photocopy of the said contract and can neither confirm the existence of the project subject of the contract. The LGU’s Engr. Emmanuel San Jose did not confirm his alleged signatures on the bidder’s submitted SLCC and Certificate of Inspection and Final Acceptance for the subject project. He instead remarked that those signatures do not match his and that his designation/position indicated on the said documents as Engineer II is incorrect as he has never held such position.</p> <p>As of the period of post-qualification on the bid of AKN Construction Corporation/R.S. Sepian Construction and Trucking Joint Venture, there are no documents that can confirm the Bidder’s SLCC because even the bidder itself can not produce the original copy of the contract.</p>
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WHEREAS, in the said BAC Resolution No. 17, **Grace Construction Corporation/GDL Construction Joint Venture** was declared the bidder with the next/third LCB, subject to post-qualification. Thereafter, the post-qualification on the said Joint Venture commenced on 21 December 2020. However, the BAC-I, in its BAC Resolution No. 20 dated 14 January 2021, declared the said Joint Venture as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the Project, and R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
<p>Clause 12.1(b)(ii.3) of ITB, project requirements shall include, among others, the list of contractor’s major equipment units, which are owned, leased, and/or under purchase agreements, <u>supported by proof of ownership</u>, certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be, which must meet the minimum requirements for the contract set in the BDS.</p> <p>The same clause under BDS provides the List of Minimum Equipment Requirement, to wit:</p> <p>1 Crane, Hydraulic, 2 tonnes.</p>	<p>The Joint Venture failed to comply with Clause 12.1(b)(ii.3) under the ITB and BDS, to wit:</p> <ul style="list-style-type: none"> The above provision of the bidding documents specifies <u>1 Water Truck w/ water pump, 16000 liters, 360 hp</u> as one of the minimum equipment required for the Project. In its bid submission, the Joint Venture indicated 20,000 liters for the capacity of its nominated/pledged Water Truck in its List of Minimum Equipment. However, the Certificate of Registration, which the Joint Venture submitted as proof of ownership for its nominated/pledged Water Truck, indicates “LPG tanker truck” with the capacity of 12,000 kilograms or equivalent to 12,000 liters of water. During the onsite inspection, the Joint Venture presented to the BAC-I TWG the “tanker truck” with the etching “18,652 V” on it. However, it is

- 1 Cargo Truck, 6 tonner.
- 1 Vibratory Roller (Tandem Smooth 1 Drum) 12 tonnes.
- 1 Concrete Finisher/Paver, 120 hp.
- 1 Crawler Tractor with Dozer, 155 hp.
- 1 Dump Truck, 6.88 cu.m.
- 1 High Reach Basket, 15 meter reach.
- 1 Backhoe Hydraulic, crawler, 0.80 cu.m.
- 1 Motorized Grader, 120 hp.
- 1 Payloader, 2.70 cu.m.
- 1 Vibratory Drum Roller, 10 tonnes.
- 1 Water Truck w/ water pump, 16000 liters, 360 hp.
- 1 Crane, Crawler Std. Boom, Hydraulic Operated, 51 tonnes.
- 1 Vibratory Hammer with compressor, 272.22 hp.

Acceptable proof of ownership for owned/leased/under purchase agreement:

1. If owned, supported by proof of ownership such as but not limited to:

- Official Receipt
- Deed of Sale
- OR/CR
- Sales Invoice showing payment of VAT
- **Proforma Invoice supported by a Sales Invoice**
- Letter of Credit from bank with attached Purchase Order supported by a Sales Invoice
- Acknowledgement Receipt from Supplier
- Commercial Receipt/Commercial Invoice
- Original Invoice with attached Packing List
- Bill of Lading
- Collection Receipt
- Delivery Receipt

and certification by the bidder of availability of the equipment for the duration of the project.

2. If leased, Lease Agreement between lessor and lessee, Proof of Ownership of the Lessor to be included in the

NOT the etching on the truck that determines the capacity of the Water Truck which the Joint Venture nominated/pledged for the Project but the Certificate of Registration in its bid submission which indicates LPG tanker truck with the capacity of 12,000 kilograms or equivalent to 12,000 liters of water.

Hence, the nominated/pledged truck is not responsive to the equipment requirement for Water Truck of 16,000 liters required under Clause 12.1(b)(ii.3) of ITB and BDS of the bidding documents.

