

Bids and Awards Committee (BAC) for Infrastructure

**CONSTRUCTION OF UNDERGROUND UTILITY CORRIDOR AS PART OF THE NEW CLARK
CITY CONNECTING ROAD
(ADJACENT OR CONTIGUOUS PROJECT)**

**RESOLUTION NO. 20
(Recommending Award of Contract)**

WHEREAS, The New Clark City is a flagship project of the Government of the Republic of the Philippines, which is a modern metropolis with a mix of residential, commercial, agro-industrial, institutional and information technology development as well as a community of residents, workers, and business establishments within a balance, healthy and safe environment;

WHEREAS, The New Clark City is on its full swing in completing its Phase 1 development as investors and locators are already developing their designated parcels. Among others are the Filinvest Land Inc, the National Sports Academy and the already operational National Government Administrative Center;

WHEREAS, Road 4B and Road 5 will be utilized as the main access of the National Sports Academy and the Philippine Science High School, their ultimate completion will cater the ingress and egress of traffic in the area. They will also accommodate ancillary items needed for sustainability in the area such as utility bridges and corridors;

WHEREAS, Utilities are integral components of any development works to attain sustainability and competitiveness. The construction of utility bridges and corridors on identified priority locations is imperative as the need for sustainable utilities is already imminent;

WHEREAS, the funds allotted on the 2020 and 2021 GAA on these road projects will both expire on December 31, 2021 if the project is not awarded. If so, securing funding for these projects in the 2022 GAA is not certain. Therefore, may cause unnecessary delays on the sustainable operations of the NCC Phase 1 development works and its locators and investors;

WHEREAS, a proposition that can immediately address the issue is to have the proposed additional construction works done by the existing contractor of NCC Connecting Road Package 1, which is Positive Builders and Trading through a negotiated procurement pursuant to Section 53.4 (Adjacent or Contiguous) of the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184;

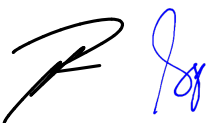
WHEREAS, the utility corridor and the additional areas for roadworks construction has a proposed budget of Pesos: Seven Hundred Thirty Million Five Hundred Seventy Thousand Five Hundred Seventy-Four and 56/100 Pesos (Php 730,570,574.56);

WHEREAS, Section 53.4 (Adjacent or Contiguous) of the Revised IRR of RA 9184 states that Procuring Entity can directly negotiate a contract with a contractor if the subject contract is adjacent or contiguous to an on-going infrastructure project: provided, however, that (a) the original contract is the result of a competitive bidding; (b) the subject contract to be negotiated has similar or related scope of works; (c) it is within the contracting capacity of the contractor; (d) the contractor used the same unit price as in the original contract less mobilization cost; (d) the amount involved does not exceed the amount of the on-going project; and (f) the contractor has no negative slippage/delay; provided further that negotiation for the procurement commences before the expiry of the original contract;

WHEREAS, the following conditions satisfy the above-mentioned requirements:

- a. There is an existing contract between Positive Builders and Trading and BCDA, which was a result of a competitive bidding conducted on July 21, 2020 for the Construction of NCC Connecting Road Package 1. Positive Builders and Trading, was awarded the contract for the said project having been declared as the lowest calculated and responsive bid in the amount of Php 965,807,314.26;
- b. The proposed negotiated contract has the same scope of work as the existing contract with Positive Builders and Trading, since it involves bridge construction, construction of roadworks, drainage system, sidewalks, bike lanes, street lightings and landscaping;
- c. The proposed negotiated contract amounting to Php 730,570,574.56 is within Positive Builders and Trading, Net Financial Contracting Capacity (NFCC) of Php 3,274,209,963.09
- d. Positive Builders and Trading, agreed to use the same unit prices as in the original/existing contract less mobilization cost;
- e. The proposed negotiated contract amounting to Php 730,570,574.56 did not exceed the on-going project amounting to Php 965,807,314.26; and
- f. Positive Builders and Trading, has no negative slippage on the Construction of New Clark City Connecting Road Package 1. As of December 15, 2021, the actual accomplishment is 53.93% with versus a scheduled accomplishment of 52.43% yielding to a 1.50% positive slippage
- g. The expiration date of the original contract of Positive Builders and Trading is on April 06, 2022.

WHEREAS, On 17 November 2021 the BCDA Board approved the budget for the contract amounting to P730,570,574.56 inclusive of all applicable taxes and fees, and the inclusion of the Construction of Underground Utility Corridor as Part of the New Clark City Connecting Roads in the CY 2021 Annual Procurement Plan (APP)



WHEREAS, on the same day, the Board approved to procure the said project through Negotiated Procurement and to negotiate with Positive Builders and Trading consistent with the guidelines set under Section 53.4 Adjacent or Contiguous, of the revised IRR of RA 9184

WHEREAS, on 15 December 2021, the BCDA Board approved the following delegations:

1. Authority to the BCDA Bids and Awards Committee for Infrastructure (BAC-I) to negotiate with Positive Builders and Trading
2. Authority to the OIC for OPCEO or in his absence, the Executive Vice President to sign and approve the Notice of Award, Contract, Notice to Proceed and all other documents relative to the implementation of the project for and on behalf of BCDA
3. Authority to the OIC for OPCEO or in his absence, the Executive Vice President to sign the letters of agreement between utility JV partners of BCDA for Power, Shin Clark Meralco and for Water and Sewer, Primewater Infrastructure Inc. for and on behalf of BCDA.