It is clearly stated under Clause 12 of the ITB that the documents comprising the Eligibility and Technical bid include, among others, the list of contractor's major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be, **which must meet the minimum requirements** for the contract set in the BDS.

Evidently, the bidder failed to comply with the required capacity of the water truck which under the Bidding Documents for the Project should have the capacity of at least 16,000 liters.

Moreover, the proposed water truck with 12,000-kg capacity cannot be legally used on the roads and bridges in the Philippines as its Certificate of Registration allows it to carry a maximum net load of an equivalent of only 12,000 liters of water.

- In the submitted Bid Documents of the Bidder, the bidder merely submitted a Proforma Invoice for its nominated 1 Concrete Finisher/Paver, 120 hp. Said Proforma Invoice is NOT supported by a Sales Invoice which is clearly required under the Bidding Documents. Hence, the bidder failed to submit proof of ownership for the nominated equipment.

During the conduct of post-qualification, the bidder presented the Bill of Lading for its nominated/pledged Concrete Finisher/Paver. However, belated submission of documents required in the Bidding Documents are strictly prohibited under R.A. 9184. Section 26 of the RIRR

<p>Technical Proposal and Certification of Availability of Equipment from the equipment lessor for the duration of the project; and/or</p> <p>3. If under purchase agreement, Purchase Agreement between the bidder and the owner, Certification of Availability of Equipment from the vendor for the duration of the project.</p>	<p>explicitly states, a bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. Bid modifications received after the applicable deadline shall not be considered.</p>
<p>Technical Requirements under Section 34.3(b)(ii) of R.A. 9184.</p>	<p>Grace Construction Corporation incurred negative slippages on its ongoing projects, to wit:</p> <ul style="list-style-type: none"> Project with DPWH Unified Project management Office - Bridges management Cluster with Contract ID No. 16ZO0010 entitled, "Bridge Construction Replacement Program (BCRP) I, Design and Build Bridges in Luzon (Region II and CAR), Contract Package 3" <p>Slippage: 81.4%</p> <ul style="list-style-type: none"> Project with DPWH Region 10 with Contract ID No. 19K00325 entitled, "Construction of Oroquieta City Bypass Road, Misamis Occidental" <p>Slippage: 13.89%</p> <p>The Revised IRR of R.A. 9184 specifically provides the following:</p> <p>Section 34.3 (b) (ii)</p> <p>"b. <u>Technical Requirements.</u> To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:</p> <ol style="list-style-type: none"> Xxx xxx xxx; Verification of availability and commitment, and/or inspection and testing for the required capacities and operating conditions, of equipment units to be owned/leased/under purchase by the bidder for use in the contract under bidding, as well as <u>checking the performance of the bidder in its ongoing government and private contracts, if any of these ongoing contracts shows:</u>

	<p>a. <u>Negative slippage of at least fifteen percent (15%) in any one project or a negative slippage of at least ten percent (10%) in each of two (2) or more contracts;</u></p> <p>Xxx xxx xxx;</p> <p>If the BAC verifies any of these deficiencies to be due to the contractor’s fault or negligence, the agency shall disqualify the contractor from the award, for the procurement of Infrastructure Projects.”</p>
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WHEREAS, in the said BAC Resolution No. 20, **Supreme ABF Construction & Construction Supply Company, Inc./Tryst Builders Enterprises Joint Venture** was declared the bidder with the next/fourth LCB, subject to post-qualification. Thereafter, the post-qualification on the said Joint Venture commenced on 20 January 2021;