WHEREAS, there has to be a letter agreement signed among the utility JV Partners on the concurrence of the utility JV Partners on the terms and conditions of reimbursements of the costs that will be advanced by BCDA prior to the award of contract to Positive Builders and Trading;

WHEREAS, the Request for Quotation (RFQ) as approved by the BAC-I, contain the Terms of Payment, Scope of Work Terms of Reference, Approved Budget for the Contract, and other related documents;

WHEREAS, the Technical Working Group (TWG) and the end-user has agreed with the negotiation terms, which was submitted to the BAC-I for approval;

WHEREAS, the RFQ was transmitted to Positive Builders and Trading prior to the conduct of negotiation as basis of their proposal to the BAC-I;

WHEREAS, on 24 December 2021, based on the delegation approved by the BCDA Board, the BAC-I conducted the negotiation with Positive Builders and Trading attended by the representatives from Internal Audit Services Department (IASD), Commission on Audit (COA) and Primewater Infrastructure Corp.;

WHEREAS, based on the approved RFQ, Positive Builders and Trading has offered an amount of **Seven Hundred Forty Million Seven Hundred Eighty-Seven Thousand Nine Hundred and 97/100 (Php740,787,900.97)**, inclusive of all applicable taxes and fees;

WHEREAS, the BAC-I requested Positive Builders and Trading to further reduce its offer and came up with a 2.059% discount offer yielding to a net amount of **Seven Hundred Twenty Five Million Five Hundred Thirty-Seven Thousand Nine Hundred Nineteen and 77/100 (Php725,537,919.77)**, all inclusive of all applicable taxes and fees;

NOW, THEREFORE, foregoing considered and after careful evaluation and deliberation of the offer submitted for the Project, we, the Members of the Bids and Awards Committee for Infrastructure (BAC-I), hereby RESOLVE, as it is hereby

RESOLVED:

1. To award the contract to Positive Builders and Trading, through Negotiated Procurement under Section 53.4 Adjacent or Contiguous, of the revised IRR of RA 9184 for the Construction of Underground Utility Corridors as Part of the New Clark City Connecting Roads in the amount of Pesos: **Seven Hundred Twenty Five Million Five Hundred Thirty-Seven Thousand Nine Hundred Nineteen and 77/100 (Php725,537,919.77)**, inclusive of all applicable taxes and fees; and
2. To issue the corresponding Notice of Award (NOA) to Positive Builders and Trading on the condition that the agreement on the terms and conditions of reimbursements of the costs that will be advanced by BCDA has been duly concurred.

RESOLVED, at the BCDA Corporate Center Office, this 28th day of December 2021.

BIDS AND AWARDS COMMITTEE FOR INFRASTRUCTURE (BAC-I)


ARREY A. PEREZ

Chairperson


ATTY. MARIA SOLEDAD C. SAN PABLO


Vice Chairperson


ENGR. RICHARD BRIAN M. CEPE
Member


ENGR. MARK P. TORRES
Member


ENGR. RYAN S. GALURA
Member

Approved by:


AILEEN AN. R. ZOSA
OIC- Office of the President and CEO

28 December 2021

RYAN M. CALADIAO

Authorized Managing Officer

Positive Builders and Trading

Plaza San Nicolas 1st,
Lubao, Pampanga

Subject: **NOTICE OF AWARD**
CONSTRUCTION OF UNDERGROUND UTILITY CORRIDOR AS PART OF
THE NEW CLARK CITY CONNECTING ROAD
(ADJACENT OR CONTIGUOUS PROJECT)

Dear **Mr. Caladiao**:

The Bases Conversion and Development Authority (BCDA) hereby award the contract for the Construction of Underground Utility Corridor as part of the New Clark City Connecting Road (Adjacent or Contiguous Project) to **Positive Builders and Trading** in the amount of **Seven Hundred Twenty Five Million Five Hundred Thirty-Seven Thousand Nine Hundred Nineteen and 77/100 (Php725,537,919.77)**, inclusive of all applicable taxes and fees.

You are therefore required, within ten (10) calendar days from the receipt of this Notice of Award to:


1. Formally enter into a contract with BCDA, provided that all the documentary requirements which shall form part of the Contract for the aforementioned project are complied with, to wit:
 - a) Construction Schedule and S-Curve;
 - b) Manpower Schedule;
 - c) Equipment Utilization Schedule;
 - d) Construction Safety and Health, Sanitation and Security program;
 - e) PERT/CPM;
 - f) Contractor's All-Risk Insurance; and
 - g) Personal Accident Insurance

2. Post a performance Security denominated in Philippines Pesos in the form and in the amount stipulated in Section 39.2 of the Revised IRR of RA 9184,

which shall be posted in favor of BCDA and which shall remain valid until the issuance of Certificate of Final Acceptance.

Failure to enter into the said Contract and/or provide the Performance Security shall constitute sufficient ground for cancellation of the award.

Thank you.


AILEEN AN. R. ZOSA
OIC, Office of the President and CEO

Conforme:

RYAN M. CALADIAO
Authorized Managing Officer
Positive Builders and Trading
Plaza San Nicolas 1st,
Lubao, Pampanga
Date: _____

BACI2021-0303