WHEREAS, on 29 January 2021, the BAC-I deliberated the TWG Report on the results of post-qualification of **Supreme ABF Construction & Construction Supply Company, Inc./Tryst Builders Enterprises Joint Venture**. The results of post-qualification show that the Joint Venture is post-disqualified due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the Project, and R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
Statement of all its ongoing government and private contracts including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.	<p>Supreme ABF Construction & Construction Supply Company, Inc. failed to declare twenty-two (22) ongoing projects with different Department of Public Works and Highways (DPWH) offices, to wit:</p> <ol style="list-style-type: none"> 1. <u>DPWH – North Manila DEO</u> “18OE0266 Construction of Four (4)-Storey Eight (8) Classroom School Building at A. Mabini Elementary School, Quiapo Manila City (based on 2017 Plan, Revised 3-24-17)” (Contract Cost: 47,172,550.44) 2. “18OE0269 Construction of Four (4) Storey Twenty-Eight (28) Classroom School Building at Mabini Elementary School Quiapo, Manila City (based on 2017 Plan, Revised 3-24-17)” (Contract Cost: 220,985,780.56) 3. “19OE0177 Local Program – Local Infrastructure Program – Buildings and Other Structure -Multi-Purpose/Facilities – Construction of Multipurpose Building (Covered Court/Day Care Center), Zone 13, Barangay 147 to Zone 24 Barangay 267, Manila” (Contract Cost: 52,878,493.93) 4. “19OE0189 Local Program – Construction/ Repair / Rehabilitation / Improvement of Various

	<p>Infrastructure Including Local Projects – Facilities – Rehabilitation / Reconstruction / Improvement of Multipurpose Building” (Contract Cost: 72,391,402.36)</p> <p>5. 19OE0190 Local Program - Construction / Repair / Rehabilitation / Improvement Of Various Infrastructure Including Local Projects - Buildings And Other Structures - Multipurpose / Facilities - Rehabilitation /Reconstruction / Improvement Of Multipurpose Build” (Contract Cost: P72,394,467.60)</p> <p>6. “19OE0198 Construction Of Four (4) Storey Twelve (12) Classroom School Building At P. Gomez Elementary School (Based On 2017 Plan, Revised 3-24-2017)” (Contract Cost: P51,943,707.33)</p> <p>7. “19OE0199 Construction Of Four (4) Storey Twelve (12) Classroom School Building At A. Bonifacio Elementary School (Based On 2017 Plan, Revised 3-24-2017” (Contract Cost: P54,008,222.86)</p> <p><u>DPWH – Aklan DEO</u></p> <p>8. “20GA0014 Widening Of Talon Bridge (B00288pn) Along East Road, Aklan East Road” (Contract Cost: P49,280,687.13)”</p> <p><u>DPWH – Bacolod City DEO</u></p> <p>9. “20GO0107 Widening/ Improvement/ Upgrading Of Honorata Manalo (Buri Road), Brgy. Mandalagan , Bacolod City” (Contract Cost: P50,167,215.60)</p> <p><u>DPWH – Capiz 1st DEO</u></p> <p>10. “20GD0023 Widening Of Bridge - Malag-It Br. (B00525pn) Along Iloilo East Coast - Capiz Road At Brgy. Malag-It, Pontevedra, Capiz” (Contract Cost: P29,790,134.13)</p> <p>11. “20GD0046 Construction Of Flood Mitigation Structures - Construction Of Pontevedra River Control (Upstream Of Agbalo Bridge) Including Esplanade, Pontevedra, Capiz” (Contract Cost: P27,929,391.69)</p> <p><u>DPWH – Iloilo 1st DEO</u></p> <p>12. “19GF0015 Widening Of Permanent Bridge - Batiano Br. (B00119pn) Along Iloilo-Antique Rd., Oton, Iloilo” (Contract Cost: P50,269,610.62)</p> <p><u>DPWH – Negros Occidental 1st DEO</u></p>
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13. "19GK0051 Widening Of Bridge - Pandanon Br. (B00302nr) Along Bacolod-Murcia-Ds Benedicto-San Carlos City Rd" (Contract Cost: P21,166,075.26)

14. "19GK0234 Construction of Bridge-Construction of Malisbog Bridge, Silay, Negros Occidental" (P47,023,662.89)

DPWH – Negros Occidental 3rd DEO

15. "20GM0002 Asset Preservation - Preventive Maintenance - Secondary Roads, Bacolod South Rd (Kabankalan - Hinobaan Section) - K0099+935 - K0100+194, K0100+210 - K0104+580 Brgy. Galicia, Ilog And Brgy. Mambugsay & Guiljungan, Cauayan, Negros Occidental" (Contract Cost: P48,999,989.95)

DPWH – Region VI RO

16. "19G00040 Reconstruction To Concrete Pavement - On Specific Locations Along Bacolod South Rd (Kabankalan - Hinobaan Section) K0116+364 To K0133+683" (Contract Cost: P91,661,095.14)

17. "20G00006 Construction Of Concrete Road - Bacolod Negros Occidental Economic Highway (Banoceh), Section 2, Package C, Bacolod City" (Contract Cost: P135,070,244.64)

18. "20G00018 Construction Of Flood Mitigation Structure Along Ilog - Hilabangan River, Kabankalan City, Negros Occidental" (Contract Cost: P65,718,001.00)

DWPH – Negros Oriental 2nd DEO

19. "18HK0005 Organizational Outcome 2: Protect Lives And Properties Against Major Floods, Construction Of Tanjay" (Contract Cost: P27,778,012.57)

20. "18HK0006 Organizational Outcome 2: Protect Lives And Properties Against Major Floods, Flood Management Program" (Contract Cost: P32,410,465.23)

DPWH – Samar 1st DEO

21. "18IJ0162 Concreting Of Brgy. Panalogan - Brgy. Hibatang Fmr, Brgy. Panalogan And Brgy.

	<p>Hibatang, Calbayog City, Samar” (P16,387,714.41)</p> <p><u>DPWH – Region IX – Ro</u></p> <p>22. “19J00083 Construction Of New Bridge- Along Labangan-Pagadian City-Dumalinao Road” (Contract Cost: P91,502,555.54)</p> <p><u>The non-declaration of the ongoing projects is in violation of Clause 12.1(a)(ii) of the Instructions to Bidders (ITB)].</u></p>
<p>Clause 12.1(b)(ii.3) of the Instructions to Bidders (ITB), project requirements shall include, among others, the list of contractor’s major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be, which must meet the minimum requirements for the contract set in the BDS.</p> <p>The same clause under BDS provides the List of Minimum Equipment Requirement, to wit:</p> <p>1 Crane, Hydraulic, 2 tonnes. 1 Cargo Truck, 6 tonner. 1 Vibratory Roller (Tandem Smooth 1 Drum) 12 tonnes. 1 Concrete Finisher/Paver, 120 hp. 1 Crawler Tractor with Dozer, 155 hp. 1 Dump Truck, 6.88 cu.m. 1 High Reach Basket, 15 meter reach. 1 Backhoe Hydraulic, crawler, 0.80 cu.m. 1 Motorized Grader, 120 hp. 1 Payloader, 2.70 cu.m. 1 Vibratory Drum Roller, 10 tonnes. 1 Water Truck w/ water pump, 16000 liters, 360 hp. 1 Crane, Crawler Std. Boom, Hydraulic Operated, 51 tonnes. 1 Vibratory Hammer with compressor, 272.22 hp.</p> <p>If owned, the above equipment should be supported by proof of ownership and</p>	<p>The Joint Venture failed to comply with Clause 12.1(b)(ii.3) under the ITB and BDS as it failed to show/present during post-qualification the actual appearance of the five (5) equipment nominated for the Project, to wit:</p> <ul style="list-style-type: none"> - 1 Crawler Tractor with Dozer, 155 hp. - 1 High Reach Basket, 15 meter reach. - 1 Water Truck w/ water pump, 16000 liters, 360 hp. - 1 Crane, Crawler Std. Boom, Hydraulic Operated, 51 tonnes. - 1 Vibratory Hammer with compressor, 272.22 hp. <p>Upon validation, the Joint Venture’s representatives Ms. Beth Castillo and Mr. Nestor Pablo presented to the BAC-I TWG the Police Report for the above 5 equipment which states that “the equipment pledged during bid opening were gone and no longer be located, which may have been carried away by strong current of water brought by Typhoon Ulysses”. The said Joint Venture representatives offered other equipment as substitute/replacements of the 5 nominated equipment mentioned above. However, the BAC cannot allow substitution or replacement of the nominated equipment because it is tantamount to modification of bid.</p> <p>A bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. Bid modifications received after the applicable deadline shall not be considered (Section 26 of R.A. 9184).</p> <p>The Revised IRR of R.A. 9184, Rule X on Post-qualification, specifically provides the following:</p> <p>Section 34.3 (b) (ii)</p>

<p>certification by the bidder of availability of equipment for the duration of the project.</p> <p>If leased, supported by contract to lease and certification of availability of equipment from the equipment lessor for the duration of the project.</p> <p>If under purchase agreement, supported by agreement to purchase and certification of availability of equipment from the equipment vendor and the bidder for the duration of the project.</p>	<p>b) <u>Technical Requirements</u>. To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:</p> <p>i) xxx xxx xxx</p> <p>ii) <u>Verification of availability and commitment, and/or inspection and testing for the required capacities and operating conditions, of equipment units to be owned/leased/under purchase by the bidder for use in the contract under bidding, xxx.</u>" (emphasis supplied)</p> <p>The bidder <u>failed to prove</u> during post-qualification that the nominated 5 equipment mentioned above are available for the duration of the Project.</p>
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WHEREAS, in its BAC Resolution No. 22 dated 29 January 2021, the BAC-I declared Supreme ABF Construction & Construction Supply Company, Inc./Tryst Builders Enterprises Joint Venture as Post-Disqualified. In the same BAC Resolution, **Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. Consortium** was declared as the bidder with the **next/fifth LCB**, subject to post-qualification. Thereafter, the post-qualification on the said Consortium commenced on 04 February 2021;

WHEREAS, on 16 February 2021, the BAC-I deliberated the TWG Report on the results of post-qualification on Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. Consortium. After careful examination, validation and verification of all the submitted eligibility, legal, technical and financial documents, the BAC-I TWG found **Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. Consortium** compliant with and responsive to the requirements stipulated in the bidding documents and recommended to declare the said Consortium as the bidder with the **Lowest Calculated and Responsive Bid (LCRB)** for the Project in its Post-Qualification Report;

WHEREAS, **Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. Consortium** is not included in the GPPB List of Blacklisted Constructors as of 10 February 2021;

WHEREAS, pursuant to the 3-month rule to complete the procurement process prescribed by R.A. 9184 and its revised IRR, the issuance of Notice of Award (NOA) for the Project should have been 26 January 2021. However, Section 65 (2) of RA No. 9184 and Section 65.1(b) of its 2016 Revised IRR provide that, "awarding of contracts beyond the prescribed period of action may be recognized for justifiable causes". Further, GPPB Non-Policy Opinion No. 11-2019 states that, "while the periods of action under RA No. 9184 and its revised IRR are mandatory in character, compliance therewith may be dispensed with under justifiable circumstances. It is important, however, for the procuring entity to explain the circumstances that would justify award of the contract beyond the prescribed period under the law, and ensure that the bid security remains valid until the award of the contract";

WHEREAS, the BAC-I sought BCDA Board approval on the extension of the issuance of NOA as the procurement process for the Project exceeded three (3)-month prescribed procurement period due to failed post-qualification on the first to fourth bidders declared as LCBs. In a Board Resolution No. 2021-01-008, the BCDA Board approved the sixty (60)-day extension of the issuance of NOA for the project, reckoned from 26 January 2021.

NOW, THEREFORE, foregoing considered and after careful evaluation and thorough deliberation of the bids submitted for the Project, we, the Members of the Bids and Awards Committee for Infrastructure (BAC-I), hereby **RESOLVE** as it is hereby **RESOLVED** to recommend the following:

1. To award the contract to **Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. Consortium** as the bidder with the **Lowest Calculated and Responsive Bid (LCRB)** for the **Construction of Connector Road from MacArthur Highway to New Clark City Airport Road, Clark Freeport Zone**, in the amount of **PESOS: Four Hundred Twenty-Two Million Three Hundred Ninety Nine Thousand Four Hundred Fifty-Four & 06/100 (PhP422,399,454.06)**, pursuant to Sec. 34.4 of the revised IRR of R.A. 9184; and
2. To issue the corresponding Notice of Award (NOA) to **Studio26 Construction, Inc./Tianyuan Construction Group Co., LTD. Consortium**, being the bidder with LCRB.

RESOLVED, at the BCDA Corporate Center Office, this 16th day of February 2021.

BIDS AND AWARDS COMMITTEE FOR INFRASTRUCTURE (BAC-I)


AILEEN ANUNCIACION R. ZOSA
Chairperson


ARREY A. PEREZ
Vice Chairperson


ENG. RICHARD BRIAN M. CEPE
Member


ATTY. GISELA Z. KALALO
Member


ENG. RYAN PAUL S. GALURA
Member

Approved by:


VIVENCIO B. DIZON
President and CEO

BCDA
Bases Conversion and
Development Authority

BAC for Infrastructure

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